

No. COA22-256

No. _____

THIRTEENTH JUDICIAL DISTRICT

NORTH CAROLINA COURT OF APPEALS

MAURICE DEVALLE,)

)

Petitioner-Appellee,)

)

v.)

)

NORTH CAROLINA SHERIFFS')

)

EDUCATION AND TRAINING)

STANDARDS COMMISSION,)

)

Respondent-Appellant.)

From Columbus County

No. 20 CVS 1273

RULE 9(d) DOCUMENTARY EXHIBITS

INDEX

Statement of Rule 9(d)(2) Submission	1
Office of Administrative Hearings – Official Record (dated 11 June 2020)	Doc. Ex. 1
Certificate of Service.....	Doc. Ex. 999

- Doc. Ex. 1 -

Official Record

19DOJ01619

Maurice A Devalle

v.

NC Sheriffs Education and Training Standards Commission

- Doc. Ex. 2 -

DOCKET NO. 19DOJ01619
Maurice A Devalle
vs
NC Sheriffs Education and Training Standards Commission

Official Record

CASE INITIATED - Petition Filed Mar 20, 2019.....	5
Notice of Appearance Filed Mar 22, 2019.....	6
Prehearing Statement Filed Mar 22, 2019.....	8
Initial Forms (Article3A) Filed Mar 22, 2019.....	11
Prehearing Statement - Amended Filed Mar 25, 2019.....	20
Notice of Appearance Filed Apr 5, 2019.....	26
Prehearing Statement Filed Apr 5, 2019.....	27
Hearing Assistant Request Form Filed Apr 5, 2019.....	31
Document Constituting Agency Action Filed Apr 5, 2019.....	32
Request for Admissions - 1st Request Filed Apr 5, 2019.....	34
Request for Discovery Filed Apr 5, 2019.....	37
Respondent's Schedule of Reasonable Compliance Filed Apr 16, 2019.....	50
Notice of Hearing Filed Jun 4, 2019.....	53
Respondent's Motion to Change Venue and Continue Filed Jun 25, 2019.....	56
Order Continuing Hearing and Changing Venue Filed Jul 3, 2019.....	60
Notice of Rescheduled Hearing Filed Jul 3, 2019.....	62
Prehearing Statement - Amended Filed Aug 15, 2019.....	64
Notice of Secure Leave Filed Aug 21, 2019.....	66
Motion to Continue Filed Sep 5, 2019.....	68
Order Continuing Hearing.....	71

- Doc. Ex. 3 -

Filed Sep 6, 2019

Notice of Appearance Filed Sep 9, 2019.....	73
Notice of Rescheduled Hearing Filed Oct 14, 2019.....	75
Amended Notice of Rescheduled Hearing Filed Oct 31, 2019.....	77
Notice of Appearance Filed Nov 26, 2019.....	79
Prehearing Statement - Amended Filed Nov 26, 2019.....	81
Memorandum Received Filed Nov 26, 2019.....	83
Consent Motion to Order Resp. to turn over records Filed Nov 27, 2019.....	88
Proposed Consent Order Filed Nov 27, 2019.....	91
Response to Request for Production of Documents Filed Nov 27, 2019.....	92
Second Supplemental Prehearing Statement of Respondent Filed Nov 27, 2019.....	103
Motion to Exclude Evidence Filed Nov 27, 2019.....	105
Motion in Limine Filed Nov 27, 2019.....	110
Subpoena Filed Dec 2, 2019.....	112
Order Granting Respondent's Motion to Turn Over Documents Filed Dec 2, 2019.....	129
Exhibits Admitted During Hearing Filed Dec 20, 2019.....	131
Exhibits Admitted During Hearing Filed Dec 20, 2019.....	206
Exhibits Admitted During Hearing Filed Dec 20, 2019.....	231
Exhibits Admitted During Hearing Filed Dec 20, 2019.....	317
Exhibits Admitted During Hearing Filed Dec 20, 2019.....	356
Exhibits Admitted During Hearing Filed Dec 20, 2019.....	417
Exhibits Admitted During Hearing Filed Dec 20, 2019.....	492
Exhibits Admitted During Hearing Filed Dec 20, 2019.....	567
Exhibits Admitted During Hearing.....	618

- Doc. Ex. 4 -

Filed Dec 20, 2019

Exhibits Admitted During Hearing
Filed Dec 20, 2019.....672

Exhibits Admitted During Hearing
Filed Dec 20, 2019.....726

Exhibits Admitted During Hearing
Filed Dec 20, 2019.....803

Exhibits Admitted During Hearing
Filed Dec 20, 2019.....849

Order to File Proposed Final Decisions
Filed Feb 27, 2020.....944

Amended Order to File Proposed Final Decisions
Filed Mar 12, 2020.....946

Proposed Decision
Filed Mar 26, 2020.....948

Proposed Decision
Filed Apr 15, 2020.....958

Notice of Appearance
Filed May 22, 2020.....974

In: Notice of Withdrawal of Counsel
Filed May 22, 2020.....976

Order Extension of Time to File Decision (1st Ext) JM (DG)
Filed Jun 1, 2020.....978

Proposal for Decision
Filed Jun 3, 2020.....980

JOSH STEIN
ATTORNEY GENERAL



19 005 01619
FILED
2019 MAR 20 PM 12:36
OFFICE OF ADMINISTRATIVE HEARINGS
Reply to:
Law Enforcement Liaison Section
(919) 716-6725

March 12, 2019

The Honorable Julian Mann, III
Chief Administrative Law Judge
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, North Carolina 27699-6714

Re: **Maurice A. DeValle v. N.C. Sheriffs' Education and Training Standards Commission**

Dear Judge Mann:

Pursuant to North Carolina General Statute §150B-40(e), this is a request for the designation of an Administrative Law Judge to preside at the hearing of a contested case under Article 3A, Chapter 150B of the North Carolina General Statutes.

The hearing is commenced against the North Carolina Sheriffs' Education and Training Standards Commission by Maurice A. DeValle, 506 Vineland Street, Whiteville, North Carolina 28472.

If you have any questions or comments regarding this matter, please do not hesitate to contact me at (919) 716-6725.

Very truly yours,

Marie H. Evitt

Marie H. Evitt
Assistant Attorney General
Law Enforcement Liaison Section
Counsel to the Commission
State Bar No.: 33968

*Bolivia
Lassiter
7-8*

MHE/ajt

cc: Diane Konopka, Director, Sheriffs' Standards Division
Maurice A. DeValle, Petitioner

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

NOTICE OF APPEARANCE

NOW COMES, Respondent, North Carolina Sheriffs' Education and Training Standards Commission ("Commission"), by and through counsel, Marie Hartwell Evitt, Assistant Attorney General, and shows the Court that:

The undersigned hereby gives notice that she now is the counsel of record for Respondent in the above-captioned contested case. Please forward all future legal documents and correspondence in this contested case to the undersigned attorney.

Respectfully submitted, this the 22nd day of March, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt.

Marie Hartwell Evitt
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
Telephone: (919) 716-6725
State Bar No. 33968
Email: mevitt@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **NOTICE OF APPEARANCE** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner via the same or by mailing a copy to the address below:

Mr. Maurice A. Devalle
506 Vineland Street
Whiteville, NC 28472

This the 22nd day of March, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt
Marie Hartwell Evitt
Assistant Attorney General
ATTORNEY FOR THE COMMISSION

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

RESPONDENT'S PREHEARING
STATEMENT

Pursuant to the Order for Prehearing Statements issued on March 22, 2019 by the Honorable Melissa Owens Lassiter, Administrative Law Judge, the following information is provided:

1. A brief statement of the issues, facts, statutes and/or rules, and the Respondent's position in this case is contained in the letter dated January 28, 2019, from Ms. Diane Konopka, Director, Sheriff's Standards Division, to Maurice A. Devalle. (Copy Attached).
2. See paragraph #1 above.
3. See paragraph #1 above.
4. It is anticipated that the Commission will call Diane Konopka, Director, Sheriffs' Standards Division, as a witness. Ms. Konopka will testify as to the facts outlined in paragraph #1. Respondent reserves the right to call other witnesses not identified in this Prehearing Statement and who may be identified during discovery. Respondent also reserves the right to call the following witnesses:
 - a. Major B.K. Regan;
 - b. Lt. Colonel C.V. Ward; and
 - c. Lt. Colonel B. T. Clayton.
5. Respondent wishes to pursue discovery. Respondent will pursue an extension of time to fulfill its discovery requests if the allotted time set forth in the Scheduling Order is insufficient.

6. At this time, the date and location of the hearing as set forth in the scheduling order are acceptable to Respondent.
7. Not applicable.
8. It is anticipated that the hearing in this matter will last approximately one half day.
9. Respondent is unaware of any special considerations at this time.

Respectfully submitted, this the 22nd day of March, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt.
Marie Hartwell Evitt
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
Telephone: (919) 716-6725
State Bar No. 33968
Email: mevitt@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **RESPONDENT'S PREHEARING STATEMENT** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner via the same or by mailing a copy to the address below:

Mr. Maurice A. Devalle
506 Vineland Street
Whiteville, NC 28472

This the 22nd day of March, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt
Marie Hartwell Evitt
Assistant Attorney General
ATTORNEY FOR THE COMMISSION

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
03/22/2019 9:23 AM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.	NOTICE OF CONTESTED CASE AND ASSIGNMENT G.S. 150B-38(d), 40(e)
---	---

NOTICE IS HEREBY GIVEN that upon application of the agency, and in accordance with G.S. 150B-40(e), Melissa Owens Lassiter, Administrative Law Judge, has been assigned to preside in this case. The administrative law judge may be contacted by mail at 6714 Mail Service Center, Raleigh, N.C. 27699-6700, or by telephone at 919-431-3000.

The Respondent shall submit, within 30 days, a copy of the document constituting agency action, which caused the filing of the Petition.

A copy of any document or other pleading filed with the Office of Administrative Hearings must also be sent to the other party at the time of filing. If a party changes his or her mailing address, or if the address is incorrect, the Office of Administrative Hearings must be notified of the new or corrected address.

NOTE: Attached is an Order for Prehearing Statements. You **MUST** complete the Order for Prehearing Statements and return it to our office within **30 days**.

This the 22nd day of March, 2019.



Julian Mann, III
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Maurice A Devalle
506 Vineland Street
Whiteville NC 28472
Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

This the 22nd day of March, 2019.



Maria G Erwin
Chief Hearings Clerk
N. C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
03/22/2019 9:23 AM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.	ORDER FOR PREHEARING STATEMENTS
---	--

Please complete this form and mail the original and one copy to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6700; mail a copy to the other party and keep a copy for your records.

This Prehearing Statement must be filed and served within 30 days of the date of this ORDER. Failure of a party to comply with this Order for Prehearing Statements may result in the imposition of one or more of the sanctions set forth in G.S. 150B-33(b)(10) and 26 NCAC 03.0114(a) against the non-complying party, which may include the dismissal of the Petition if Petitioner fails to comply, or other appropriate sanctions against the Respondent if Respondent fails to comply.

In order to permit the prompt preparation of this case for hearing,

IT IS HEREBY ORDERED, pursuant to 26 NCAC 3 .0104, that each party file with the Office of Administrative Hearings and serve upon the other parties a Prehearing Statement containing your present position with regard to the following:

1. **The issue(s) to be resolved** (additional pages may be attached if needed):

2. **A brief statement of the facts and reasons supporting the issue(s) in dispute** (additional pages may be attached if needed):

3. **The statutes, rules, and legal precedent, if known** (additional pages may be attached if needed):

4. **A list of proposed witnesses you may call at the hearing** (additional pages may be attached if needed):

5. **Whether you wish to pursue discovery. If so, the estimated length of time required.** (Discovery is a technical term used in the law that references acquiring of previously unknown facts and information about the case by one party from the other party through compliance with the specific rules governing pretrial procedures such as depositions, interrogatories and exchanging of exhibits, and the preparation time each party will need in order to be ready for hearing):

6. **If you received a Scheduling Order, is the date and location of the hearing acceptable? If not, you must file a separate motion requesting a change.**

7. **If you do not have an attorney representing you in this contested case, please provide the following information in order to receive communications from this Office. You are required to notify this office of any changes in this information:**

Home address: _____

Business address: _____

Telephone number: _____ Cell number: _____

Fax number: _____ Email address: _____

8. **Estimated length of hearing:**

9. **Other special considerations** (additional pages may be attached if needed):

YOUR SIGNATURE

PRINT YOUR NAME

This the 22nd day of March, 2019.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Maurice A Devalle
506 Vineland Street
Whiteville NC 28472
Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

This the 22nd day of March, 2019.



Maria G Erwin
Chief Hearings Clerk
N. C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
03/22/2019 9:23 AM

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.	SCHEDULING ORDER
---	-------------------------

The undersigned has established the following Scheduling Order. This Scheduling Order may be later amended in the discretion of the Administrative Law Judge, based upon information provided in the parties' Prehearing Statements. The parties will be notified of any changes by way of an Amended Scheduling Order.

1. The hearing for this contested case will be in Bolivia, North Carolina for the week beginning July 8, 2019.

At least 15 days prior to the hearing the Administrative Law Judge will mail to the parties either electronically or by U.S. Postal Service a more specific notice of the date, time and location of the hearing.

2. Discovery shall be completed on or before June 17, 2019.
3. Dispositive motions shall be filed on or before June 24, 2019.

IT IS SO ORDERED.

This the 22nd day of March, 2019.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Maurice A Devalle
506 Vineland Street
Whiteville NC 28472
Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

This the 22nd day of March, 2019.



Maria G Erwin
Chief Hearings Clerk
N. C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

**HEARING ASSISTANT/COURT REPORTER
REQUEST FORM**

TO: Calendaring Clerk
Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

ADMINISTRATIVE LAW JUDGE	Melissa Owens Lassiter
CASE NUMBER	19 DOJ 01619
CASE NAME	Maurice A Devalle Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.

I request that the above-styled hearing be recorded using the following method (check one):

☐ Hearing Assistant (Provided by the Office of Administrative Hearings)

☐ Court Reporter (Party requesting the Court Reporter is responsible for the Court Reporter fees)

I am the: ☐ ☐ Petitioner or ☐ Respondent or
 ☐ ☐ Attorney for Petitioner ☐ Attorney for Respondent

This the _____ day of _____, 20____.

Your Signature

Please print or type your name

Street or Post Office Box

Area Code and Telephone Number

City, State and Zip Code

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

AMENDED
RESPONDENT'S PREHEARING
STATEMENT

Pursuant to the Order for Prehearing Statements issued on March 22, 2019 by the Honorable Melissa Owens Lassiter, Administrative Law Judge, the following information is provided:

1. A brief statement of the issues, facts, statutes and/or rules, and the Respondent's position in this case is contained in the letter dated January 28, 2019, from Ms. Diane Konopka, Director, Sheriff's Standards Division, to Maurice A. Devalle. (Copy Attached).
2. See paragraph #1 above.
3. See paragraph #1 above.
4. It is anticipated that the Commission will call Diane Konopka, Director, Sheriffs' Standards Division, as a witness. Ms. Konopka will testify as to the facts outlined in paragraph #1. Respondent reserves the right to call other witnesses not identified in this Prehearing Statement and who may be identified during discovery. Respondent also reserves the right to call the following witnesses:
 - a. Major B.K. Regan;
 - b. Lt. Colonel C.V. Ward; and
 - c. Lt. Colonel B. T. Clayton.
5. Respondent wishes to pursue discovery. Respondent will pursue an extension of time to fulfill its discovery requests if the allotted time set forth in the Scheduling Order is insufficient.

6. At this time, the date and location of the hearing as set forth in the scheduling order are acceptable to Respondent.
7. Not applicable.
8. It is anticipated that the hearing in this matter will last approximately one half day.
9. Respondent is unaware of any special considerations at this time.

Respectfully submitted, this the 25th day of March, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt.
Marie Hartwell Evitt
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
Telephone: (919) 716-6725
State Bar No. 33968
Email: mevitt@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **RESPONDENT'S PREHEARING STATEMENT** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner via the same or by mailing a copy to the address below:

Mr. Maurice A. Devalle
506 Vineland Street
Whiteville, NC 28472

This the 25th day of March, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt
Marie Hartwell Evitt
Assistant Attorney General
ATTORNEY FOR THE COMMISSION



**NORTH CAROLINA DEPARTMENT OF JUSTICE
SHERIFFS' STANDARDS DIVISION**

JOSH STEIN
ATTORNEY GENERAL

PO DRAWER 629
RALEIGH, NC 27602-0629
PHONE: (919) 779-8213 • FAX: (919) 662-4515

DIANE N. KONOPKA
DIRECTOR

January 28, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Maurice A. Devalle
506 Vineland St
Whiteville, NC 28472

**RE: NOTIFICATION OF PROBABLE CAUSE TO DENY JUSTICE OFFICER
CERTIFICATION**

Dear Mr. Devalle:

You are hereby notified that the Commission has found probable cause exists to believe that justice officer certification should be denied per the authority found in *Rule .0204(d)(2)* of Chapter 10B of Title 12 of the North Carolina Administrative Code which reads as follows:

- (d) *The Commission may revoke, suspend, or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:*
- (2) *a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment;*

Facts and circumstances exist to show that you committed the Class B misdemeanor offense of "Willful Fail to Discharge Duties," in violation of North Carolina General Statute §14-230, when in the year 2016, while employed as a law enforcement officer with the NC State Highway Patrol (NCSHP), you were untruthful in the reporting of your work time and you failed to report for duty on numerous occasions. During these times, you used your patrol-issued MDC to check on and off duty while remaining at your residence. Your actions were documented by a local investigative news team who reported their findings to the Highway Patrol. At the conclusion of NCSHP's investigation it was determined that you neglected your duty by remaining at your Wake County residence on numerous occasions when you were supposed to be performing supervisor and patrol duties in Wayne County. The investigation also determined that you reported false, misleading and inaccurate information into the Beacon Payroll System, resulting in being compensated for hours you did not work. In 2017 your employment with NC State Highway Patrol was terminated after it was found that you violated the NC State Highway Patrol's policies.

**NOTIFICATION OF PROBABLE CAUSE TO DENY JUSTICE OFFICER
CERTIFICATION**

Maurice A. Devalle

Page 2 of 3

Additionally, probable cause exists to believe that your justice officer certification should be revoked pursuant to *Rule .0301(a)(8)* of Chapter 10B of Title 12 of the North Carolina Administrative Code which reads as follows:

- (a) *Every Justice Officer employed or certified in North Carolina shall:*
 (8) *be of good moral character;*

Your untruthfulness, the facts and circumstances surrounding your actions while holding certification as a justice officer; and the totality of your actions in this matter, establish probable cause to believe that you no longer possess the good moral character required of all justice officers.

Therefore, *Rule .0204(b)(2)* further authorizes the revocation of your certification:

- (b) *The Commission shall revoke, deny, or suspend the certification of a justice office when the Commission finds that the applicant for certification or the certified officer:*

 (2) *fails to meet or maintain any of the minimum employment standards required by 12 NCAC 10B .0300.*

No action to deny certification is being taken at this time in order to allow you the opportunity to request a hearing in this matter. If you disagree with this finding, you have the right to have the dispute resolved by an administrative hearing pursuant to Chapter 150B of the North Carolina General Statutes. If you wish to request an administrative hearing, then that request must be received by the Sheriffs' Standards Division within 30 days from the day you receive this letter.

To request an administrative hearing, you must file a REQUEST FOR ADMINISTRATIVE HEARING with the North Carolina Sheriffs' Education and Training Standards Commission. Your REQUEST FOR ADMINISTRATIVE HEARING should contain a clear and specific statement that you are requesting an administrative hearing. It should also contain a clear and specific statement of your reasons why this action should not be taken.

Your REQUEST FOR ADMINISTRATIVE HEARING should be mailed in an envelope bearing the notation: RE: REQUEST FOR ADMINISTRATIVE HEARING and should be addressed to the Director of the Sheriffs' Standards Division as follows:

**NORTH CAROLINA DEPARTMENT OF JUSTICE
SHERIFFS' STANDARDS DIVISION
ATTENTION: MS. DIANE N. KONOPKA, DIRECTOR
POST OFFICE BOX 629
RALEIGH, NORTH CAROLINA 27602**

**NOTIFICATION OF PROBABLE CAUSE TO DENY JUSTICE OFFICER
CERTIFICATION**

Maurice A. Devalle


Page 3 of 3

Your failure to request a hearing within 30 days of receipt of this letter will be considered a waiver of your right to a hearing and your certification will be denied as set out in Rule .0205 of Title 12 Chapter 10B of the North Carolina Administrative Code, as follows:

1. **Denied for a period of five years for your commission of the class B misdemeanor offense of "Willful Fail to Discharge Duties" while certified as a law enforcement officer; and**
2. **Denied indefinitely based on your lack of good moral character.**

You are referred to Chapter 150B of the North Carolina General Statutes for a full statement of your rights in this matter.

Respectfully,



Diane N. Konopka

Director

cc:

Sheriff Jody Greene

Columbus County Sheriff's Office

PO Box 280

Whiteville, North Carolina 28472-0280

STATE OF NORTH CAROLINA

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS**

COUNTY OF COLUMBUS

19 DOJ 01619

MARCUS A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

)
)
)
)
)
)
)
)
)
)

NOTICE OF APPEARANCE

COMES NOW the undersigned giving notice of his appearance for the Petitioner in this case.

April 5, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by E-file to

Marie H. Evitt
Assistant Attorney General
North Carolina Department of Justice

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

)
)
)
)
)
)
)
)
)
)

PREHEARING STATEMENT

1. Issues To Be Resolved

WHETHER RESPONDENT DEPRIVED PETITIONER OF PROPERTY AND SUBSTANTIALLY PREJUDICED PETITIONER'S RIGHTS, AND ADDITIONALLY ACTED ERRONEOUSLY, FAILED TO USE PROPER PROCEDURE, FAILED TO ACT AS REQUIRED BY LAW OR RULE, EXCEEDED ITS AUTHORITY, ACTED IN VIOLATION OF CONSTITUTIONAL PROVISIONS, AND/OR WAS ARBITRARY AND CAPRICIOUS AND/OR ABUSED ITS DISCRETION, IN FINDING PROBABLE CAUSE THAT PETITIONER'S LAW ENFORCEMENT CERTIFICATION SHOULD BE DENIED

2. Statutes, Rules, and Legal Precedent Involved

NC.G.S. Chapter 17E

12 N.C.A.C. Chapters 9, 10

N.C.G.S. 150B-23

N.C.G.S. 150B-33

Britt v. Commission, 348 N.C. 573; 501 S.E.2d 75 (1998)

Mullins v. Commission, 125 N.C. App. 339, 481 S.E.2d 297 (1997)

Jeffrey Royall v. N.C. Sheriffs' Education and Training Standards Commission, 09 DOJ 5859

Jonathan Mims v. North Carolina Sheriff's Education and Training Standards Commission, 02 DOJ 1263, 2003 WL 22146102 at page 11-12 (Gray, ALJ)

Daniel Brannon Gray v. N.C. Sheriffs Education and Training Standards Commission, 09 DOJ 4364 (March 15, 2010; May, ALJ)

Andreas Dietrich v. N.C. Highway Patrol, 2001 WL 34055881, 00 OSP 1039 (August 13, 2001, Gray, ALJ)

Darryl Knox v. N.C. N.C. Sheriffs Education and Training Standards Commission, 11 DOJ 04831 (November 19, 2014, May, ALJ)

In Re Willis, 299 N.C. 1, 10 (1975)

Konigsberg v. State, 353 U.S. 252, 262-63 (1957)

In Re Rogers, 297 N.C. 48, 58 (1979)

Petitioner reserves the right to supplement this list with additional law, rules, policies, and precedent as needed.

3. Statement of Facts and Reasons

Petitioner's counsel understands a summary of the facts to be as follows: This is a case where an agency, Training and Standards, has concluded that Petitioner committed a crime. On information and belief, Petitioner has never been convicted of the crimes in question and never pleaded guilty or was found civilly responsible for the crime in question. Petitioner was not arrested for, summoned, or indicted for the crime in question. Even granting the assumption that this agency can properly determine in the absence of such circumstances that Petitioner committed a crime, which Petitioner contends it did not, Petitioner contends that he did not commit the crimes in question.

Further, the Respondent violated Petitioner's constitutional rights to due process by summoning him for a probable cause meeting on a completely different set of allegations than which the Respondent eventually found probable cause. The agency's action is also thus in violation of constitutional provisions and failed to use proper procedure.

4. Proposed Witnesses

Petitioner may not call all listed witnesses contingent upon possible documentary and evidentiary stipulations between Petitioner and Respondent, or out of a desire to avoid cumulative testimony.

At present the list is as follows:

- a. Petitioner
- b. All witnesses called or listed by Respondent.
- c. All persons listed or referenced by Respondent in its PHS or discovery responses.

Petitioner reserves the right to supplement this list up to the date of the hearing of this contested case.

5. Discovery

Petitioner does wish to engage in discovery and will promptly serve such discovery on the Respondent.

6. Hearing Location

The hearing location is satisfactory to Petitioner; however, Petitioner wishes to confer with Respondent and the Court about the desirability of having this case heard in Raleigh, North Carolina.

7. Estimated Length of Hearing

2 days, depending on starting time and any stipulations that may exist at the time of hearing.

8. Address Information

The undersigned counsel represents Petitioner in this matter.

9. Hearing Date

Petitioner will be prepared to try the case by the scheduled date of the hearing.

10. Other Special Considerations

Petitioner intends to file a dispositive motion as well as pre-hearing motions to strike various witnesses, if necessary.

April 5, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by E-file to

Marie H. Evitt
Assistant Attorney General
North Carolina Department of Justice

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS**

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

)
)
)
)
)
)
)
)
)
)

REQUEST FOR HEARING ASSISTANT

PETITIONER requests that this hearing be recorded by a hearing assistant provided by the OAH.

April 5, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by E-file to

Marie H. Evitt
Assistant Attorney General
North Carolina Department of Justice

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS**

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

)
)
)
)
)
)
)
)
)
)

AGENCY ACTION DOCUMENT

PETITIONER identifies the agency action document as the letter from Respondent finding probable cause to deny his law enforcement certification.

April 5, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by E-file to

Marie H. Evitt
Assistant Attorney General
North Carolina Department of Justice

- Doc. Ex. 33 -

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

)
)
)
)
)
)
)
)
)
)

REQUESTS FOR ADMISSIONS

Petitioner submits the following requests for admissions to the Respondent agency in this case pursuant to N.C.G.S. 1A-1, Rule 36:

1. Petitioner has not been convicted by any jury of any of the criminal offenses listed in the probable cause letter.

ADMIT _____ DENY _____

2. Petitioner has not been convicted or found guilty by a judge of any of the criminal offenses listed in the probable cause letter.

ADMIT _____ DENY _____

3. Petitioner has not pleaded guilty in a criminal court to any of the criminal offenses listed in the probable cause letter.

ADMIT _____ DENY _____

4. Neither Petitioner's former employer nor Respondent reviewed Petitioner's body camera footage of the incident involving Petitioner and the person whom he allegedly assaulted.

ADMIT _____ DENY _____

5. Petitioner was not arrested in connection with the alleged criminal offense Respondent claims that Petitioner committed.

ADMIT _____ DENY _____

6. Petitioner was not indicted in connection with the alleged criminal offense Respondent claims that Petitioner committed.

ADMIT _____ DENY _____

7. No criminal court has found probable cause that Petitioner committed the alleged criminal offense Respondent claims that Petitioner committed.

ADMIT _____ DENY _____

April 5, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by E-file to

Marie H. Evitt
Assistant Attorney General
North Carolina Department of Justice

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

)
)
)
)
)
)
)
)
)
)

FIRST DISCOVERY TO RESPONDENT

Petitioner Marcus Devalle ("Petitioner") serves on Respondent the following set of written interrogatories pursuant to North Carolina Rule of Civil Procedure 33, N.C.G.S. 150B, and 26 N.C.A.C. 3, Rule .0112. Respondent is requested and required to answer these interrogatories separately and fully in writing under oath and to serve a copy of your answers on Petitioner within fifteen (15) days of service hereof pursuant to 26 N.C.A.C. 3, Rule .0112, subsection (f).

If at any point Respondent offers to produce business records for examination and/or copying in response or partial response to any interrogatory herein, Respondent is required pursuant to North Carolina Rule of Civil Procedure 33(c) to specify the location and identity of such records in such a fashion in sufficient detail for Petitioner to locate and identify such records.

Pursuant to North Carolina Rule of Civil Procedure 26 and 26 N.C.A.C. 3, Rule .0112, subsection (b), these interrogatories shall be continuing in nature until the date of the hearing of this contested case. Respondent is required by law to serve supplemental answers as additional information may become available to Respondent. There is space provided in which to answer each interrogatory. If more space is needed, please attach additional pages with the answers referenced to the appropriate interrogatory.

Petitioner additionally serves on Respondent requests for the Production of Documents and Other Tangible Things in Respondent's possession, custody or control pursuant to Rule 34 of the North Carolina Rules of Civil Procedure and 26 N.C.A.C. 3, Rule .0112, subsection (b). Respondent is requested to produce such documents at the Law Offices of Michael C. Byrne, 150

Fayetteville Street, Suite 1130, Raleigh, NC, 27601, within fifteen (15) days from service, at 10 A.M., or at such other time and place to which the parties shall agree. At such time Respondent is requested to permit the Petitioner, or her designated representative, to inspect and copy the designated documents or other tangible things which are in Respondent's possession, custody, or control. In lieu of the production required above, Respondent may, within fifteen (15) days of the service of this written discovery, produce copies of the documents requested.

INSTRUCTIONS

A. In responding to these interrogatories and requests for production, please answer based on personal knowledge or knowledge acquired from some other source. Please include all dates and times if appropriate. In responding to each question, please state whether the answer is based on personal knowledge or some other source. If such knowledge is in fact based on some other source, please identify the source and provide an address.

B. If any document referred to in an interrogatory or in an answer to an interrogatory would be described but for claiming a privilege against such description, please set forth for each such document a privilege log for any documents for which privilege is claimed as requested in the Interrogatories below.

C. If any document referred to in any interrogatory or an answer to any interrogatory was at one time in Respondent's possession, custody, or control but has been lost, discarded, or destroyed, or removed by any means from Respondent's possession, custody, or control, then with respect to each such document:

1. Please identify and describe such document by date, title, and type of document.
2. Please state when each such document was most recently in Respondent's possession or subject to Respondent's control and what disposition was made of such document, including an identification of the person or if any, presently in possession or control of such document.
3. Please state when each such document was transferred or destroyed, identify the person who transferred or destroyed such document and the persons who authorized or directed that the

document be transferred or destroyed or having knowledge of its transfer or destruction, and state the reason such document was transferred or destroyed; and

4. Please identify all persons having knowledge of the contents thereof, **barring any counsel representing Respondent in this action.**

D. Unless otherwise specified, the relevant time period for any interrogatory or request is from the earliest relevant date listed in the complaint or answer.

E. If objection is made to any part of any interrogatory or request, that portion is to be specified, along with the grounds for such objection, and the portion not objected to is to be answered in full.

F. To the extent to which Respondent does not have specific, complete, and accurate information with which to answer any interrogatory or request, please state so; answer the request or interrogatory to the extent that Respondent may have information.

DEFINITIONS

A. The following definitions shall apply with respect to this discovery:

1. The term “you” or “your” or “Respondent” or means Respondent named in the petition for contested case filed in this action, including any designee, agent, employee, servant, or any other person or entity presently or previously acting for or on behalf of the Respondent.
2. The term “Petitioner” means Petitioner named in the Petition.
3. The term “Petition” means the petition for contested case filed in this action.

B. The word “person” shall mean any natural person, firm, corporation, partnership, or any other form of business or governmental entity, including but not limited to municipalities and county governmental bodies.

C. The word “identify” or “describe” shall mean:

1. With respect to a person, **state the person's full name, present or last known business address and telephone number, and a statement of that person's relationship with any party, if any, and if not related at present, a statement as to whether any such relationship ever existed and the inclusive dates thereof.**

2. With respect to a document, state the date or estimated date of its creation, the purpose for which it was created, the last known possessor of the original, and a description of the document and its contents.

3. With respect to an entity, the legal form of the entity and its full name, (if applicable) its present or last known address (designating which) and telephone number, its principal office, the state under whose law it is organized, if a corporation), and a statement of the entity's relationship with any party, if any, and if not related at present, a statement as to whether any such relationship ever existed and the inclusive dates thereof.

D. The word "***document***" shall mean without limitation **all papers, writings, drawings, drafts, charts, memoranda, letters, notes, electronic mail, facsimiles, computer printouts or information contained on diskettes or within hard disk drives or other forms of computerized or electronic storage reports, compilations, compendiums, photographs, video or audio recordings, minutes, account ledgers, or any other form of communication which has in any way been preserved and/or duplicated.**

E. The word "communication" shall include any types of discussions, messages, conversations, discussions, correspondence (including but not limited to electronic correspondence, or "e-mail" or electronic mail, or facsimile transmissions), or contacts of any type, oral and written, direct and indirect.

F. Wherever appropriate, the singular form of a word shall be interpreted in the plural, and vice-versa, so as to bring within the scope of a request any information that might otherwise be considered outside its scope.

G. Requests to identify all persons having knowledge of a given issue and to summarize the knowledge held by such persons **DO NOT INCLUDE any attorney representing Respondent in this action.**

I.
INTERROGATORIES

1. Identify each and every person who assisted Respondent in answering these interrogatories, specifying the interrogatory on with which each such person assisted.

ANSWER:

2. Identify each and every person known or believed by you to have knowledge relating to each allegation (or facts related thereto) made by Respondent in the agency action document/probable cause letter, including but not limited to Respondent's allegations that (a) Petitioner committed the criminal offense(s) identified in the probable cause letter (separately identifying persons known or believed to have knowledge of each alleged criminal offense), and (b) that probable cause exists to suspend or revoke Petitioner's status as a certified officer, whether the information supports or refutes the allegation in question, briefly summarizing the knowledge or information believed to be possessed by each person you identify.

ANSWER:

3. State all facts which support, or which you contend support, your allegation in the agency action letter/probable cause letter that Petitioner committed the criminal offenses therein, listing facts separately for each criminal offense identified or alleged therein. Additionally, identify all documents referencing, memorializing, or having any bearing on each such fact or contention so stated, including but not limited to notes, reports, written statements, video and body camera footage, and electronic mail transmissions. This request for identification specifically includes documents you believe to be in the possession, custody, or subject to the control of any law enforcement agency or District Attorney's office, including without limitation the State Bureau of Investigation (SBI).

ANSWER:

4. Identify each and every person who was consulted with respect to or involved with Respondent's finding of probable cause that Petitioner's certification should be suspended or revoked, **prior to the initiation of this contested case, barring any attorney representing Respondent in this action**, and for each such person so identified briefly summarize the reason such person was consulted or involved with same and the role if any each such person served in that process.

ANSWER:

5. Did any person or persons conduct any investigation for Respondent of the allegations set forth in the agency action document/probable cause letter? If so, so state, identifying (a) the conduct investigated and who ordered such investigation, and why, (b) the persons who conducted the investigation, (c) all persons interviewed or from whom any statements were taken in the course of the investigation, (d) any reports or findings of the investigation, including but not limited to notes and drafts of such reports, (e) the persons to whom such reports were submitted, and (f) all documents referencing, memorializing, or having any bearing on the investigation, its findings and conclusions, its recommendations, and the actions taken or not taken in response to those findings, conclusions, or recommendations.

ANSWER:

6. Explain in detail how it came to your attention that Petitioner allegedly committed the conduct set forth in the agency action document/probable cause letter, stating additionally who informed you of this situation and the manner in which you were informed, and (b) identifying all documents referencing, memorializing, or having any bearing on the manner in which you were informed of Petitioner's alleged conduct.

ANSWER:

7. Identify each person whom you expect to call as an expert witness in this case, state the subject matter on which the expert is expected to testify, and state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. This Interrogatory specifically includes any expert opinion presented via affidavit.

ANSWER:

8. State all facts which support, or which you contend support, your decision that probable cause exists to suspend or revoke Petitioner's certification **other than** (if any facts purportedly exist) than your claim that Petitioner committed the criminal offenses alleged. Additionally, identify all documents referencing, memorializing, or having any bearing on each such fact or contention so stated, including but not limited to notes, reports, written statements, and electronic mail transmissions. This request for identification specifically includes documents you believe to be in the possession, custody, or subject to the control of any law enforcement agency or District Attorney's office including without limitation the State Bureau of Investigation (SBI).

ANSWER:

9. Are there any persons other than Respondent's counsel whom Respondent believes to have knowledge of the facts of this contested case and who is not identified above? If so, please identify each and every such person and briefly summarize the knowledge held or believed to be held by each such person identified.

ANSWER:

10. Explain in detail your reasons for finding probable cause against Petitioner for reasons different than those set forth in the Probable Cause hearing notice to Petitioner.

ANSWER:

11. For any document withheld from production or identification on the basis of any asserted privilege, set forth a privilege log stating/identifying (a) each document withheld from identification or production, (b) the privilege asserted with respect to each such document, and (c) the person(s) who created each such document withheld.

ANSWER:

II.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to the rules cited above, Petitioner requests Respondent to produce the documents in its possession, custody or control listed below for inspection and copying by Petitioner's counsel or someone acting on his behalf at such time and place as may be agreed upon by counsel. The instructions and definitions set forth above are incorporated herein by reference.

1. All documents referencing, relating to, memorializing, or having any bearing the allegations (or facts related thereto) set forth in the Document Constituting Agency Action in this case.

RESPONSE:

2. All written statements, notes, records, reports, or any other documents made or solicited by any person in the course of or pursuant to any investigation of the incidents set forth in the agency action document, either by Respondent or by any third party, including any law enforcement agency.

RESPONSE:

3. To the extent not already produced, all documents referencing, memorializing, or having any bearing on any investigation undertaken by Respondent or any person acting on behalf of Respondent in reference to any matter raised in the agency action document, including but not limited to statements, notes, reports, interview tapes and transcripts, drafts of reports, statements, interview statements, communications between investigators, communications between investigators and facility managers, investigator's notes, and electronic mail transmissions.

RESPONSE:

4. All documents, including notes, made at any prior hearing on this matter or which reference, memorialize, or have any bearing on any prior decisions or conclusions made by Respondent in reference to Petitioner's certification.

RESPONSE:

5. All documents supporting, referencing, memorializing, or having any bearing on any allegations or contentions by Respondent set forth in Respondent's Pre-Hearing Statement in this contested case.

RESPONSE:

6. The curriculum vitae and written reports of each expert identified in the Interrogatories above.

RESPONSE:

7. All documents identified in answers to the interrogatories above or responsive to requests for identification of documents set forth in the interrogatories above.

RESPONSE:

8. All video and body camera footage, photographs, diagrams, sketches, reports, or other media that reference, memorialize, or have any bearing on the incidents described in the Probable Cause Letter.

April 5, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by E-file to

Marie H. Evitt
Assistant Attorney General
North Carolina Department of Justice

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

MAURICE A. DEVALLE,

Petitioner,

v.

**NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,**

Respondent.

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619**

**RESPONDENT'S SCHEDULE OF
REASONABLE COMPLAINEE**

NOW COMES, Respondent North Carolina Sheriffs' Education and Training Standards Commission ("Commission"), by and through counsel, Marie Hartwell Evitt, Assistant Attorney General, and pursuant to 26 NCAC 03 .0112(f)(3), hereby offers a schedule of reasonable compliance with the Petitioner's Interrogatories, Requests for Admission and Requests for Production of Documents. The discovery requests were served on Respondent via electronic mail on April 5, 2019. Respondent shall serve their responses to the discovery requests on or before May 30, 2019. In serving this anticipated compliance schedule, Respondent reserves the right to make appropriate objections to the discovery requests when they respond and/or to file any amended anticipated compliance schedules.

Respectfully submitted, this the 16th day of April, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt.

Marie Hartwell Evitt
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
Telephone: (919) 716-6725
State Bar No. 33968
Email: mevitt@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **RESPONDENT'S SCHEDULE OF REASONABLE COMPLIANCE** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner's counsel via electronic mail, delivery and read receipts requested, to the following:

Michael C. Byrne, Esq.
michael@mbyrnelaw.com

This the 16th day of April, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt
Marie Hartwell Evitt
Assistant Attorney General
ATTORNEY FOR THE COMMISSION

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
06/04/2019 12:56 PM

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

<p>Maurice A Devalle Petitioner,</p> <p>v.</p> <p>NC Sheriffs Education and Training Standards Commission Respondent.</p>	<p>NOTICE OF HEARING G.S. 150B-23(b)</p>
---	--

NOTICE IS HEREBY GIVEN that the above-captioned case will be brought on for hearing before the undersigned administrative law judge as follows:

DATE: July 9, 2019

TIME: 9:00 AM (or as soon thereafter as may be heard)

PLACE: Brunswick County Government Complex
2nd floor Grand Jury Hearing Room
310 Government Center Drive NE
Bolivia, North Carolina 28422

1. This hearing will be conducted in accordance with Chapter 150B of the North Carolina General Statutes and Title 26, Chapter 03 of the North Carolina Administrative Code, copies of which may be obtained at cost from Molly Masich, Director of APA Services or by accessing the OAH Web page at <http://www.oah.state.nc.us/hearings/#Chapter3>.

2. Unless otherwise determined by the administrative law judge, the hearing will proceed in the following sequence:

- (a) Call of the case
- (b) Motions and other preliminary matters
- (c) Stipulations, agreements, or consent orders entered into the record
- (d) Opening statements
- (e) Presentation of evidence and cross-examination
- (f) Final arguments

3. All parties are hereby notified to bring to the hearing all documents, records, and witnesses needed to present their case.

NOTE: If special equipment is required for the presentation of evidence, the parties are responsible for making arrangements for the equipment.

4. Subpoenas may be available to the parties pursuant to 26 NCAC 03 .0114 to compel the attendance of witnesses or for the production of documents.

5. A party may represent himself or herself or may be represented by an attorney. **A party who is represented by an attorney must file a Notice of Representation within 10 days of service of this Notice of Hearing** containing the name, address, and telephone number of the attorney, unless the attorney has already corresponded with the Office of Administrative Hearings and filed a Notice of Appearance in this case.

6. The parties are HEREBY NOTIFIED that failure to appear at the scheduled hearing may result in:

- (a) Finding that the allegations of or the issues set out in this Notice or pleading may be taken as true or deemed proved without further evidence;
- (b) Dismissal of the case or allowance of the motion or petition;
- (c) Suppression of a claim or defense; or
- (d) Exclusion of evidence.

7. Requests for a continuance of a hearing shall be granted upon a showing of good cause or extraordinary cause. Unless time does not permit, a request for a continuance of a hearing shall be made in writing to the administrative law judge and shall be served upon all parties of record. In determining whether good cause or extraordinary cause exists, due regard shall be given to the ability of the party requesting a continuance to proceed effectively without a continuance. **A request for a continuance filed within five days of a hearing shall be denied unless the reason for the request could not have been ascertained earlier.**

8. The parties must notify the Office of Administrative Hearings at least twenty-four (24) hours prior to the scheduled hearing of the cancellation of the contested case hearing. **Failure to give timely notice of cancellation may result in a charge to the parties for the cost of the court reporter or hearing assistant as indicated in 26 NCAC 03 .0123(f).**

This the 4th day of June, 2019.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael Byrne
Law Offices of Michael C. Byrne
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

This the 4th day of June, 2019.



Jerrod Godwin
Administrative Law Judge Assistant
N. C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

**RESPONDENT'S MOTION TO
CHANGE VENUE AND CONTINUE**

NOW COMES the Respondent, the North Carolina Sheriffs' Education and Training Standards Commission ("Commission"), by and through the undersigned counsel, and does respectfully show the Administrative Law Judge the following:

1. That on June 4, 2019, the Honorable Administrative Law Judge Melissa Lassiter filed a Notice of Hearing setting this matter for July 9, 2019 in Bolivia, North Carolina.
2. Counsel for Respondent currently has two cases set in Newton, North Carolina with Judge Bawtinheimer on July 8, and July 9.
3. Counsel for Respondent and Petitioner have spoken via telephone, prior to and after Judge Lassiter's Order, proposing venue be moved to Wake County, North Carolina.

4. Counsel for Respondent and Petitioner have also discussed gaining access to additional information and discovery being held by Petitioner's former employer to assist in furthering this case and are taking steps to request this information.
5. Based upon information and belief, pursuant to a telephone conversation with Counsel for Petitioner, if possible, both parties wish for this case to be kept on Judge Lassiter's docket or in the alternative, that Judge Lassiter calendar the case off-docket.
6. Counsel for Respondent has a full calendar of cases with the Office of Administrative Hearings in July, August, and September, as well as two Commission meetings in that time frame. In addition, Counsel for Respondent also has a case already set for October 1-2, in High Point with Judge May that has been continued several times for witness availability. For these reasons, and after discussion with counsel for Petitioner, Respondent asks the Court for consideration of an October date in this matter.

WHEREFORE, Respondent, by and through the undersigned attorney, moves for an order changing venue and continuing this matter to a date mutually convenient for the Administrative Law Judge and the Parties.

Respectfully submitted, this the 25th day of June, 2019.

JOSHUA H. STEIN
Attorney General

/s/Marie Hartwell Evitt
Marie Hartwell Evitt
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
Telephone: (919) 716-6725
State Bar No. 33968
COUNSEL TO THE RESPONDENT

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **MOTION TO CONTINUE** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner's attorney via electronic mail:

michael@mbyrnelawnc.com

This the 25th day of June, 2019.

/s/Marie Hartwell Evitt

Marie Hartwell Evitt

Assistant Attorney General

COUNSEL TO THE RESPONDENT

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
07/03/2019 9:56 AM

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

<p>Maurice A Devalle, Petitioner,</p> <p>v.</p> <p>NC Sheriffs Education and Training Standards Commission, Respondent.</p>	<p>ORDER CONTINUING HEARING AND CHANGING VENUE</p>
---	---

Upon consideration of Respondent's Motion to Change Venue and Continue, and for good cause shown, the motion is **GRANTED**. The hearing in this matter, currently scheduled for July 9, 2019, in Bolivia, North Carolina is **CONTINUED** to a date to be determined by the undersigned. The contested case hearing shall take place in Raleigh, North Carolina. The undersigned will issue a Notice of Hearing at least 15 days before the specific hearing date.

This the 3rd day of July, 2019.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael Byrne
Law Offices of Michael C. Byrne
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

This the 3rd day of July, 2019.



Jerrod Godwin
Administrative Law Judge Assistant
Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Telephone: 919-431-3000

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
07/03/2019 12:16 PM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.	NOTICE OF RESCHEDULED HEARING
---	--------------------------------------

NOTICE IS HEREBY GIVEN that the hearing in this contested case, previously scheduled for July 9, 2019, is rescheduled as follows:

DATE: September 24, 2019

TIME: 9:00 AM (or as soon thereafter as may be heard)

PLACE NC Office of Administrative Hearings¹
Courtroom D
1711 New Hope Church Rd
Raleigh, North Carolina 27609

This the 3rd day of July, 2019.



Melissa Owens Lassiter
Administrative Law Judge

¹ Pursuant to the undersigned's Order Continuing Hearing and Changing Venue, the hearing in this matter will be held in Raleigh, North Carolina at the Office of Administrative Hearings.

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael Byrne
Law Offices of Michael C. Byrne
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

This the 3rd day of July, 2019.



Jerrod Godwin
Administrative Law Judge Assistant
N. C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS**

19 DOJ 01619

**PREHEARING STATEMENT
(AMENDED)**

Petitioner amends his prehearing statement by adding the following potential witnesses:

4. Proposed Witnesses

Jeremiah Johnson

April 5, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

The undersigned has this day served a copy of this document on Respondent, by E-file to

- Doc. Ex. 65 -

Marie H. Evitt
Assistant Attorney General
North Carolina Department of Justice

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS**

COUNTY OF WAKE

ATTORNEY NOTICE SECURED LEAVE PERIOD

COMES NOW undersigned counsel pursuant to 26 N.C.A.C. 3, Rule .0119 and the direction of the Chief Clerk of the North Carolina Office of Administrative Hearings, respectfully designating secured leave for the periods of:

A. November 4-15, 2019, for the purposes of family overseas travel.

1. No argument or other proceeding has been scheduled during this period in any matter pending before an administrative law judge in which the undersigned attorney has made an appearance.
2. The date of the Monday on which the period is to begin is November 4, 2019, and the date of the Friday concerned is November 15, 2019.
3. This secured leave is not being designated for the purpose of delaying, hindering, or interfering with the timely disposition of any matter in any pending action or proceeding.
4. This notice was originally filed with OAH on August 12, 2019, and is being filed in every case in which the undersigned has entered an appearance pursuant to the direction of the Chief Clerk, the Hon. Maria Erwin.

August 20, 2019.

Respectfully submitted,

By: /s/ Michael C. Byrne

LAW OFFICES OF MICHAEL C. BYRNE

Michael C. Byrne

150 Preston Executive Center Dr. Suite 201

Cary, NC 27513

Tel: (919) 274.9020

Michael@mbyrnelawnc.com

NC Bar # 22690

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DeVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

**RESPONDENT'S MOTION TO
CONTINUE**

NOW COMES the Respondent, the North Carolina Sheriffs' Education and Training Standards Commission ("Commission"), by and through the undersigned counsel, and does respectfully show the Administrative Law Judge the following:

1. That on July 3, 2019, the Honorable Administrative Law Judge, Melissa Owens Lassiter, filed a Notice of Rescheduled Hearing setting this matter for 9:00 a.m. on September 24, 2019 in Raleigh, North Carolina.
2. That the undersigned counsel has resigned her position as Assistant Attorney General with the North Carolina Department of Justice effective September 20, 2019, and thus, additional time is needed to appoint another attorney and bring them up to speed to effectively represent Respondent in the matter.
3. That counsel for Petitioner has been consulted and does not object to this continuance.
4. That the date set be such that it remains on Judge Lassiter's calendar.

WHEREFORE, Respondent, by and through the undersigned attorney, moves for an order continuing this matter to a date mutually convenient for the Administrative Law Judge and the Parties.

Respectfully submitted, this the 5th day of September 2019.

JOSHUA H. STEIN
Attorney General

/s/Marie Hartwell Evitt
Marie Hartwell Evitt
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
Telephone: (919) 716-6725
State Bar No. 33968
COUNSEL TO THE RESPONDENT

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **RESPONDENT'S MOTION TO CONTINUE** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon **Petitioner's counsel** via the same or by mailing a copy to the address below:

Michael C. Byrne
michael@mbyrnelaw.com

This the 5th day of September, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Marie Hartwell Evitt
Marie Hartwell Evitt
Assistant Attorney General
ATTORNEY FOR THE COMMISSION

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
09/06/2019 8:55 AM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.	ORDER CONTINUING HEARING
---	---------------------------------

Upon consideration of Respondent's Motion to Continue, for good cause shown, and with Petitioner's consent, the undersigned **GRANTS** Respondent's motion. A Notice of Rescheduled Hearing will be issued subsequent to the filing of this order.

Respondent's counsel is directed to have additional counsel for Respondent file a Notice of Appearance in this contested case on or before **September 15, 2019** to ensure that Respondent timely receives further orders and notices issued by the undersigned in this matter.

This the 6th day of September, 2019.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael C Byrne
Self Employed
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

This the 6th day of September, 2019.



Jerrod Godwin
Administrative Law Judge Assistant
N. C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

NOTICE OF APPEARANCE

NOW COMES, Respondent, North Carolina Sheriffs' Education and Training Standards Commission ("Commission"), by and through counsel, Benjamin Zellinger, Special Deputy Attorney General, and shows the Court that:

The undersigned hereby gives notice that he now is the counsel of record for Respondent in the above-captioned contested case. Please forward all future legal documents and correspondence in this contested case to the undersigned attorney.

Respectfully submitted, this the 9th day of September 2019.

JOSHUA H. STEIN
Attorney General

/s/ Benjamin Zellinger

Benjamin Zellinger
Special Deputy Attorney General
N.C. Department of Justice
114 W. Edenton Street
Raleigh, North Carolina 27603
Telephone: (919) 716-6520
State Bar No. 37149
Email: bzellinger@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **NOTICE OF APPEARANCE** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon **Petitioner's counsel** via the same to the address below:

Michael C. Byrne
michael@mbyrnelawnc.com

This the 9th day of September, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Benjamin Zellinger
Benjamin Zellinger
Special Deputy Attorney General
ATTORNEY FOR THE COMMISSION

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
10/14/2019 3:47 PM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.	NOTICE OF RESCHEDULED HEARING
---	--------------------------------------

NOTICE IS HEREBY GIVEN that the hearing in this contested case, previously scheduled for September 24, 2019, is rescheduled as follows:

DATE: November 26, 2019

TIME: 9:00 AM (or as soon thereafter as may be heard)

PLACE NC Office of Administrative Hearings
Courtroom A
1711 New Hope Church Rd
Raleigh, North Carolina 27609

This the 14th day of October, 2019.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael C Byrne
Self Employed
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

Benjamin Zellinger
North Carolina Department of Justice
bzellinger@ncdoj.gov
Attorney For Respondent

This the 14th day of October, 2019.



Jerrod Godwin
Administrative Law Judge Assistant
N.C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
10/31/2019 11:05 AM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle Petitioner, v. NC Sheriffs Education and Training Standards Commission Respondent.	AMENDED NOTICE OF RESCHEDULED HEARING
---	--

NOTICE IS HEREBY GIVEN that the hearing in this contested case, previously scheduled for September 24, 2019, is rescheduled as follows:

DATE: December 3, 2019

TIME: 9:00 AM (or as soon thereafter as may be heard)

PLACE NC Office of Administrative Hearings
Courtroom B
1711 New Hope Church Rd
Raleigh, North Carolina 27609

This the 31st day of October, 2019.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael C Byrne
Self Employed
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

Benjamin Zellinger
North Carolina Department of Justice
bzellinger@ncdoj.gov
Attorney For Respondent

This the 31st day of October, 2019.



Jerrod Godwin
Administrative Law Judge Assistant
N.C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Phone: 919-431-3000

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

NOTICE OF APPEARANCE

NOW COMES, Respondent, North Carolina Sheriffs' Education and Training Standards Commission ("Commission"), by and through counsel, Ryan Haigh, Special Deputy Attorney General, and shows the Court that:

The undersigned hereby gives notice that he now is the counsel of record for Respondent in the above-captioned contested case. Please forward all future legal documents and correspondence in this contested case to the undersigned attorney.

Respectfully submitted, this the 26th day of November, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Ryan Haigh

Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6572
State Bar No. 43456
Email: rhaigh@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **NOTICE OF APPEARANCE** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner via electronic mail to the below-listed address:

Michael C. Byrne
michael@mbyrnelawnc.com
506 Vineland Street
Whiteville, North Carolina 28472

This the 26th day of November, 2019.

/s/ Ryan Haigh
Ryan Haigh
Special Deputy Attorney General
ATTORNEY FOR THE COMMISSION

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

MAURICE A. DEVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

19 DOJ 01619

SUPPLEMENTAL
RESPONDENT'S PREHEARING
STATEMENT

(Paragraph 4)

Pursuant to the Order for Prehearing Statements issued on March 22, 2019 by the Honorable Melissa Owens Lassiter, Administrative Law Judge, the following information is provided:

4. Respondent also reserves the right to call the following witnesses:

- a. Captain John C. Morton;
- b. Retired 1st Sgt. Gerald L. Burton;
- c. Retired Captain Jeffrey O. Holmes;
- d. Sgt. Rodney W. Sawyer;
- e. Lt. Paul T. Clark;
- f. Retired Captain James H. Wingo, II;
- g. Retired Major Brian K. Regan; and
- h. Paul Nelson.

Respectfully submitted, this the 26th day of November, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Ryan Haigh
Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6572
State Bar No. 43456
Email: rhaigh@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **SUPPLEMENTAL RESPONDENT'S PREHEARING STATEMENT** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner via electronic mail to the below-listed address:

Mr. Maurice A. Devalle
michael@mbyrnelawnc.com
506 Vineland Street
Whiteville, North Carolina 28472

This the 26th day of November, 2019.

/s/ Ryan Haigh _____
Ryan Haigh
Special Deputy Attorney General
ATTORNEY FOR THE COMMISSION

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

TRIAL MEMORANDUM ON
BURDEN OF PROOF

COMES NOW Petitioner, submitting this Trial Memorandum of burden of proof in cases where the licensing agency claims the petitioner committed a crime, as follows:

Law enforcement licensing agencies routinely cite Overcash v. DENR, 179 N.C. App. 697; 635 S.E.2d 442; 2006 N.C. App. LEXIS 2168 (2006) for the premise that the burden of proof in contested cases involving such matters is on the petitioner. This premise is unsupported by North Carolina law, and is in direct violation not only of fundamental fairness but also of the Constitution of North Carolina.

Overcash is a Court of Appeals case. It involved an administrative decision of DENR's Environmental Management Commission imposing penalties for violations of underground storage tank regulations. Overcash, in short, thus did not involve either occupational licensing or the right to earn a living in one's chosen profession, nor did it involve agency deprivation of an existing certification. Most all, it did not involve an allegation that a citizen, who was never convicted of or pleaded guilty to such a crime, committed a serious crime. The same is true of another environmental penalty cases referenced in Overcash, Holly Ridge Associates, LLC v. DENR, 176 N.C. App. 594; 627 S.E.2d 326; 2006 N.C. App. LEXIS 581 – and Holly Ridge was ultimately reversed by the Supreme Court. See 361 N.C. 531; 648 S.E.2d 830; 2007 N.C. LEXIS 811 (2007).

Britthaven v. N.C. Dept. of Human Resources, 118 N.C. App. 379, 455 S.E. 2d 455, rev. den., 341 N.C. 418, 461 S.E. 2d 754 (1995), yet another Court of Appeals case, dealt with the burden of proof in Certificate of Need cases. Such cases are brought under their own statutory scheme, including a specific statutory section allowing for administrative appeals. See N.C.G.S. § 131E-188(a). Obviously, this statutory scheme (and cases construing it) would not be determinative in matters dealing with deprivation of a license connected with the right to earn a living in the profession of one's choice, nor would it operate to place the burden of proof on a citizen to "prove" he or she did not commit a crime.

Accordingly, the issue of who has the burden of proof in this case is not controlled by Overcash. It is controlled instead by our Supreme Court. North Carolina courts have emphasized in multiple cases that "[t]he rule as to the burden of proof is important and indispensable in the administration of justice. It constitutes a substantial right of the party upon whose adversary the burden rests, and therefore it should be carefully guarded and rigidly enforced by the courts." Tippite v. Atl. Coast Line R. Co., 234 N.C. 641, 644, 68 S.E.2d 285, 288 (1951).

"The burden of proof" is a "'substantive' aspect of a claim." Medtronic, Inc. v. Mirowski Family Ventures, LLC, 134 S. Ct. 843, 849, 187 L. Ed. 2d 703 (2014). Specific guidance on how North Carolina courts generally allocate the burden of proof in any dispute, including case in the administrative process, is found in Peace v. Empl. Sec. Com'n of N.C., 349 N.C. 315, 507 S.E.2d 272 (1998). In Peace, the Supreme Court held that the burden of proof should be placed on the party **attempting to show the existence of a claim or cause of action, and if proof of his claim includes proof of negative allegations, it is incumbent on him to do so** [i.e., to make proof of such]. Peace, citing Johnson v. Johnson, 229 N.C. 541, 50 S.E.2d 569 (1948).¹ The Peace Court continued: "In the absence of state constitutional or statutory direction, the appropriate burden of proof must be 'judicially allocated on considerations of policy, fairness and common sense'." Peace, citing Kenneth S. Broun, Brandis & Broun on North Carolina Evidence § 37 (4th ed. 1993).

Here, Respondent asserts that Petitioner "committed" a crime. Petitioner never was convicted of that crime nor did he plead guilty to it. It must be remembered that this is an allegation that a citizen committed a crime, and not an implied consent offense such as a motor vehicle violation. "[A] State must prove every ingredient of an offense beyond a reasonable doubt, and .

¹ Peace, over a dissent, held that it was legally proper to place the burden of proof on a Petitioner in a state personnel case, a decision subsequently reversed by statute.

. . may not shift the burden of proof to the defendant' by means of a presumption.” State v. Smith, 170 N.C. App. 461, 470, 613 S.E.2d 304, 312, 2005 N.C. App. LEXIS 1075, 20. Indeed, shifting the burden of proof to one charged with committing a crime flatly violates our State Constitution. Id. The constitutional seriousness of this issue is demonstrated by its enshrinement in our State Constitution’s Declaration of Rights:

No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

Constitution of North Carolina, Art I, Sec. 23.² A “defendant had an absolute constitutional right to plead not guilty and be tried by a jury. N.C. Const. Art. I, § 24; State v. Boone, 293 N.C. 702, 712-13, 239 S.E. 2d 459, 465 (1977). He should not and could not be punished for exercising that right. Id.” State v. Langford, 319 N.C. 340, 345, 354 S.E.2d 523, 526, 1987 N.C. LEXIS 1923, *9-10. Against this background, how can it be constitutional to place the burden of proof on a citizen that he or she had not committed a crime? The simple answer is that it cannot be. Particularly in the absence of a conviction, it is flatly unconstitutional for a non-judicial agency to determine that a citizen committed a crime, and then require that citizen to prove that he or she did not. Constitutionality, aside, this is the essence of “arbitrary and capricious” behavior that is specifically prohibited of all agencies, including this one. “Administrative agency decisions may be reversed as arbitrary or capricious if they are ‘patently in bad faith,’ or ‘whimsical’ in the sense that ‘they indicate a lack of fair and careful consideration.’” Teague v. Western Carolina University, 108 N.C. App. 689, 424 S.E.2d 684 (1993).

Further, it is critical to note that what is involved in this case is the ability of a citizen to earn a living in his or her chosen profession. As our Constitution holds at Article I, Section 1:

We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

The “enjoyment of the fruits of their own labor” is the key provision here. “N.C. Const., Art. I, § 19... includes the right of the citizen to be free to use his faculties in all lawful ways; to

² The unanimous jury verdict provision applies to both felonies and misdemeanors. State v. Pulliam, 184 N.C. 681, 114 S.E. 394 (1922).

live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or vocation, and for that purpose to enter into all contracts which may be proper, necessary and essential to his carrying out these purposes to a successful conclusion.” State v. Ballance, 229 N.C. 764, 51 S.E.2d 731 (1949). This is among the “fundamental provisions” of our State Constitution State v. Warren, 252 N.C. 690, 114 S.E.2d 660 (1960).

In this case, Respondent seeks not to enforce a fine for pollution or other environmental transgressions, as in Overcash. Rather, the Respondent seeks to bar Petitioner not from a mere individual job, as in Peace, but to bar Petitioner from working in his or her chosen profession in any capacity, perhaps forever – as well as forever branding him or her with the allegation of a criminal conviction. Polluting the environment (Overcash) is not a fundamental right. The right to seek and hold employment in one’s chosen profession, especially having been previously licensed in that profession, as Petitioner was, certainly is, under Article I, Section I of our State constitution – as is the right not to be required to prove non-commission of an alleged (yet un-adjudicated) crime in order to do so. Treants Enters., Inc. v. Onslow County, 83 N.C. App. 345, 350 S.E.2d 365 (1986).

In conclusion, there is no authority, including Overcash, requiring or even suggesting that the burden of proof here should be on the Petitioner to show non-commission of a crime. OAH precedent, multiple provisions of our State Constitution, fairness and common sense, and the draconian penalties proposed by Respondent collectively lead to the conclusion that the burden of proof here must be on that agency.

November 26, 2019

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by E-File to:

Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

MAURICE A. DEVALLE,

Petitioner,

v.

**NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,**

Respondent.

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS**

19 DOJ 01619

CONSENT MOTION

**TO ORDER RESPONDENT TO
TURN OVER DOCUMENTS
OBTAINED VIA REVIEW OF NCSHP
INTERNAL AFFAIRS FILE**

NOW COMES, Respondent, North Carolina Sheriffs' Education and Training Standards Commission ("Commission"), by and through counsel, Ryan Haigh, Special Deputy Attorney General, and states as follows:

1. Upon receiving the case file in this matter, numerous documents appeared to be illegible due to being copies of originals.
2. I endeavored to obtain clearer copies by seeking review of the original NCSHP internal affairs file on November 25, 2019, which appeared to be the source of the documents. (See memo attached)
3. I was able to secure more legible copies, as well as a few documents that appeared to be relevant to the matter before this body, but had previously not been obtained.
4. The Respondent endeavors to provide a copy of all of this material to opposing counsel.

5. However, based upon the undersigned's review of N.C. Gen. Stat. § 132.1.4, it appears as though the undersigned may be precluded from providing a copy of these records to opposing counsel without a court order.

WHEREFORE, Respondent is seeking a Court order, ordering respondent to turn over records obtained via a review of Petitioner's NCSHP Internal Affairs file related to the matter before this body.

Respectfully submitted, this the 27th day of November, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Ryan Haigh
Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6572
State Bar No. 43456
Email: rhaigh@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **NOTICE OF APPEARANCE** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner via electronic mail to the below-listed address:

Michael C. Byrne
michael@mbyrnelawnc.com
506 Vineland Street
Whiteville, North Carolina 28472

This the 27th day of November, 2019.

/s/ Ryan Haigh _____
Ryan Haigh
Special Deputy Attorney General
ATTORNEY FOR THE COMMISSION

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

MAURICE A. DEVALLE,

Petitioner,

v.

**NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,**

Respondent.

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619**

**ORDER GRANTING RESPONDENT
MOTION TO TURN OVER
DOCUMENTS OBTAINED VIA
REVIEW OF NCSHP INTERNAL
AFFAIRS FILE**

Upon consideration of Respondent's "Motion to turn over documents obtained via review of NCSHP Internal Affairs File" the undersigned, GRANTS such Motion.

It is hereby ORDERED that Respondent shall turn over a copy of all materials obtained from Petitioner's Internal Affairs file on November 25, 2019 to counsel for Petitioner forthwith.

This the ____ day of November, 2019

Administrative Law Judge

- Doc. Ex. 92 -

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

V.

**NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION.**

Respondent.

SUPPLEMENTAL
RESPONSES TO PETITIONER'S
DISCOVERY TO RESPONDENT

NOW COMES North Carolina Sheriffs' Education and Training Standards Commission ("Respondent"), by and through counsel, Marie Hartwell Evitt, Assistant Attorney General, and submits Respondent's Objections and Responses to Petitioner's Discovery to Respondent pursuant to North Carolina Rule of Civil Procedure 33, 34, and 36, N.C.G.S. 150B, and 26 N.C.A.C. 3, Rule .0112.

GENERAL OBJECTIONS

1. Respondent objects to the definitions and instructions which appear in Petitioner's interrogatories/discovery requests to the extent that they might be construed to impose any duty upon Respondent in responding to these requests other than as provided in the North Carolina Rules of Civil Procedure.

2. Respondent generally objects to the interrogatories/discovery requests to the extent that they may be construed to request confidential communications with counsel of record concerning this litigation or information in all documents created or prepared in anticipation of litigation or for trial on the grounds that such information and documents are protected by the attorney-client and/or work product privileges or are otherwise outside the scope of Rule 36 of the North Carolina Rules of Civil Procedure.

3. Respondent has not completed discovery or preparation for the trial of this case and, therefore, reserves the right to rely at the trial on additional contentions, theories and facts which are unknown to, or not fully formulated by Respondent at this time.

4. Respondent objects to responding to the interrogatories/discovery requests to the extent that they call for information or call for the identification of documents that are not within the applicable scope of discovery in this action, are not relevant to the subject matter of this action and/or are not reasonably calculated to lead to the discovery of admissible evidence in this action.

5. Respondent objects to the interrogatories/discovery requests to the extent that they call for a legal conclusion.

6. Respondent objects to responding to these interrogatories/discovery requests to the extent that they call for information that is not available to Respondent.

7. Respondent objects to responding to these interrogatories/discovery requests to the extent that they are overly broad or overly inclusive and/or they call for extensive research, investigation, information or identification of documents that would subject Respondent to annoyance, undue burden or expense. Respondent objects to responding to these interrogatories/discovery requests to the extent that they call for Respondent to take action other than (a) a reasonable and thorough inquiry and (b) a reasonable and thorough search for documents maintained in the possession, custody or control of Respondent, responsive to the discovery requests, in locations where such documents are most likely to be found.

8. Respondent objects to responding to these interrogatories/discovery requests to the extent that they are vague, indefinite, uncertain, and/or ambiguous and cannot reasonably be answered.

9. Respondent generally objects to any requests which require Respondent to restate or summarize information contained in any document on the grounds that any such request is unduly burdensome and unnecessary.

10. Specific objections, if any, are presented in the following responses to discovery requests. Without waiving any general objections, Respondent provides the following responses.

INTERROGATORIES

1. Identify each and every person who assisted Respondent in answering these interrogatories, specifying the interrogatory on with which each such person assisted.

ANSWER:

No person assisted Respondent in providing the **supplemental** answers below, to the extent that they have been modified.

2. Identify each and every person known or believed by you to have knowledge relating to each allegation (or facts related thereto) made by Respondent in the agency action document/probable cause letter, including but not limited to Respondent's allegations that (a) Petitioner committed the criminal offense(s) identified in the probable cause letter (separately identifying persons known or believed to have knowledge of each alleged criminal offense), and (b) that probable cause exists to suspend or revoke Petitioner's status as a certified officer, whether the information supports or refutes the allegation in question, briefly summarizing the knowledge or information believed to be possessed by each person you identify.

ANSWER:

The full extent of the Respondent's file has been disclosed to Petitioner. Petitioner is not aware of anyone that has personal knowledge of the alleged facts relating to this matter beyond what has already been provided.

Specifically breaking down previously disclosed information in the format sought is unduly burdensome and unnecessary.

3. State all facts which support, or which you contend support, your allegation in the agency action letter/probable cause letter that Petitioner committed the criminal offenses therein, listing facts separately for each criminal offense identified or alleged therein. Additionally, identify all documents referencing, memorializing, or having any bearing on each such fact or contention so stated, including but not limited to notes, reports, written statements, video and body camera footage, and electronic mail transmissions. This request for identification specifically includes documents you believe to be in the possession, custody, or subject to the control of any law enforcement agency

or District Attorney's office, including without limitation the State Bureau of Investigation (SBI).

ANSWER:

The full extent of the Respondent's file has been disclosed to Petitioner. Petitioner is not aware of any other specific documents relating to this matter beyond what has already been provided.

Specifically breaking down previously disclosed information in the format sought is unduly burdensome and unnecessary.

4. Identify each and every person who was consulted with respect to or involved with Respondent's finding of probable cause that Petitioner's certification should be suspended or revoked, **prior to the initiation of this contested case, barring any attorney representing Respondent in this action**, and for each such person so identified briefly summarize the reason such person was consulted or involved with same and the role if any each such person served in that process.

ANSWER:

The following individuals served on the Probable Cause Committee of Respondent Commission and would have made the decision to find probable cause in this case prior to the contested case hearing.

David Mahoney, Sheriff, Transylvania County, 153 Public Safety Way, Brevard, NC 28712

John Ingram, Sheriff, Brunswick County, 70 Stamp Act Drive NE, Bolivia, NC 28422

Alan Jones, Sheriff, Caldwell County, 2351 Morganton Blvd. SW, Lenoir, NC 28645

Steve Bizzell, Sheriff, Johnston County, 120 S. 3rd Street, Smithfield, NC 27577

Ricky Oliver, Sheriff, Yadkin County, 210 East Hemlock Ave, Yadkinville, NC 27055

5. Did any person or persons conduct any investigation for Respondent of the allegations set forth in the agency action document/probable cause letter? If so, so state, identifying (a) the conduct investigated and who ordered such investigation, and why, (b)

the persons who conducted the investigation, (c) all persons interviewed or from whom any statements were taken in the course of the investigation, (d) any reports or findings of the investigation, including but not limited to notes and drafts of such reports, (e) the persons to whom such reports were submitted, and (f) all documents referencing, memorializing, or having any bearing on the investigation, its findings and conclusions, its recommendations, and the actions taken or not taken in response to those findings, conclusions, or recommendations.

ANSWER:

Yes. Sirena Jones, Respondent's Deputy Director conducted an investigation. The conduct she investigated is that alleged in the Probable Cause memorandum and attachments (**R16-R31**) and summarized in the Probable Cause Notification (**R11-R13**). Jones initiated the investigation on her own based on documents indicating he was dismissed from the NC State Highway Patrol. (**R23-R24**) Jones summarized the internal affairs report of the NC State Highway Patrol. (**R26-R31**) This summary was included in documentation presented to the Probable Cause committee for consideration.

6. Explain in detail how it came to your attention that Petitioner allegedly committed the conduct set forth in the agency action document/probable cause letter, stating additionally who informed you of this situation and the manner in which you were informed, and (b) identifying all documents referencing, memorializing, or having any bearing on the manner in which you were informed of Petitioner's alleged conduct.

ANSWER:

Respondent became aware of Petitioner's conduct when he applied for certification through Columbus County Sheriff's Office. An examination of Petitioner's certification history showed he was previously certified with the NC State Highway Patrol and that he was terminated from his position there under investigation. (**R23-R24**)

7. Identify each person whom you expect to call as an expert witness in this case, state the subject matter on which the expert is expected to testify, and state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. This Interrogatory specifically includes any expert opinion presented via affidavit.

ANSWER:

Respondent does not intend to call any expert witnesses.

8. State all facts which support, or which you contend support, your decision that probable cause exists to suspend or revoke Petitioner's certification **other than** (if any facts purportedly exist) than your claim that Petitioner committed the criminal offenses alleged. Additionally, identify all documents referencing, memorializing, or having any bearing on each such fact or contention so stated, including but not limited to notes, reports, written statements, and electronic mail transmissions. This request for identification specifically includes documents you believe to be in the possession, custody, or subject to the control of any law enforcement agency or District Attorney's office including without limitation the State Bureau of Investigation (SBI).

ANSWER:

Respondent's Probable Cause Committee found probable cause to believe that Petitioner lacks the good moral character required of justice officers based on all the circumstances surrounding this false time reporting, false data entry into the state payroll system, and failing to fulfill his duties as required while employed with the NC State Highway Patrol. (R11-R13)

Respondent believes the NC State Highway Patrol possesses an Internal Affairs file investigating these allegations. (R26-R31)

WRAL may have video or news feed covering the allegations above. (R26-R31)

9. Are there any persons other than Respondent's counsel whom Respondent believes to have knowledge of the facts of this contested case and who is not identified above? If so, please identify each and every such person and briefly summarize the knowledge held or believed to be held by each such person identified.

ANSWER:

At this time, to the best of Respondent's knowledge, all individuals having relevant knowledge of the facts in this case and considered by the Probable Cause Committee are identified above or referenced in the disclosed discovery materials.

10. Explain in detail your reasons for finding probable cause against Petitioner for reasons different than those set forth in the Probable Cause hearing notice to Petitioner.

ANSWER:

To the best of Respondent's knowledge, the reason(s) for finding probable cause against Petitioner were stated in the Probable Cause hearing notice to Petitioner.

11. For any document withheld from production or identification on the basis of any asserted privilege, set forth a privilege log stating/identifying (a) each document withheld from identification or production, (b) the privilege asserted with respect to each such document, and (c) the person(s) who created each such document withheld.

ANSWER:

To the best of Respondent's knowledge, no documents have been withheld by Respondent on the basis of privilege. Some of the documents are difficult to read and Respondent has obtained cleaner copies from Petitioner's IA file. Respondent believes that he may be precluded from disclosing these pursuant to N.C.G.S. 132-1.4. Respondent is waiting on a court order before disclosing these. However, based upon a review of the previously disclosed discovery on November 27, 2019 all of these documents have either been several months ago, or via the exhibits in 18 OSP 07196, which have recently been provided to Petitioner via discovery.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to the rules cited above, Petitioner requests Respondent to produce the documents in its possession, custody or control listed below for inspection and copying by Petitioner's counsel or someone acting on his behalf at such time and place as may be agreed upon by counsel. The instructions and definitions set forth above are incorporated herein by reference.

1. All documents referencing, relating to, memorializing, or having any bearing the allegations (or facts related thereto) set forth in the Document Constituting Agency Action in this case.

RESPONSE: See the attached Certification file of Petitioner. See also discovery, which includes Respondent's entire file.

2. All written statements, notes, records, reports, or any other documents made or solicited by any person in the course of or pursuant to any investigation of the incidents set forth in the agency action document, either by Respondent or by any third party, including any law enforcement agency.

RESPONSE: See the attached Certification file of Petitioner. See also discovery, which includes Respondent's entire file.

3. To the extent not already produced, all documents referencing, memorializing, or having any bearing on any investigation undertaken by Respondent or any person acting on behalf of Respondent in reference to any matter raised in the agency action document, including but not limited to statements, notes, reports, interview tapes and transcripts, drafts of reports, statements, interview statements, communications between

investigators, communications between investigators and facility managers, investigator's notes, and electronic mail transmissions.

RESPONSE: See the attached Certification file of Petitioner. See also discovery, which includes Respondent's entire file.

4. All documents, including notes, made at any prior hearing on this matter or which reference, memorialize, or have any bearing on any prior decisions or conclusions made by Respondent in reference to Petitioner's certification.

RESPONSE: Petitioner had an employment hearing which involved similar facts (18 OSP 07196). A copy of the transcript of that proceeding, the exhibits admitted into evidence and the findings of this court in that matter have been provided to Petitioner. See also discovery, which includes Respondent's entire file.

5. All documents supporting, referencing, memorializing, or having any bearing on any allegations or contentions by Respondent set forth in Respondent's Pre-Hearing Statement in this contested case.

RESPONSE: See the attached Certification file of Petitioner. Additionally, see the previously disclosed discovery in this matter.

6. The curriculum vitae and written reports of each expert identified in the Interrogatories above.

RESPONSE: Respondent does not intend to utilize the services of any expert witnesses. Therefore, these documents do not exist.

7. All documents identified in answers to the interrogatories above or responsive to requests for identification of documents set forth in the interrogatories above.

RESPONSE: See the attached Certification file of Petitioner. See also all the previously disclosed discovery.

8. All video and body camera footage, photographs, diagrams, sketches, reports, or other media that reference, memorialize, or have any bearing on the incidents described in the Probable Cause Letter.

RESPONSE: See the attached Certification file of Petitioner.

Respectfully submitted, this the 27th day of November, 2019

JOSHUA H. STEIN
Attorney General

/s/ Ryan F. Haigh
Ryan Haigh
Special Deputy Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, North Carolina 27699-9001
Telephone: (919) 716-6725
State Bar No. 43456
Email: rhaigh@ncdoj.gov
ATTORNEY FOR THE COMMISSION

- Doc. Ex. 102 -
CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **RESPONSES TO PETITIONER'S DISCOVERY TO RESPONDENT** has been duly served upon Petitioner's counsel via electronic mail, delivery and read receipts requested, to the following:

Michael C. Byrne, Esq.
michael@mbyrnelaw.com

This the 27th day of November, 2019

JOSHUA H. STEIN
Attorney General

/s/ Ryan F. Haigh
Ryan Haigh
Special Deputy Attorney General
ATTORNEY FOR THE COMMISSION

- Doc. Ex. 103 -

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

MAURICE A. DEVALLE,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

**SECOND SUPPLEMENTAL
RESPONDENT'S PREHEARING
STATEMENT**

(Paragraph 4)

Pursuant to the Order for Prehearing Statements issued on March 22, 2019 by the Honorable Melissa Owens Lassiter, Administrative Law Judge, the following information is provided:

4. Respondent also reserves the right to call the following witnesses:

a. Sirena Jones, Deputy Director of NCDOJ Sheriff's Standards Division

Ms. Jones shall testify with regard to her memo and the surrounding circumstances referenced in discovery (**R 16-31**)

Respectfully submitted, this the 27th day of November, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Ryan Haigh
Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6572
State Bar No. 43456
Email: rhaigh@ncdoj.gov
ATTORNEY FOR THE COMMISSION

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **SECOND SUPPLEMENTAL RESPONDENT'S PREHEARING STATEMENT** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon the Petitioner via electronic mail to the below-listed address:

Mr. Maurice A. Devalle
michael@mbyrnelawnc.com
506 Vineland Street
Whiteville, North Carolina 28472

This the 27th day of November, 2019.

/s/ Ryan Haigh
Ryan Haigh
Special Deputy Attorney General
ATTORNEY FOR THE COMMISSION

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

)
)
)
)
)
)
)
)
)
)

FIRST MOTION IN LIMINE
(Discovery/Motion to Exclude)

COMES NOW the Petitioner through counsel, moving pursuant to 26 N.C.A.C. 3.0112 to exclude from evidence documents and witnesses from the Respondent which were disclosed to the Petitioner on Tuesday, November 26, 2019 and November 27, 2019, one working day prior to the trial of this action.

1. Petitioner served discovery requests in this case on or about May 5, 2019, or approximately six months ago.
2. This case is set for trial Tuesday, December 3. For practical purposes, that is one (1) work day from today's date given the Thanksgiving Holiday and the weekend.
3. On Tuesday, November 26, 2019, Petitioner was emailed some "supplemental" discovery responses. In much the same time frame, Respondent attempted to substantially supplement its list of witnesses in an "Amended" Prehearing Statement.
4. This "Amended" Prehearing Statement was filed Tuesday, November 26, 2019. It contains no fewer than eight additional witnesses previously undisclosed to the undersigned: Captain John C. Morton; Retired 1st Sgt. Gerald L. Burton; Retired Captain Jeffrey O. Holmes; Sgt. Rodney W. Sawyer; Lt. Paul T. Clark; Retired Captain James H. Wingo, II; Retired Major Brian K. Regan; and Paul Nelson.

5. All of these witnesses, on information and belief, are or were affiliated with the North Carolina Highway Patrol. Petitioner was separated from the Highway Patrol in mid-2017. Obviously these witnesses would have been well-known to Respondent at the time this case was filed. There is no justification or excuse for Respondent failing to disclose these witnesses in a timely fashion and over a period exceeding six months from the service of discovery in this case.
6. The same is true with the attempts to supplement Respondent's discovery responses, also again served Tuesday, November 26, 2019. The undersigned has not yet even been able to ascertain what specific information is being supplemented; however, it appears to be a wholesale change from trying the matter with Sheriff's Standards witnesses to attempting a wholesale re-litigation of Petitioner's dismissal from the Highway Patrol.
7. Worse still, at or about 2:30 PM on Wednesday, November 27, 2019, Respondent served yet another "Amended" Prehearing Statement, identifying yet another new proposed witness. This witness is Sirena Jones, identified as "Deputy Director of NCDOJ Sheriff's Standards Division." Thus, one full work day prior to the hearing, Respondent designates one of its own personnel as a witness – eleven months after the determination and more than six months after the service of discovery. Again, the failure to make timely discovery and the prejudice caused to the undersigned's case is self-evident.
8. Producing these documents and witnesses (particularly given the sheer volume of each) less than three work days before trial represents a significant failure to make timely discovery, and Petitioner asks that these documents and witnesses be excluded from evidence. Roane-Barker v. Southeast Hospital Supply, 99 N.C. App. 30; 392 S.E.2d 663 (1990) review denied, 328 N.C. 93, 402 S.E.2d 418, 1991 N.C. LEXIS 63 (1991).
9. At the time of the decision on Petitioner's certification by the Respondent, the Petitioner's just cause hearing had not yet occurred. The certification letter was issued January 28, 2019. The just cause hearing ended on April 9, 2019. Obviously, the Respondent did not consider either Petitioner's just cause hearing or the testimony of the witnesses therein – as that testimony had not happened yet. Respondent, then, tries to bolster its case by introducing evidence Respondent itself failed to consider in making its decision. This it cannot do, for reasons of both fairness and due process to Petitioner. Thus, not only does this matter present drastically untimely disclosures, but an attempt to introduce evidence supporting the Respondent's action that was not considered by the Respondent itself. A more obvious denial of due process and arbitrary and capricious behavior

could scarcely be imagined in the OAH context. Tully v. City of Wilmington, 370 N.C. 527, 810 S.E.2d 208, 2018 N.C. LEXIS 65, 2018 WL 1124796.

10. The proximity of the discovery failure prior to trial is a factor in determining the appropriate sanction. Hayes v. Browne, 76 N.C. App. 98, 331 S.E.2d 763 (1985), disc. rev. denied, 315 N.C. 587, 341 S.E.2d 25 (1986) (sanctions appropriate when Petitioner failed to complete discovery 10 days before trial); Bumgarner v. Raneau, 332 N.C. 624, 422 S.E.2d 545 (1995). Trial is next Tuesday. Again, this involves discovery served more six months ago, on a matter of critical importance to the case. Respondent's action appealed from was undertaken in January 2019 – eleven months ago. Yet Respondent seeks at the last minute to introduce a tremendous amount of previously undisclosed material and witnesses into this trial. The prejudice to the undersigned's case is self-evident.
11. That many of these witnesses may have testified at Petitioner's just cause hearing is immaterial. The undersigned was not the lawyer in that case, and the information at issue was not disclosed to the undersigned. Again, the prejudice to the undersigned's case is self-evident.
12. Moreover, the issue of Petitioner's dismissal is not an issue in this case. The Respondent here is not alleging that Petitioner should or should not be dismissed from the Patrol. The Respondent is alleging that Petitioner committed a crime, and, additionally, lacks good moral character to serve in law enforcement.
13. To that point, Petitioner has been employed with the county Sheriff (which is the certification at issue) for more than two years now. None of these witnesses have a scintilla of knowledge as to how Petitioner has conducted himself as a School Resource Officer in the intervening years since Petitioner's termination from the Patrol. They are not competent to testify with respect to (a) his current moral character, or (b) his years of service as a School Resources Officer with the county sheriff. Indeed, any probative value the testimony of these surprise witnesses may have is substantially outweighed not only by the prejudice this late-identified information would cause to the undersigned's case, but also by the well-established vengeful and punitive actions of the Highway Patrol generally towards its separated personnel – something, the undersigned alleges, well known to the OAH through its demonstrated refusal over periods of years to accept the judgments of this tribunal.
14. The cases cited herein apply to the administrative process. Mount Olive Home Health Care Agency, Inc. v. North Carolina Dep't of Human Resources, 78 N.C. App. 224, 336 S.E.2d 625

(1985). And, as Bumgarner holds, exclusion of evidence is a specifically authorized remedy when a party, as here, gives untimely discovery answers:

Our Court of Appeals, as well as the federal courts with regard to the comparable federal rule, have, however, consistently held that the purpose behind Rule 26(e) is to prevent a party with discoverable information from making untimely, evasive, or incomplete responses to requests for discovery. See cases cited in Willoughby v. Wilkins, 65 N.C. App. 626, 641, 310 S.E.2d 90, 99 (1983), disc. rev. denied, 310 N.C. 631, 315 S.E.2d 697 (1984). The trial court not only has the inherent authority to regulate trial proceedings, but it has the express authority under Rule 37, “to impose sanctions on a party who balks at discovery requests.” Green v. Maness, 69 N.C. App. 292, 299, 316 S.E.2d 917, 922, cert. denied, 312 N.C. 621, 323 S.E.2d 922 (1984).

Bumgarner at 630.

15. The undersigned, in more than 15 years of personnel practice, cannot presently recall a situation where an agency attempted such a large, last-minute “supplement” to discovery and witness lists that had been outstanding for months. These actions represent a wholesale failure to make discovery in a timely fashion, and the only way to avoid the substantial resulting prejudice is exclusion of the witnesses and supplemented information from the contested case hearing.
16. “One of the primary purposes of the discovery rules is to facilitate the disclosure prior to trial of any unprivileged information that is relevant and material to the lawsuit so as to permit the narrowing and sharpening of the basic issues and facts that will require trial.” American Tel. & Tel. Co. v. Griffin, 39 N.C. App. 721, 726, 251 S.E.2d 885, 888, 1979 N.C. App. LEXIS 2562, 10-11. That Court continued, “To permit a party to refuse to disclose relevant factual information in this type of situation would serve to reinject the ‘sporting element’ into trials and would utterly defeat the purposes” for which the discovery rules were enacted.
17. Here, again, we have an agency that proposes more than six months after being served discovery and months after its Prehearing Statement amending that at the very last minute to bring in nine new witnesses and a presently unknown amount of additional evidence – including one of its own employees. Such conduct cannot stand.

WHEREFORE, Petitioner prays for an order that, at a minimum, sanctions Respondent for failure to make discovery by excluding the relevant material from evidence, and for such additional and further relief as the Court deems appropriate.

November 26, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by OAH server to:
Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice

November 26, 2019.

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS**

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

)
)
)
)
)
)
)
)
)
)

SECOND MOTION IN LIMINE
(Witness Sequestration)

COMES NOW the Petitioner through counsel, moving and requesting pursuant to 26 N.C.A.C. 3, Rule .0121, as well as Rules .0114 and .0115, that all witnesses be excluded from the hearing room while this case is heard, in order to prevent their hearing the testimony of other witnesses, barring a designated agency representative and a representative for Petitioner.

WHEREFORE, Petitioner prays that witnesses for the parties be excluded from the hearing room barring occasions when they are actually offering testimony in the hearing of the above-captioned contested case. Further, Petitioner prays that the Court seasonably instruct proposed witnesses in the requirements of OAH sequestration at the time of hearing.

November 26, 2019.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601
Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by OAH server to:

Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice

November 26, 2019.

By: /s/ Michael C. Byrne
Michael C. Byrne

STATE OF NORTH CAROLINA

COUNTY OF WAKE

MAURICE A. DEVALLE

PETITIONER,

v.

**NORTH CAROLINA SHERIFF'S
EDUCATION AND TRAINING
STANDARDS COMMISSION**

RESPONDENT.

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS**

19 DOJ 01619

Witness List

- 1) Captain John C. Morton
- 2) Gerald L. Burton
- 3) Captain Jeffrey O. Holmes
- 4) Sgt. Rodney W. Sawyer
- 5) Lt. Paul T. Clark
- 6) James H. Wingo, II
- 7) Brian K. Regan
- 8) Paul Nelson

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
6714 MAIL SERVICE CENTER
RALEIGH, NC 27699-6700
FILE NO. 19 DOJ 01619

SUBPOENA
(N.C. Gen. Stat. § 150B-27)

Maurice A. DeValle,
Petitioner,

v.

NC Sheriffs' Education & Train Standards Com.,
Respondent.

☒ To appear in person ☐ To produce document or object

Party requesting subpoena:

☐ Petitioner ☒ Respondent

[NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:

Subpoenas may be produced at your request, but must be signed and issued by the Office of Administrative Hearings]

TO:

Capt. John C. Morton

Name of person being served

NCDPS - 512 N. Salisbury Street

Street address/post office box

Alternate address

Raleigh, NC 27604 // 919-733-7952

City/State/Zip/Telephone

City/State/Zip/Telephone

YOU ARE COMMANDED TO: (check all that apply)

- ☒ Appear and testify in the above-entitled contested case at the place, date, and time indicated below.
☐ Appear and testify, in the above-entitled contested case, at a deposition at the place, date and time indicated below.
☐ Produce, permit inspection and copying of the following items at the place, date, and time indicated below.

Name and Location of Hearing:

NC Office of Administrative Hearings
Courtroom B
1711 New Hope Church Road

Raleigh, N.C. 27609

Date and Time to Appear/Produce

December 3, 2019 // 9:00 a.m.

Date

Name of Person or Agency Requesting Subpoena:

Ryan Haigh Spec. Dep. Attorney General
Name Title

NC Department of Justice // P.O. Box 629

Street/Post Office Box

Raleigh, NC 27602

City/State/Zip

(919) 716-6572

Telephone Number

Signature of person issuing subpoena

☐ Chief Hearings Clerk

☐ Assistant Hearings Clerk

☐ Administrative Law Judge

☒ Attorney

DELIVER "RETURN OF SERVICE" TO
PARTY NAMED ABOVE

RETURN OF SERVICE

I certify that this subpoena was received and served as follows:

Date received by authorized server

☐ By delivering a copy of this subpoena to
the person named above

☐ By telephone communication with the person
named above (For use only by the Sheriff's office
for witness subpoenaed to appear and testify)

☐ This subpoena WAS NOT served for the
following reasons:

☐ By registered or certified mail, return receipt
requested, on the party named above

Service Fee ☐ Paid
\$ ☐ Due

Date Served

Signature and Title of Authorized Server

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).

(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a

motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

6) Order to compel expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

7) Trade secrets, confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

2) Forms of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitation of Rule 26(b)(2). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

The subpoena is a legal order requiring you to appear on the day and at the time stated. You have been called (subpoenaed) to be a witness in a contested case.

DUTIES OF A WITNESS

- Unless you are a custodian of medical or public records, you must attend the hearing on the day and at the time stated in the subpoena.
- Unless otherwise directed by the administrative law judge, you must answer all questions asked when you are on the stand giving testimony.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to the hearing.

If you have any questions about being subpoenaed as a witness, you should contact the person who requested the subpoena.

UNDERSTAND THE QUESTIONS AND SPEAK OUT

When you testify, listen carefully to all questions, and make sure that you understand the questions before you attempt to answer. If necessary, ask that a question be repeated before you try to answer. When you answer, speak clearly and loudly enough to be heard.

BRIBING OR THREATENING A WITNESS

It is a violation of state law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a contested case, you should promptly report the incident to the administrative law judge.

WITNESS FEE

A witness is entitled to a small daily fee and travel expense reimbursement (if it is necessary to travel from outside the county in order to testify). Fees for "expert witnesses" are set by the administrative law judge. After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the chief hearings clerk and certify your attendance as a witness so that you will be paid any amount due you.

Witness fees shall be paid by the party requesting the subpoena in accordance with N.C. Gen. Stat. § 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and shall not be required to take any annual leave for the days they serve as a witness. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in N.C. Gen. Stat. § 138-6

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
6714 MAIL SERVICE CENTER
RALEIGH, NC 27699-6700
FILE NO. 19 DOJ 01619

SUBPOENA
(N.C. Gen. Stat. § 150B-27)

Maurice A. DeValle,
Petitioner,

v.

NC Sheriffs' Education & Train Standards Com.,
Respondent.

☒ To appear in person ☐ To produce document or object

Party requesting subpoena:

☐ Petitioner ☒ Respondent

[NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:
Subpoenas may be produced at your request, but must be signed and
issued by the Office of Administrative Hearings]

TO:

Retired First Sgt. Gerald L. Burton Jr.

Name of person being served

105 Highwoods Drive

Street address/post office box

Goldsboro, NC 27530 // 919-805-0124

City/State/Zip/Telephone

Alternate address

City/State/Zip/Telephone

YOU ARE COMMANDED TO: (check all that apply)

- ☒ Appear and testify in the above-entitled contested case at the place, date, and time indicated below.
☐ Appear and testify, in the above-entitled contested case, at a deposition at the place, date and time indicated below.
☐ Produce, permit inspection and copying of the following items at the place, date, and time indicated below.

Name and Location of Hearing:

NC Office of Administrative Hearings
Courtroom B
1711 New Hope Church Road

Raleigh, N.C. 27609

Date and Time to Appear/Produce

December 3, 2019 // 9:00 a.m.

Date

Signature of person issuing subpoena

☐ Chief Hearings Clerk

☐ Assistant Hearings Clerk

☐ Administrative Law Judge

☒ Attorney

Name of Person or Agency Requesting Subpoena:

Ryan Haigh

Spec. Dep. Attorney General

Name

Title

NC Department of Justice // P.O. Box 629

Street/Post Office Box

Raleigh, NC 27602

City/State/Zip

(919) 716-6572

Telephone Number

**DELIVER "RETURN OF SERVICE" TO
PARTY NAMED ABOVE**

RETURN OF SERVICE

I certify that this subpoena was received and served as follows:

Date received by authorized server

☐ By delivering a copy of this subpoena to
the person named above

☐ This subpoena WAS NOT served for the
following reasons:

☐ By telephone communication with the person
named above (For use only by the Sheriff's office
for witness subpoenaed to appear and testify)

☐ By registered or certified mail, return receipt
requested, on the party named above

Service Fee ☐ Paid
\$ ☐ Due

Date Served

Signature and Title of Authorized Server

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).

(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a

motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

6) Order to compel expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

7) Trade secrets confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

2) Forms of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitation of Rule 26(b)(2). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

The subpoena is a legal order requiring you to appear on the day and at the time stated. You have been called (subpoenaed) to be a witness in a contested case.

DUTIES OF A WITNESS

- Unless you are a custodian of medical or public records, you must attend the hearing on the day and at the time stated in the subpoena.
- Unless otherwise directed by the administrative law judge, you must answer all questions asked when you are on the stand giving testimony.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to the hearing.

If you have any questions about being subpoenaed as a witness, you should contact the person who requested the subpoena.

UNDERSTAND THE QUESTIONS AND SPEAK OUT

When you testify, listen carefully to all questions, and make sure that you understand the questions before you attempt to answer. If necessary, ask that a question be repeated before you try to answer. When you answer, speak clearly and loudly enough to be heard.

BRIBING OR THREATENING A WITNESS

It is a violation of state law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a contested case, you should promptly report the incident to the administrative law judge.

WITNESS FEE

A witness is entitled to a small daily fee and travel expense reimbursement (if it is necessary to travel from outside the county in order to testify). Fees for "expert witnesses" are set by the administrative law judge. After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the chief hearings clerk and certify your attendance as a witness so that you will be paid any amount due you.

Witness fees shall be paid by the party requesting the subpoena in accordance with N.C. Gen. Stat. § 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and shall not be required to take any annual leave for the days they serve as a witness. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in N.C. Gen. Stat. § 138-6

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
6714 MAIL SERVICE CENTER
RALEIGH, NC 27699-6700
FILE NO. 19 DOJ 01619

SUBPOENA
(N.C. Gen. Stat. § 150B-27)

Maurice A. DeValle,
Petitioner,

v.

NC Sheriffs' Education & Train Standards Com.,
Respondent.

☒ To appear in person ☐ To produce document or object

Party requesting subpoena:

☐ Petitioner ☒ Respondent

[NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:

Subpoenas may be produced at your request, but must be signed and issued by the Office of Administrative Hearings]

TO:

Retired Capt. Jeffrey O. Holmes

Name of person being served

1204 Wellstone Circle

Street address/post office box

Apex, NC 27502 // 919-795-0000

City/State/Zip/Telephone

Alternate address

City/State/Zip/Telephone

YOU ARE COMMANDED TO: (check all that apply)

- ☒ Appear and testify in the above-entitled contested case at the place, date, and time indicated below.
☐ Appear and testify, in the above-entitled contested case, at a deposition at the place, date and time indicated below.
☐ Produce, permit inspection and copying of the following items at the place, date, and time indicated below.

Name and Location of Hearing:

NC Office of Administrative Hearings
Courtroom B
1711 New Hope Church Road

Raleigh, N.C. 27609

Date and Time to Appear/Produce

December 3, 2019 // 9:00 a.m.

Date

Signature of person issuing subpoena

☐ Chief Hearings Clerk

☐ Assistant Hearings Clerk

☐ Administrative Law Judge

☒ Attorney

Name of Person or Agency Requesting Subpoena:

Ryan Haigh Spec. Dep. Attorney General
Name Title

NC Department of Justice // P.O. Box 629

Street/Post Office Box

Raleigh, NC 27602

City/State/Zip

(919) 716-6572

Telephone Number

DELIVER "RETURN OF SERVICE" TO
PARTY NAMED ABOVE

RETURN OF SERVICE

I certify that this subpoena was received and served as follows:

Date received by authorized server

☐ By delivering a copy of this subpoena to the person named above

☐ This subpoena WAS NOT served for the following reasons:

☐ By telephone communication with the person named above (For use only by the Sheriff's office for witness subpoenaed to appear and testify)

☐ By registered or certified mail, return receipt requested, on the party named above

Service Fee
\$

☐ Paid
☐ Due

Date Served

Signature and Title of Authorized Server

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).

(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a

motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

6) Order to compel; expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

7) Trade secrets, confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash; expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

2) Forms of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitation of Rule 26(b)(2). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

The subpoena is a legal order requiring you to appear on the day and at the time stated. You have been called (subpoenaed) to be a witness in a contested case.

DUTIES OF A WITNESS

- Unless you are a custodian of medical or public records, you must attend the hearing on the day and at the time stated in the subpoena.
- Unless otherwise directed by the administrative law judge, you must answer all questions asked when you are on the stand giving testimony.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to the hearing.

If you have any questions about being subpoenaed as a witness, you should contact the person who requested the subpoena.

UNDERSTAND THE QUESTIONS AND SPEAK OUT

When you testify, listen carefully to all questions, and make sure that you understand the questions before you attempt to answer. If necessary, ask that a question be repeated before you try to answer. When you answer, speak clearly and loudly enough to be heard.

BRIBING OR THREATENING A WITNESS

It is a violation of state law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a contested case, you should promptly report the incident to the administrative law judge.

WITNESS FEE

A witness is entitled to a small daily fee and travel expense reimbursement (if it is necessary to travel from outside the county in order to testify). Fees for "expert witnesses" are set by the administrative law judge. After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the chief hearings clerk and certify your attendance as a witness so that you will be paid any amount due you.

Witness fees shall be paid by the party requesting the subpoena in accordance with N.C. Gen. Stat. § 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and shall not be required to take any annual leave for the days they serve as a witness. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in N.C. Gen. Stat. § 138-6

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
6714 MAIL SERVICE CENTER
RALEIGH, NC 27699-6700
FILE NO. 19 DOJ 01619

SUBPOENA

(N.C. Gen. Stat. § 150B-27)

Maurice A. DeValle,
Petitioner,

v.

NC Sheriffs' Education & Train Standards Com.
Respondent.

☒ To appear in person ☐ To produce document or object

Party requesting subpoena:

☐ Petitioner ☒ Respondent

[NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:

Subpoenas may be produced at your request, but must be signed and issued by the Office of Administrative Hearings]

TO:

Sgt. Rodney W. Sawyer

Name of person being served

NCDPS - 512 N. Salisbury Street

Street address/post office box

Alternate address

Raleigh, NC 27604 // 919-733-7952

City/State/Zip/Telephone

City/State/Zip/Telephone

YOU ARE COMMANDED TO: (check all that apply)

- ☒ Appear and testify in the above-entitled contested case at the place, date, and time indicated below.
☐ Appear and testify, in the above-entitled contested case, at a deposition at the place, date and time indicated below.
☐ Produce, permit inspection and copying of the following items at the place, date, and time indicated below.

Name and Location of Hearing:

NC Office of Administrative Hearings
Courtroom B
1711 New Hope Church Road

Raleigh, N.C. 27609

Date and Time to Appear/Produce

December 3, 2019 // 9:00 a.m.

Date

Name of Person or Agency Requesting Subpoena:

Ryan Haigh Spec. Dep. Attorney General
Name Title

NC Department of Justice // P.O. Box 629
Street/Post Office Box

Raleigh, NC 27602
City/State/Zip

(919) 716-6572
Telephone Number


Signature of person issuing subpoena

☐ Chief Hearings Clerk

☐ Assistant Hearings Clerk

☐ Administrative Law Judge

☒ Attorney

DELIVER "RETURN OF SERVICE" TO
PARTY NAMED ABOVE

RETURN OF SERVICE

I certify that this subpoena was received and served as follows:

Date received by authorized server

☐ By delivering a copy of this subpoena to the person named above

☐ This subpoena WAS NOT served for the following reasons:

☐ By telephone communication with the person named above (For use only by the Sheriff's office for witness subpoenaed to appear and testify)

☐ By registered or certified mail, return receipt requested, on the party named above

Service Fee ☐ Paid
\$ ☐ Due

Date Served

Signature and Title of Authorized Server

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).

(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a

motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

6) Order to compel: expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

7) Trade secrets, confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash: expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

2) Forms of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitation of Rule 26(b)(2). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

The subpoena is a legal order requiring you to appear on the day and at the time stated. You have been called (subpoenaed) to be a witness in a contested case.

DUTIES OF A WITNESS

- Unless you are a custodian of medical or public records, you must attend the hearing on the day and at the time stated in the subpoena.
- Unless otherwise directed by the administrative law judge, you must answer all questions asked when you are on the stand giving testimony.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to the hearing.

If you have any questions about being subpoenaed as a witness, you should contact the person who requested the subpoena.

UNDERSTAND THE QUESTIONS AND SPEAK OUT

When you testify, listen carefully to all questions, and make sure that you understand the questions before you attempt to answer. If necessary, ask that a question be repeated before you try to answer. When you answer, speak clearly and loudly enough to be heard.

BRIBING OR THREATENING A WITNESS

It is a violation of state law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a contested case, you should promptly report the incident to the administrative law judge.

WITNESS FEE

A witness is entitled to a small daily fee and travel expense reimbursement (if it is necessary to travel from outside the county in order to testify). Fees for "expert witnesses" are set by the administrative law judge. After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the chief hearings clerk and certify your attendance as a witness so that you will be paid any amount due you.

Witness fees shall be paid by the party requesting the subpoena in accordance with N.C. Gen. Stat. § 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and shall not be required to take any annual leave for the days they serve as a witness. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in N.C. Gen. Stat. § 138-6

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
6714 MAIL SERVICE CENTER
RALEIGH, NC 27699-6700
FILE NO. 19 DOJ 01619

SUBPOENA
(N.C. Gen. Stat. § 150B-27)

Maurice A. DeValle,
Petitioner,

v.

NC Sheriffs' Education & Train Standards Com.
Respondent.

☒ To appear in person ☐ To produce document or object

Party requesting subpoena:

☐ Petitioner ☒ Respondent

[NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:
Subpoenas may be produced at your request, but must be signed and
issued by the Office of Administrative Hearings]

TO:

Lieut. Paul T. Clark

Name of person being served

NCDPS - 512 N. Salisbury Street

Street address/post office box

Alternate address

Raleigh, NC 27604 // 919-733-7952

City/State/Zip/Telephone

City/State/Zip/Telephone

YOU ARE COMMANDED TO: (check all that apply)

- ☒ Appear and testify in the above-entitled contested case at the place, date, and time indicated below.
☐ Appear and testify, in the above-entitled contested case, at a deposition at the place, date and time indicated below.
☐ Produce, permit inspection and copying of the following items at the place, date, and time indicated below.

Name and Location of Hearing:

NC Office of Administrative Hearings
Courtroom B
1711 New Hope Church Road

Raleigh, N.C. 27609

Date and Time to Appear/Produce

December 3, 2019 // 9:00 a.m.

Date

Name of Person or Agency Requesting Subpoena:

Ryan Haigh Spec. Dep. Attorney General
Name Title

NC Department of Justice // P.O. Box 629

Street/Post Office Box

Raleigh, NC 27602

City/State/Zip

(919) 716-6572

Telephone Number

Signature of person issuing subpoena

☐ Chief Hearings Clerk

☐ Assistant Hearings Clerk

☐ Administrative Law Judge

☒ Attorney

DELIVER "RETURN OF SERVICE" TO
PARTY NAMED ABOVE

RETURN OF SERVICE

I certify that this subpoena was received and served as follows:

Date received by authorized server

☐ By delivering a copy of this subpoena to
the person named above

☐ By telephone communication with the person
named above (For use only by the Sheriff's office
for witness subpoenaed to appear and testify)

☐ This subpoena WAS NOT served for the
following reasons:

☐ By registered or certified mail, return receipt
requested, on the party named above

Service Fee ☐ Paid
\$ ☐ Due

Date Served

Signature and Title of Authorized Server

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).

(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a

motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

6) Order to compel; expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

7) Trade secrets, confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash; expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

2) Forms of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitation of Rule 26(b)(2). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

The subpoena is a legal order requiring you to appear on the day and at the time stated. You have been called (subpoenaed) to be a witness in a contested case.

DUTIES OF A WITNESS

- Unless you are a custodian of medical or public records, you must attend the hearing on the day and at the time stated in the subpoena.
- Unless otherwise directed by the administrative law judge, you must answer all questions asked when you are on the stand giving testimony.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to the hearing.

If you have any questions about being subpoenaed as a witness, you should contact the person who requested the subpoena.

UNDERSTAND THE QUESTIONS AND SPEAK OUT

When you testify, listen carefully to all questions, and make sure that you understand the questions before you attempt to answer. If necessary, ask that a question be repeated before you try to answer. When you answer, speak clearly and loudly enough to be heard.

BRIBING OR THREATENING A WITNESS

It is a violation of state law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a contested case, you should promptly report the incident to the administrative law judge.

WITNESS FEE

A witness is entitled to a small daily fee and travel expense reimbursement (if it is necessary to travel from outside the county in order to testify). Fees for "expert witnesses" are set by the administrative law judge. After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the chief hearings clerk and certify your attendance as a witness so that you will be paid any amount due you.

Witness fees shall be paid by the party requesting the subpoena in accordance with N.C. Gen. Stat. § 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and shall not be required to take any annual leave for the days they serve as a witness. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in N.C. Gen. Stat. § 138-6

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
6714 MAIL SERVICE CENTER
RALEIGH, NC 27699-6700
FILE NO. 19 DOJ 01619

SUBPOENA

(N.C. Gen. Stat. § 150B-27)

Maurice A. DeValle,
Petitioner,

v.

NC Sheriffs' Education & Train Standards Com.,
Respondent.

☒ To appear in person ☐ To produce document or object

Party requesting subpoena:

☐ Petitioner ☒ Respondent

[NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:

Subpoenas may be produced at your request, but must be signed and issued by the Office of Administrative Hearings]

TO:

Retired Capt. James H. Wingo, II

Name of person being served

PO Box 9624

Street address/post office box

Alternate address

Asheville, NC 28815 // 828-279-6078

City/State/Zip/Telephone

City/State/Zip/Telephone

YOU ARE COMMANDED TO: (check all that apply)

- ☒ Appear and testify in the above-entitled contested case at the place, date, and time indicated below.
☐ Appear and testify, in the above-entitled contested case, at a deposition at the place, date and time indicated below.
☐ Produce, permit inspection and copying of the following items at the place, date, and time indicated below.

Name and Location of Hearing:

NC Office of Administrative Hearings
Courtroom B
1711 New Hope Church Road

Raleigh, N.C. 27609

Date and Time to Appear/Produce

December 3, 2019 // 9:00 a.m.

Date

Signature of person issuing subpoena

☐ Chief Hearings Clerk

☐ Assistant Hearings Clerk

☐ Administrative Law Judge

☒ Attorney

Name of Person or Agency Requesting Subpoena:

Ryan Haigh Spec. Dep. Attorney General
Name Title

NC Department of Justice // P.O. Box 629

Street/Post Office Box

Raleigh, NC 27602

City/State/Zip

(919) 716-6572

Telephone Number

DELIVER "RETURN OF SERVICE" TO
PARTY NAMED ABOVE

RETURN OF SERVICE

I certify that this subpoena was received and served as follows:

Date received by authorized server

☐ By delivering a copy of this subpoena to
the person named above

☐ This subpoena WAS NOT served for the
following reasons:

☐ By telephone communication with the person
named above (For use only by the Sheriff's office
for witness subpoenaed to appear and testify)

☐ By registered or certified mail, return receipt
requested, on the party named above

Service Fee ☐ Paid
\$ ☐ Due

Date Served

Signature and Title of Authorized Server

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).
(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a

motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

6) Order to compel expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

7) Trade secrets, confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

2) Forms of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitation of Rule 26(b)(2). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

The subpoena is a legal order requiring you to appear on the day and at the time stated. You have been called (subpoenaed) to be a witness in a contested case.

DUTIES OF A WITNESS

- Unless you are a custodian of medical or public records, you must attend the hearing on the day and at the time stated in the subpoena.
- Unless otherwise directed by the administrative law judge, you must answer all questions asked when you are on the stand giving testimony.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to the hearing.

If you have any questions about being subpoenaed as a witness, you should contact the person who requested the subpoena.

UNDERSTAND THE QUESTIONS AND SPEAK OUT

When you testify, listen carefully to all questions, and make sure that you understand the questions before you attempt to answer. If necessary, ask that a question be repeated before you try to answer. When you answer, speak clearly and loudly enough to be heard.

BRIBING OR THREATENING A WITNESS

It is a violation of state law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a contested case, you should promptly report the incident to the administrative law judge.

WITNESS FEE

A witness is entitled to a small daily fee and travel expense reimbursement (if it is necessary to travel from outside the county in order to testify). Fees for "expert witnesses" are set by the administrative law judge. After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the chief hearings clerk and certify your attendance as a witness so that you will be paid any amount due you.

Witness fees shall be paid by the party requesting the subpoena in accordance with N.C. Gen. Stat. § 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and shall not be required to take any annual leave for the days they serve as a witness. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in N.C. Gen. Stat. § 138-6

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
6714 MAIL SERVICE CENTER
RALEIGH, NC 27699-6700
FILE NO. 19 DOJ 01619

SUBPOENA

(N.C. Gen. Stat. § 150B-27)

Maurice A. DeValle,) ☒ To appear in person ☐ To produce document or object
Petitioner,)
)
v.) **Party requesting subpoena:**
) Petitioner ☒ Respondent
)
NC Sheriffs' Education & Train Standards Com.,) **[NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:**
Respondent.) Subpoenas may be produced at your request, but must be signed and
issued by the Office of Administrative Hearings]

TO:

Retired Major Brian K. Regan

Name of person being served

4929 Lanier Road

Street address/post office box

Asheboro, NC 27205 // 336-381-0130

City/State/Zip/Telephone

Alternate address

City/State/Zip/Telephone

YOU ARE COMMANDED TO: (check all that apply)

- ☒ Appear and testify in the above-entitled contested case at the place, date, and time indicated below.
☐ Appear and testify, in the above-entitled contested case, at a deposition at the place, date and time indicated below.
☐ Produce, permit inspection and copying of the following items at the place, date, and time indicated below.

Name and Location of Hearing:

NC Office of Administrative Hearings

Courtroom B

1711 New Hope Church Road

Raleigh, N.C. 27609

Date and Time to Appear/Produce

December 3, 2019 // 9:00 a.m.

Date

[Signature]
Signature of person issuing subpoena

☐ Chief Hearings Clerk

☐ Assistant Hearings Clerk

☐ Administrative Law Judge

☒ Attorney

Name of Person or Agency Requesting Subpoena:

Ryan Haigh

Spec. Dep. Attorney General

Name

Title

NC Department of Justice // P.O. Box 629

Street/Post Office Box

Raleigh, NC 27602

City/State/Zip

(919) 716-6572

Telephone Number

DELIVER "RETURN OF SERVICE" TO
PARTY NAMED ABOVE

RETURN OF SERVICE

I certify that this subpoena was received and served as follows:

Date received by authorized server

☐ By delivering a copy of this subpoena to
the person named above

☐ This subpoena WAS NOT served for the
following reasons:

☐ By telephone communication with the person
named above (For use only by the Sheriff's office
for witness subpoenaed to appear and testify)

☐ By registered or certified mail, return receipt
requested, on the party named above

Service Fee ☐ Paid
\$ ☐ Due

Date Served

Signature and Title of Authorized Server

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).
(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a

motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

6) Order to compel expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

7) Trade secrets, confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

2) Forms of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitation of Rule 26(b)(2). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

The subpoena is a legal order requiring you to appear on the day and at the time stated. You have been called (subpoenaed) to be a witness in a contested case.

DUTIES OF A WITNESS

- Unless you are a custodian of medical or public records, you must attend the hearing on the day and at the time stated in the subpoena.
- Unless otherwise directed by the administrative law judge, you must answer all questions asked when you are on the stand giving testimony.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to the hearing.

If you have any questions about being subpoenaed as a witness, you should contact the person who requested the subpoena.

UNDERSTAND THE QUESTIONS AND SPEAK OUT

When you testify, listen carefully to all questions, and make sure that you understand the questions before you attempt to answer. If necessary, ask that a question be repeated before you try to answer. When you answer, speak clearly and loudly enough to be heard.

BRIBING OR THREATENING A WITNESS

It is a violation of state law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a contested case, you should promptly report the incident to the administrative law judge.

WITNESS FEE

A witness is entitled to a small daily fee and travel expense reimbursement (if it is necessary to travel from outside the county in order to testify). Fees for "expert witnesses" are set by the administrative law judge. After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the chief hearings clerk and certify your attendance as a witness so that you will be paid any amount due you.

Witness fees shall be paid by the party requesting the subpoena in accordance with N.C. Gen. Stat. § 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and shall not be required to take any annual leave for the days they serve as a witness. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in N.C. Gen. Stat. § 138-6

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
6714 MAIL SERVICE CENTER
RALEIGH, NC 27699-6700
FILE NO. 19 DOJ 01619

SUBPOENA

(N.C. Gen. Stat. § 150B-27)

Maurice A. DeValle,
Petitioner,

v.

NC Sheriffs' Education & Train Standards Com.,
Respondent.

☒ To appear in person ☐ To produce document or object

Party requesting subpoena:

☐ Petitioner ☒ Respondent

[NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:

Subpoenas may be produced at your request, but must be signed and issued by the Office of Administrative Hearings]

TO:

Paul Nelson

Name of person being served

NCDPS - 512 N. Salisbury Street

Street address/post office box

Alternate address

Raleigh, NC 27604 // 919-733-7952

City/State/Zip/Telephone

City/State/Zip/Telephone

YOU ARE COMMANDED TO: (check all that apply)

- ☒ Appear and testify in the above-entitled contested case at the place, date, and time indicated below.
☐ Appear and testify, in the above-entitled contested case, at a deposition at the place, date and time indicated below.
☐ Produce, permit inspection and copying of the following items at the place, date, and time indicated below.

Name and Location of Hearing:

NC Office of Administrative Hearings
Courtroom B
1711 New Hope Church Road

Raleigh, N.C. 27609

Date and Time to Appear/Produce

December 3, 2019 // 9:00 a.m.

Date

Name of Person or Agency Requesting Subpoena:

Ryan Haigh Spec. Dep. Attorney General
Name Title

NC Department of Justice // P.O. Box 629
Street/Post Office Box

Raleigh, NC 27602

City/State/Zip

(919) 716-6572

Telephone Number

Signature of person issuing subpoena

☐ Chief Hearings Clerk

☐ Administrative Law Judge

☐ Assistant Hearings Clerk

☒ Attorney

DELIVER "RETURN OF SERVICE" TO
PARTY NAMED ABOVE

RETURN OF SERVICE

I certify that this subpoena was received and served as follows:

Date received by authorized server

☐ By delivering a copy of this subpoena to
the person named above

☐ By telephone communication with the person
named above (For use only by the Sheriff's office
for witness subpoenaed to appear and testify)

☐ This subpoena WAS NOT served for the
following reasons:

☐ By registered or certified mail, return receipt
requested, on the party named above

Service Fee
\$

☐ Paid
☐ Due

Date Served

Signature and Title of Authorized Server

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).
(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a

motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

6) Order to compel expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

7) Trade secrets, confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

2) Forms of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitation of Rule 26(b)(2). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

The subpoena is a legal order requiring you to appear on the day and at the time stated. You have been called (subpoenaed) to be a witness in a contested case.

DUTIES OF A WITNESS

- Unless you are a custodian of medical or public records, you must attend the hearing on the day and at the time stated in the subpoena.
- Unless otherwise directed by the administrative law judge, you must answer all questions asked when you are on the stand giving testimony.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to the hearing.

If you have any questions about being subpoenaed as a witness, you should contact the person who requested the subpoena.

UNDERSTAND THE QUESTIONS AND SPEAK OUT

When you testify, listen carefully to all questions, and make sure that you understand the questions before you attempt to answer. If necessary, ask that a question be repeated before you try to answer. When you answer, speak clearly and loudly enough to be heard.

BRIBING OR THREATENING A WITNESS

It is a violation of state law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a contested case, you should promptly report the incident to the administrative law judge.

WITNESS FEE

A witness is entitled to a small daily fee and travel expense reimbursement (if it is necessary to travel from outside the county in order to testify). Fees for "expert witnesses" are set by the administrative law judge. After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the chief hearings clerk and certify your attendance as a witness so that you will be paid any amount due you.

Witness fees shall be paid by the party requesting the subpoena in accordance with N.C. Gen. Stat. § 7A-314. However, State officials or employees who are subpoenaed shall not be entitled to witness fees, but they shall receive their normal salary and shall not be required to take any annual leave for the days they serve as a witness. Travel expenses of State officials or employees who are subpoenaed shall be reimbursed as provided in N.C. Gen. Stat. § 138-6

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
12/02/2019 3:58 PM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle,
Petitioner,

v.

NC Sheriffs Education and Training
Standards Commission,
Respondent.

**ORDER GRANTING RESPONDENT'S
MOTION TO TURN OVER DOCUMENTS
OBTAINED VIA REVIEW OF NCSHP
INTERNAL AFFAIRS FILE**

Upon consideration of Respondent's Motion to Order Respondent to Turn Over Documents Obtained via Review of NCSHP Internal Affairs File, the undersigned **GRANTS** the motion. In the motion, Respondent indicates that it was able to secure more legible copies in addition to other relevant documents that had not been previously obtained. It is hereby ORDERED that Respondent shall turn over a copy of all materials obtained from Petitioner's Internal Affairs file on November 25, 2019 to counsel for Petitioner forthwith.

This the 2nd day of December, 2019.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael C Byrne
Self Employed
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

Benjamin Zellinger
North Carolina Department of Justice
bzellinger@ncdoj.gov
Attorney For Respondent

Ryan Frank Haigh
North Carolina Department of Justice
rhaigh@ncdoj.gov
Attorney For Respondent

This the 2nd day of December, 2019.



Jerrod Godwin
Administrative Law Judge Assistant
Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Telephone: 919-431-3000

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

MAURICE A. DEVALLE,
Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,
Respondent

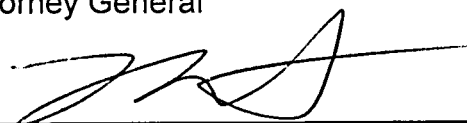
IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

RESPONDENTS' VERIFIED
EXHIBITS

COMES NOW Respondent, North Carolina Sheriffs' Education and Training Standards Commission, by and through the undersigned counsel, and hereby verifies and certifies that **Exhibits 1-11, 13, 15-17, 20-22, 32-36, and 38** filed in the Office of Administrative Hearings this date are true and accurate copies of the exhibits introduced at the hearing of this matter and moved into evidence. The undersigned further verifies and certifies that Petitioner was provided with copies of the same documents.

This is the 17th day of December, 2019.

JOSHUA H. STEIN
Attorney General



Ryan Haigh
Special Deputy Attorney General
N.C. Department Justice
9001 Mail Service Center
Raleigh, North Carolina 27699
Telephone: (919) 716-6572
State Bar No: 43456
Email: rhaigh@ncdoj.gov
COUNSEL TO THE COMMISSION



**NORTH CAROLINA DEPARTMENT OF JUSTICE
SHERIFFS' STANDARDS DIVISION**

JOSH STEIN
ATTORNEY GENERAL

PO DRAWER 629
RALEIGH, N. C. 27602-0629
PHONE: 919-779-8213 FAX: 919-662-4515

DIANE N. KONOPKA
DIRECTOR

MEMORANDUM - PC#22 - 12/2018

TO: Probable Cause Committee - The Honorable Sheriffs: John Ingram, Alan Jones, and David Mahoney

FROM: Sirena Jones
Deputy Director

DATE: November 2, 2018

RE: Maurice Anthony DeValle
Deputy- Applicant
Columbus County Sheriff's Office

Maurice DeValle is an applicant for deputy sheriff certification through the Columbus County Sheriff's Office. He was previously certified through the Criminal Justice Commission with Department of Public Safety/NC State Highway Patrol from November 25, 1998 to April 24, 2017. He was also previously certification through this Commission with the Cabarrus County Sheriff's Office, telecommunicator from 1996 to 1998; Detention Officer from September 1996 to October 1996; and as a deputy sheriff from September 1996 to May 1998. [Attachment 1].

Devalle's employment with NC State Highway Patrol was dismissed after it was found that he violated the Patrol's policies, with regard to truthfulness, neglect of duty, insubordination, and violation of rules establishing residence policies. [Attachment 2].

In November of 2016, a news station reported that their investigative team spent weeks in the fall of 2016, tracking DeValle on various days he was working, and routinely found his cruiser in the driveway of his Wake County home while he was on the clock. The information was reported to Highway Patrol who began an investigation into the matter.

The NCSHP Internal Affairs file was reviewed and a summary is included for your review. [Attachment 3]. The investigation revealed the following: DeValle admitted there have been occasions where he would check on for duty and remain at his residence for a period of time. DeValle also admitted that there have been times where he returned to his residence during his shift to take his meal hour. DeValle stated that "it would be possible," and that he would not deny that he was at his residence on the dates and times alleged in the complaint.



RESPONDENT-0016

MEMORANDUM - PC#22 - 12/2018

Maurice Anthony DeValle

Page 2 of 3

DeValle also admitted that there have been occasions where he checked "10-41" and remained at his residence during the entire assigned shift. The report also showed that DeValle reported false, misleading and inaccurate information into the Beacon Payroll system, resulting in compensation for hours he did not work on September 26, 2016, October 1, 2016, October 2, 2016, October 14, 2016; As well as neglect of duty when he remained at his Wake County residence on numerous occasions (on or about 9/30/2016 to 11/11/2016) when he was supposed to be performing his patrol duties.

This matter is before you to determine whether sufficient evidence exists to establish probable cause to believe that in 2016, Maurice DeValle committed the felony offense of "Obtaining Property by False Pretenses," in violation of NC General Statute §14-100, such that certification should be denied as set out in Rule .0204(a)(1):

- (a) *The Commission shall revoke, suspend, or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:*

(1) *a felony;*

The sanction for such a finding would be permanently as set out in Rule .0205(1)(a).

You may also wish to consider whether there is sufficient evidence to show that Maurice Devalle committed the class B offense of "Willful Fail to Discharge Duties," in violation of NC General Statute §14-230, such that certification should be denied as set out in Rule .0204(d)(1):

- (d) *The Commission shall revoke, suspend, or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:*

(1) *a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor and which occurred after the date of appointment;*

The sanction for such a finding would be in effect for a period of five years, as set out in Rule .0205.

Based on Mr. Devalle's untruthfulness in the reporting of his work time, failing to report for duty and/or the commission of criminal offenses, this matter is also before you to determine whether or not he possesses the good moral character required of all justice officers. You may consider the totality of his actions in this matter. If you find he lacks good moral character, then you may determine whether certification should be denied as set out in Rules .0301(a)(8) and .0204(b)(2), which reads: , which reads:

.0301 (a) *Every Justice Officer employed or certified in North Carolina shall:*

(8) *be of good moral character; and*

.0204 (b) *The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:*

RESPONDENT-0017

MEMORANDUM - PC#22 - 12/2018

Maurice Anthony DeValle

Page 2 of 3

(2) fails to meet or maintain any of the minimum employment or certification standards required by 12 NCAC 10B .0300;

The sanction for such finding would be for an indefinite period as set out in Rule .0205(3)(b).

Sheriff *Hatcher* and Mr. Devalle were notified in writing that this would be presented to you.

Attachment 1

– Applicant/Officer Profile

Officer's Complete History

100126616 DEVALLE, MAURICE ANTHONY

DOB: 7/19/197

Former Lastname(s):

	Criminal Justice	Sheriff Stnd
DRUG DATA ON FILE AS OF:		
UNDER INVESTIGATION	N	Y

DIV/CAT	Award Type	Issue Date
---------	------------	------------

NC0240000 Columbus County Sheriff's Office

Deputy Sheriff-PD

GF/PR Certification:

DAP: 5/22/2017

DSE:

Status: Active

GN Certification:

EPD:

Training Year & Status

Training Date: 5/8/1997

Rank: DEP

2017

Yes

Fingerprint Card: Completed

GED Waiver: N

SS Firearms: Y

SS Choice:

Training Exempt: N

Misc Date:

Reason:

ATR: ATH: ATD:

FUL/RES: FUL

ATR2: ATH2: ATD2:

Active Date: 5/22/2017

ATR3: ATH3: ATD3:

Inactive Date:

NCNHP0000 NC State Highway Patrol

Law Enforcement-SPN

GF/PR Certification:

DAP: 11/25/1998

DSE: 4/24/2017

Status:

GN Certification: GN 9/23/1997

EPD:

Training Year & Status

Training Date: 11/25/1998

Rank: PTL

Fingerprint Card: Completed

GED Waiver: N

SS Firearms:

SS Choice:

Training Exempt: N

Misc Date:

Reason:

ATR: ATH: ATD:

FUL/RES: FUL

ATR2: ATH2: ATD2:

Active Date:

ATR3: ATH3: ATD3:

Inactive Date:

NC0130000 Cabarrus County Sheriff's Office

Deputy Sheriff-IS

GF/PR Certification: PR 9/23/1996

DAP: 9/23/1996

DSE: 5/21/1998

Status:

GN Certification: GN 9/23/1997

EPD:

Training Year & Status

Training Date: 5/8/1997

Rank: DEP

Fingerprint Card: Completed

GED Waiver: N

SS Firearms: Y

SS Choice:

Training Exempt: N

Misc Date:

Reason:

ATR: ATH: ATD:

FUL/RES: FUL

ATR2: ATH2: ATD2:

Active Date:

ATR3: ATH3: ATD3:

Inactive Date:

Officer's Complete History

100126616 DEVALLE, MAURICE ANTHONY

DOB: 7/19/1973

NC0130000 Cabarrus County Sheriff's Office			Detention Officer-IS					
GF/PR Certification:	PR 9/23/1996	DAP: 9/23/1996	DSE: 10/7/1996	Status:				
GN Certification:		EPD:		<table><tr><th colspan="2">Training Year & Status</th></tr><tr><td></td><td></td></tr></table>	Training Year & Status			
Training Year & Status								
Training Date:		Rank: JAL						
Fingerprint Card:	Waived	GED Waiver: N						
SS Firearms:	Y	SS Choice:	Training Exempt: N					
Misc Date:		Reason:						
ATR:	ATH:	ATD:	FUL/RES:	FUL				
ATR2:	ATH2:	ATD2:	Active Date:					
ATR3:	ATH3:	ATD3:	Inactive Date:					

NC0130000 Cabarrus County Sheriff's Office			Telecommunication Officer-IS					
GF/PR Certification:	GF 9/23/1996	DAP: 9/23/1996	DSE: 5/21/1998	Status:				
GN Certification:		EPD:		<table><tr><th colspan="2">Training Year & Status</th></tr><tr><td></td><td></td></tr></table>	Training Year & Status			
Training Year & Status								
Training Date:		Rank:						
Fingerprint Card:		GED Waiver: N						
SS Firearms:	N	SS Choice:	Training Exempt: N					
Misc Date:		Reason:						
ATR:	ATH:	ATD:	FUL/RES:	FUL				
ATR2:	ATH2:	ATD2:	Active Date:					
ATR3:	ATH3:	ATD3:	Inactive Date:					

Fingerprint Holding File

- Doc. Ex. 138 -

Attachment 2

- DPS/NC State Highway Patrol Report of Separation

RESPONDENT-0022

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION
CRIMINAL JUSTICE STANDARDS DIVISION

Post Office Drawer 149, Raleigh, NC 27602

Telephone: (919) 661-5980

Fax: (919) 779-8210

AFFIDAVIT OF SEPARATION
LAW ENFORCEMENT OFFICER

Form F-5B(LE)

Rev. 3/11/13

Instructions

Please Type or Print all information clearly. This form shall be completed for each separation from a certified position. The report must be submitted to the Commission **NO LATER THAN 10 DAYS after FINAL SEPARATION**. A copy of this form must be retained in the Agency's personnel file. **THIS FORM MUST BE COMPLETED IN ITS ENTIRETY.**

Separating Agency: DPS/NC State Highway Patrol Telephone Number: 919-733-7952
Address: 4231 Mail Service Center Raleigh 27699
Street Address/PO Box City Zip Code
Agency or ORI Number (If available): NCNHP0000
(ORI: Originating Routing Identifier assigned by NCIC)
Separated Officer's Name: Maurice Anthony Devalle
First Middle Last
Home Address: 1152 Southern Meadows Drive Raleigh, North Carolina 27603
Date of Birth: July 19, 1973 Last 4 Digits of SSN:
Date of Oath of Office: November 25, 1998 Length of Service: 19 years 5 months
Position/Rank: Sergeant ☒ Full Time ☐ Part Time
Date of Final Separation: April 24, 2017

Reason for Separation

Death: ☐ Yes ☒ No ☐ Resignation ☒ Dismissal ☐ Other ☐ Retirement
Type: ☐ Service ☐ Disability

If No, check one of the boxes below:

- ☐ This agency is **NOT** aware of any investigation(s) in the last 18 months concerning potential criminal action or potential misconduct by this officer.
- ☒ This agency **IS** aware of any investigation(s) in the last 18 months concerning potential criminal action or potential misconduct by this officer.

Have criminal charges been filed? ☐ Yes ☒ No

RECEIVED

APR 28 2017

1. Agency Contact Person or Investigator's Name: Capt. J. H. Wingo, II

**CRIMINAL JUSTICE
STANDARDS DIV.**

2. Agency Contact Person or Investigator's Phone Number: 919-733-7952

Detailed description of reasons for investigation: Do not use generic terminology in this section such as conduct

unbecoming, failed to meet agency standards, violation of agency procedures, etc. Detailed information describing the unlawful act or act of misconduct is needed for efficient processing. (Attach additional sheets as necessary.)

Sergeant Devalle violated the Patrol's Truthfulness, Neglect of Duty,
Insubordination, Violation of Rules to wit Establishing Residence Policies.

Glenn M. McNeill, Jr.
Signature of Executive Officer
or Authorized Representative

Glenn M. McNeill, Jr.
Printed Name of Executive Officer
or Authorized Representative

Colonel
Title

4-25-2017
Date

STATE OF NORTH CAROLINA
COUNTY OF Wake

I, Shontae D. Lashley, a Notary Public in and for said County
and State do hereby certify that Glenn M. McNeill, Jr. personally appeared before me this day and
acknowledged the due execution of the foregoing instrument in writing for the purposes therein expressed.

WITNESS my hand and official seal, this the 25th day of April, 2017

Shontae D. Lashley
Notary Public

My Commission expires: 12/04/2018

Wake County, North Carolina
Shontae D. Lashley - Notary Public
Commission No. 201334400148
My Commission Expires 12/04/2018

Notice to Separating Officer

- ☐ I have been advised of my option to provide a written attachment to this Affidavit of Separation and I HAVE provided such written attachment.
- ☐ I have been advised of my option to provide a written attachment to this Affidavit of Separation and I have NOT provided such written attachment.

Signature of Officer

Printed Name of Officer

Title

Date

☐ Officer Refused to Sign

☒ Officer Unavailable to Sign

Was the officer provided with a copy of this completed Form F-5B(LE)? ☒ Yes ☐ No

If yes, in what manner was form provided to the officer?

☐ In Person ☐ Mail ☒ Certified Mail ☐ Other (please specify) _____

Glenn M. McNeill, Jr.
Signature of Executive Officer
or Authorized Representative

4-25-2017
Date

RECEIVED

APR 28 2017

CRIMINAL JUSTICE
STANDARDS DIV.

- Doc. Ex. 141 -

Attachment 3

- Review of NCSHP's Internal Affairs file

RESPONDENT-0025

Maurice DeValle
NCSHP – IA file review
By: S. Jones, Sheriffs' Standards



2/21/2018 Report of Settlement Conference

Did not reach full and final settlement. Agreed to stipulate to the following: hold open mediation until 5pm 2/21/2018

17OSP05847 signed 1/31/2018- Notice of Settlement Conference
M. DeValle vs. NC DPS, NCSHP

Agreement to mediate – State of NC form signed June 6, 2017

In his summary of grievance he stated DeValle was charged “based on me not denying that I was not at my residence.” He said on November 11, 2016, he used approved leave due to being sick and he did not claim a “single minute” of time for this work day. He said on 10/14/2016 Wayne County was still under water and he followed orders by not driving around unless they were dispatched by Raleigh Communications. He stated he was observed by WRAL for approximately 1 hour. During this shift, he handled 4 emails, and worked on district reports. On 10/6/2016 checked emails and disseminated field related information to district personnel. On 10/1/2106 and 10/21 performed several duties: wrecker inspection, bi-annual inspection reports, checked reports. He said he was observed at his residence on 10/1/2016 for 3 hours. He said he worked and recorded 12 hours this day, but only claimed 10 hours for compensation. He stated on every date, he maintained radio contact with Communications and was available through cell phone and computer. He stated he never failed to deal with any event or lapse in communication.

Document dated April 24, 2017

From: Major B.K. Regan

To: Lt. C.V. Ward

Based on DeValle’s prior performance and disciplinary records, concluded DeValle should be disciplined in the form of a dismissal.

April 20, 2017 Memorandum

To: Lt. Colonel C.V. Ward

From: Captain Wingo, II

Re: Summary of Pre-Disciplinary conference – Sgt. Maurice DeValle

On April 20, 2017 a Pre-Disciplinary conference was conducted by Major B.K. Regan with Maurice DeValle at Patrol Headquarters.

April 17, 2017 Memorandum

To: Major B.K. Regan

From: Lt. Colonel C.V. Ward

I have reviewed the Report of Investigation and documents and concur with your opinion of the following Personal Conduct Violation(s) noted are substantiated:

Directive No H .01, Section IV (Violation of Rules) to wit:

Directive E. 09 Section IV Procedures for Establishing Residence

Directive No. H. 01 Section VII (Truthfulness)

Directive No. H. 01 Section VII (Neglect of Duty)

Directive No. H. 01 Section VII (Insubordination)

November 11, 2016 Memorandum

To: Lt. Colonel B.T. Clayton

From: Lt. J.C. Morton

Re: Statement of Findings

Acting on your orders Morton I went to the residence of DeValle located in Raleigh, 1152 Southern Meadows Drive. Arrived at 7:33 pm and found DeValle's marked patrol vehicle parked beside the garage facing the roadway. Went to the door and asked for DeValle. He came to the doorway wearing shorts and a t-shirt. He stated his daughter was sick and he was sick with what he believed was a stomach bug. I asked if he was on duty. He said no, and he tried to check off at 5pm on his MDC, but noticed it was still showing on duty. I asked what time he checked on and he said around 3pm. He said he did not intend to claim any of the time. When asked if he had left the house, he replied no. I departed the residence at 7:00pm.

On 11/14/2016 Personnel Complaint form was filed against DeValle.

11/11/2016 WRAL News notified senior command staff through the Patrol's Public Information Officer that they received a tip about DeValle not leaving his residence, but checked on duty; and they had photos and video recordings of DeValle being at his residence while on duty. There was also a claim of secondary employment while on duty. November 11, 2016 alleged DeValle was on duty and never reported to duty station but remained at residence. Alleged that DeValle was insubordinate to Lt. Morton when questioned on 11/11/2016. Lt. Morton received orders from Lt. Clayton to check DeValle's location. DeValle was checked on for the day and said he attempted to check off at 5pm, and would not claim time. Lt. Morton asked DeValle if he even left his residence after checking on for the day, DeValle replied that he had not. Sgt.

Burton stated that he never advised DeValle to "hang out at the house" during the disaster. He told members of his District they were in response mode and the priority was to respond to calls for service, conserve fuel when possible, while limiting traffic enforcement contacts. DeValle was questioned and he talked about 11/11/2016 when Lt. Morton arrived at his residence. He stated he was sick. He said he was scheduled to work late shift beginning at 5pm and explained that he checked in at approximately 3pm but remained at his residence hoping his diarrhea would subside. He said he realized after approximately 2 hours that he was not able to report for duty and he attempted to check 10-42 utilizing his "mobile data computer" at 5pm. He said once he was advised that CAD was showing him 10-41, DeValle stated that he immediately went to his MDC and checked 10-42 since their conversation concluded. DeValle said that he did not notify a supervisor that he was sick and unable to report. DeValle was the on call supervisor for the District that night and admitted that he did not make arrangements for another supervisor to take his duty officer calls for the remainder of the shift.

Sgt. DeValle was questioned specifically about his failure to leave his residence and report to his duty station after he checked on for duty for the 2016 days in the anonymous complaint letter. After reviewing his HP-2015 and CAD reports, Sgt. DeValle stated that he was assigned a day off and did not work on September 28 and October 4, and his patrol vehicle would therefore be at his residence in Wake County. On the alleged dates of September 30, October 1, October 1, and October 6, due to the amount of time that had passed, Sgt DeValle could not say with certainty whether or not he failed to report to his duty station and was at his residence during the time he was checked on for duty. DeValle admitted there have been occasions where he would check on for duty and remain at his residence for a period of time. DeValle also admitted that there have been times where he returned to his residence during his shift to take his meal hour. DeValle stated that "it would be possible," and that he would not deny that he was at his residence on the dates and times alleged in the complaint. DeValle also admitted that there have been occasions where he checked 10-41 and remained at his residence during the entire assigned shift. DeValle stated that is his common practice to check 10-41 and 10-42 utilizing his patrol issued MDC. He said CAD is not always accurate when checking on and off duty.

In February 2015 DeValle completed a request to reside outside of the county. His current duty station was Goldsboro. He listed requesting to reside in Johnston County @400 Hillside Dr. It was noted as being within 20 miles distance and the supervisor signed it 1/7/2015, section direct/troops Commander approved on February 4, 2015.

DeValle admitted that he never stayed or resided or parked his patrol vehicle there. He only used that address on paper.

DeValle denied ever engaging in his secondary employment of cutting grass while being on duty with the Patrol.

DeValle was re-interviewed on 11/18/2016. He was questioned about 10/14/2016, after the hurricane and remaining at home. He was not sure as to his reporting to his duty station on that date or his activities, but admitted that he worked from home on some occasions after the hurricane and it is possible that he remained at his residence for some period after checking in for duty.

Supplementary Info:

November 14, 2016, DeValle was placed on administrative duty

November 21, 2016 WRAL aired story

November 28, 2016 Internal Affairs investigators reviewed Sgt. DeValle's in-car camera. Recordings did not exist for dates and times in the complaints.

Fuel logs for DeValle's patrol vehicle were obtained for the time period of September 2, 2016 to November 13, 2016. An inquiry into the logs revealed DeValle went several days between refueling on multiple occasions, which is consistent with his statement that he would remain at his residence while on duty.

NCSHP

"Weekly Report of Daly Activity" for DeValle

A copy of these logs are maintained in the IA file. Reviewed and shows the following:

September 30th assigned shift: 5pm-4am

Shift worked: 4pm-3am

Total 10 hours

October 1st assigned shift: 5pm-4am

Shift worked: 3pm-3am

Total 10 hours

October 2nd assigned shift: 3pm-2am

Shift worked: 1pm-11pm

Total 10 hours

October 6th assigned shift: 1pm-12am

Shift worked: 1pm-11pm

Total 10 hours

9/28, 10/3, 10/4, 10/8, 10/9, noted as "DO" – *assuming that to mean day off.*

October 11th assigned shift: 5pm-4am

Shift worked: AL

Total 9 hours

October 14th assigned shift: 5pm-4am

Shift worked: 3pm-1am

Total 10 hours

"Personal Charge Sheet/Disposition"

Charge(s): *It is charged that on or about October and November 2016 at or near Raleigh, NC, Sergeant M.A. DeValle did violate SHP Policy Directive H. 01, Section VII (Truthfulness) in that he/she:*

Reported false, misleading and inaccurate information into the Beacon Payroll system, resulting in his being compensated for hours he did not work which is a criminal violation of law as follows:

On 9/26/2016 Sergeant DeValle checked 10-41 (beginning) in Wayne County at 6:16 am, checked 10-42 (ending) at 1:56pm. DeValle claimed 10 hours of compensation time worked for approximately 8 hours worked.

On 9/30/2016 10-41 Wayne County at 4:04pm, 10-42 at 2:02 am.

10/1/2016 DeValle claimed 10 hours of compensation time worked for no hours worked. DeValle does not deny that he never left his residence in Wake County for the duration of his 10 hours shift. 10/1/2016 DeValle checked 10-41 in Wayne County approximately 3 pm when in fact his patrol vehicle was observed parked in the driveway at his Wake County residence from 4pm to 7pm. DeValle claimed 10 hours of compensation time worked for approximately 6 hours worked.

10/2/2016 10-41 in Wayne County at 12:50pm, 10-42 at 11:05pm, when in fact he returned to his residence in Wake County after working for only a few hours. DeValle claimed 10 hours of compensation time for only a few hours worked.

10/6/2016 10-41 Wayne County 1:02 pm and checked 10-42 at 11:19pm, when in fact his patrol vehicle was observed parked in the driveway of his Wake County residence at approximately 6:45pm. He claimed 10 hours of compensation time worked for approximately 6 hours.

10/14/2016 10-41 Wayne County 2:14pm, 10-42 12:57am Patrol vehicle was observed in the driveway of this Wake County residence at approximately 3:55pm. DeValle claimed 10 hours of compensation time and did not work the entire 10 hours shift.

"Personnel charge sheet"

Neglect of Duty

Charge(s): On or about 9/30/2016 to 11/11/2016 at or near Raleigh, NC, Sergeant DeValle did violate, State Highway Patrol Policy Directive H. 01 Section XXVI (neglect of duty) in that he/she:

Was inattentive to and neglected his duty by remaining at his Wake County residence in Raleigh on numerous occasions, when he was supposed to be performing supervisor and patrol duties in Wayne County. By his own admission: "There have been days where I've checked on and been at my residence and should have been in Wayne County." Although he does not recall specific dates and times he does not deny this occurred on the following dates in 2016: September 30th, October 1st, October 2nd, October 6th, and October 14th. On October 14th DeValle remained at his residence in Wake County although checked on duty, when Wayne County was still under State of Emergency. On 11/11/2016 by his own admission, checked on for duty at 3pm at his residence located in Raleigh, and remained there and did not report to his duty station. He admitted that he did not inform his supervisor that he was unable to report for duty.

Procedures for establishing residence

On 11/11/2016 By his own admission, checked on for duty at 3pm at his residence in Raleigh and remained and did not report to his duty station. *As noted above.*

Lt. Morton found DeValle to be at his residence at approximately 7:30, although CAD reflected that he was checked on for duty.

By his own admission: Checked on for duty and remained at his residence for extended periods of time before reporting to duty station. DeValle admitted on occasion that he checked on for duty and remained at his residence for his entire shift and never report to his duty station. DeValle did not deny that he was at his residence while being checked in for duty on the specific dates of September 30, October 1, October 2, October 6, and October 14, 2016.

Left duty station and returned to his residence for meal hour.

By this own admission meet with Captain J.O. Holmes in early 2016 and was counselled for his being in compliance with the Patrol's residency policy. As a result of that meeting, Sergeant DeValle admitted that he understood that he was to report for duty as assigned and be where he was supposed to be, when he was supposed to be there.

Transcript of interviews are also on file at NCSHP.



NORTH CAROLINA DEPARTMENT OF JUSTICE
SHERIFFS' STANDARDS DIVISION

JOSH STEIN
ATTORNEY GENERAL

PO DRAWER 629
RALEIGH, NC 27602-0629
PHONE: (919) 779-8213 • FAX: (919) 662-4515

DIANE N. KONOPKA
DIRECTOR

January 28, 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Maurice A. Devalle
506 VineLand St
Whiteville, NC 28472

**RE: NOTIFICATION OF PROBABLE CAUSE TO DENY JUSTICE OFFICER
CERTIFICATION**

Dear Mr. Devalle:

You are hereby notified that the Commission has found probable cause exists to believe that justice officer certification should be denied per the authority found in *Rule .0204(d)(2)* of Chapter 10B of Title 12 of the North Carolina Administrative Code which reads as follows:

(d) The Commission may revoke, suspend, or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

(2) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment;

Facts and circumstances exist to show that you committed the Class B misdemeanor offense of "Willful Fail to Discharge Duties," in violation of North Carolina General Statute §14-230, when in the year 2016, while employed as a law enforcement officer with the NC State Highway Patrol (NCSHP), you were untruthful in the reporting of your work time and you failed to report for duty on numerous occasions. During these times, you used your patrol-issued MDC to check on and off duty while remaining at your residence. Your actions were documented by a local investigative news team who reported their findings to the Highway Patrol. At the conclusion of NCSHP's investigation it was determined that you neglected your duty by remaining at your Wake County residence on numerous occasions when you were supposed to be performing supervisor and patrol duties in Wayne County. The investigation also determined that you reported false, misleading and inaccurate information into the Beacon Payroll System, resulting in being compensated for hours you did not work. In 2017 your employment with NC State Highway Patrol was terminated after it was found that you violated the NC State Highway Patrol's policies.

**NOTIFICATION OF PROBABLE CAUSE TO DENY JUSTICE OFFICER
CERTIFICATION**

Maurice A. Devalle

Page 2 of 3

Additionally, probable cause exists to believe that your justice officer certification should be revoked pursuant to *Rule .0301(a)(8)* of Chapter 10B of Title 12 of the North Carolina Administrative Code which reads as follows:

- (a) *Every Justice Officer employed or certified in North Carolina shall:*
(8) *be of good moral character;*

Your untruthfulness, the facts and circumstances surrounding your actions while holding certification as a justice officer; and the totality of your actions in this matter, establish probable cause to believe that you no longer possess the good moral character required of all justice officers.

Therefore, *Rule .0204(b)(2)* further authorizes the revocation of your certification:

- (b) *The Commission shall revoke, deny, or suspend the certification of a justice office when the Commission finds that the applicant for certification or the certified officer:*
(2) fails to meet or maintain any of the minimum employment standards required by 12 NCAC 10B .0300.

No action to deny certification is being taken at this time in order to allow you the opportunity to request a hearing in this matter. If you disagree with this finding, you have the right to have the dispute resolved by an administrative hearing pursuant to Chapter 150B of the North Carolina General Statutes. If you wish to request an administrative hearing, then that request must be received by the Sheriffs' Standards Division within 30 days from the day you receive this letter.

To request an administrative hearing, you must file a REQUEST FOR ADMINISTRATIVE HEARING with the North Carolina Sheriffs' Education and Training Standards Commission. Your REQUEST FOR ADMINISTRATIVE HEARING should contain a clear and specific statement that you are requesting an administrative hearing. It should also contain a clear and specific statement of your reasons why this action should not be taken.

Your REQUEST FOR ADMINISTRATIVE HEARING should be mailed in an envelope bearing the notation: RE: REQUEST FOR ADMINISTRATIVE HEARING and should be addressed to the Director of the Sheriffs' Standards Division as follows:

**NORTH CAROLINA DEPARTMENT OF JUSTICE
SHERIFFS' STANDARDS DIVISION
ATTENTION: MS. DIANE N. KONOPKA, DIRECTOR
POST OFFICE BOX 629
RALEIGH, NORTH CAROLINA 27602**

**NOTIFICATION OF PROBABLE CAUSE TO DENY JUSTICE OFFICER
CERTIFICATION**

Maurice A. Devalle

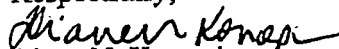
Page 3 of 3

Your failure to request a hearing within 30 days of receipt of this letter will be considered a waiver of your right to a hearing and your certification will be denied as set out in Rule .0205 of Title 12 Chapter 10B of the North Carolina Administrative Code, as follows:

1. Denied for a period of five years for your commission of the class B misdemeanor offense of "Willful Fail to Discharge Duties" while certified as a law enforcement officer; and
2. Denied indefinitely based on your lack of good moral character.

You are referred to Chapter 150B of the North Carolina General Statutes for a full statement of your rights in this matter.

Respectfully,


Diane N. Konopka

Director

cc:

Sheriff Jody Greene
Columbus County Sheriff's Office
PO Box 280
Whiteville, North Carolina 28472-0280

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

MAURICE A. DeVALLE,)	COUNTY of COLUMBUS
)	
Petitioner,)	18 OSP 07196
)	
vs.)	
)	
NORTH CAROLINA DEPARTMENT)	
OF PUBLIC SAFETY, NORTH)	
CAROLINA STATE HIGHWAY)	
PATROL,)	
)	
Respondent.)	
)	

TRANSCRIPT, VOLUME I OF II

(Pages 1 - 266)

April 8, 2019

The Honorable Donald W. Overby
Administrative Law Judge Presiding

ADMINISTRATIVE HEARING

Transcriptionist: Wanda B. Constantino, CVR-CM-M
President
WordServices, Inc.
1102 Driftwood Drive
Siler City, North Carolina 27344
919.548.4914
wanda@mywordservices.com

RESPONDENT'S
EXHIBIT
3

APPEARANCES

For the Petitioner:

Barry Keith Henline, Esq.
The Law Offices of Barry K. Henline, PLLC
Post Office Box 15862
Wilmington, North Carolina 28408
919.523.6831
barrykhenline@outlook.com

For the Respondent:

Alan D. McInnes, Esq.
Corrine Lenore Lusic, Esq.
Assistant Attorneys General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
919.716.6761
amcinnnes@ncdoj.gov
clusic@ncdoj.gov

<u>TABLE OF CONTENTS</u>	
	<u>PAGE</u>
Preliminary Matters	7
<u>RESPONDENT'S WITNESSES</u>	
Jeffrey O. Holmes	
Direct examination by Ms. Lusic	8
Cross-examination by Mr. Henline	22
Redirect examination by Ms. Lusic	30
Recross-examination by Mr. Henline	32
Gerald (Jerry) Burton	
Direct examination by Ms. Lusic	36
Cross-examination by Mr. Henline	43
Redirect examination by Ms. Lusic	53
Recross-examination by Mr. Henline	55
John C. Morton	
Direct examination by Mr. McInnes	58
Cross-examination by Mr. Henline	76
Redirect examination by Mr. McInnes	89
Rodney W. Sawyer	
Direct examination by Mr. McInnes	93
Cross-examination by Mr. Henline	183
Redirect examination by Mr. McInnes	212
Examination by the Court	219
James Wingo	
Direct examination by Ms. Lusic	225
Cross-examination by Mr. Henline	235
Redirect examination by Ms. Lusic	239
Brian K. Regan	
Direct examination by Ms. Lusic	241
Cross-examination by Mr. Henline	254
Redirect examination by Ms. Lusic	258
Recross-examination by Mr. Henline	259
Further redirect examination by Ms. Lusic	261
Examination by the Court	264
Further redirect examination by Ms. Lusic	265
Further recross-examination by Mr. Henline	265

TABLE OF CONTENTS (Cont'd.)

EXHIBITS

RESPONDENT'S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENT.</u>	<u>OFFERED</u>	<u>REC'D.</u>
1	John Morton's notes	68	69	69
2	Memorandum, Morton to Clayton	72	73	73
3	Service memorandum	98	101	101
4	Script for Internal Affairs interview	114	117	117
5	Rules of Personal Conduct and Job Performance	101	108	108
6	Investigation of Complaints and Charges against Highway Patrol Employees	109	110	110
7	Assignments, Transfers, Retirements, Resignations, and Resident Requirements	110	113	113
8	Report of Investigation	118	171	174
8A	Petitioner's written statement, 11/15/2016	125	171	174
8B	Document provided anonymously	127	171	174
8C	CAD personal-information screen	143	171	174
8D	CAD personal-information, screen, second page	144	171	174
8E	Request and Authorization to Reside Outside a County of Assigned Duty Station	135 145	171	174

TABLE OF CONTENTS (Cont'd.)

EXHIBITS (Cont'd.)

RESPONDENT'S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENT.</u>	<u>OFFERED</u>	<u>REC'D.</u>
8F	HP-745A and HP-745	147	171	174
8G	Unit activity log	148	171	174
8H	HP-201, Weekly Report of Daily Activity	151	171	174
8I	Report of Entered BEACON Time	159	171	174
8J	John Morton's notes	160	171	174
8K	Memo created from notes in 8J	160	171	174
8L	Letter provided by petitioner	160	171	174
8M	Printout from WRAL Website	162	171	---
8N	Letter placing petitioner on administrative duty	171	171	174
8O	Report from SAP system	162	171	174
9	Supplemental Report of Investigation	175	261	262
10	Diagram: visual summary of information in Internal Affairs file	230	259	259
11	Pre-disciplinary conference summary	229	259	259

TABLE OF CONTENTS (Cont'd.)

EXHIBITS (Cont'd.)

PETITIONER'S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENT.</u>	<u>OFFERED</u>	<u>REC'D.</u>
1	John Morton's notes	76	---	---
9	E-mail, Sawyer to Morton	90	---	---

Preliminary Matters

Vol. I, P. 7

1 PROCEEDINGS OF MONDAY, APRIL 8, 2019:

2 (Proceedings began at 10:10:38 a.m.)

3 THE COURT: Good morning, everybody. This is the
4 matter of Maurice DeValle -- Is it DeValle or DeValle?

5 UNIDENTIFIED SPEAKER: Good morning, Your Honor.
6 It's DeValle, Your Honor.

7 THE COURT: DeValle. Okay. Maurice DeValle
8 versus the Department of Public Safety, State Highway
9 Patrol, the Respondent. Petitioner DeValle is represented
10 by Barry Henline, attorney at law, and the Department/State
11 Highway Patrol is represented by Alan McInnes and Corrine
12 Lusic from the Department of Justice, file number 18 OSP
13 7196. And I'm Don Overby, the Administrative Law Judge
14 assigned to preside over the hearing this morning.

15 Are there any pretrial motions or other matters
16 that need to be disposed prior to getting started?

17 MR. HENLINE: No, Your Honor.

18 MS. LUSIC: No, Your Honor.

19 THE COURT: Either of you wish to be heard by a
20 brief -- that being the operative word -- opening statement?

21 MR. HENLINE: No, Your Honor.

22 MS. LUSIC: No, Your Honor.

23 THE COURT: All right. Ready to call your first
24 witness?

25 MS. LUSIC: We are, yeah. The Respondent calls to

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 8

1 the stand former Captain O'Neill Holmes.

2 THE COURT: All right. Is the Bible over there?
3 Have we got a Bible?

4 HEARING ASSISTANT: Yes, sir.

5 THE COURT: Oh, okay.

6 JEFFREY O. HOLMES,
7 having been called as a witness for the Respondent, was duly
8 sworn and testified as follows:

9 THE COURT: Thank you, sir. Have a seat.

10 DIRECT EXAMINATION BY MS. LUSIC:

11 Q. Good morning. Can you provide your name for the
12 Court?

13 A. It's Jeffrey O'Neill Holmes.

14 Q. And when did you first become a member of the
15 State Highway Patrol?

16 A. I started basic school in November of 1991.

17 Q. What position did you hold after basic school?

18 A. I was a trooper.

19 Q. Okay. Can you give an overview of your positions
20 with the State Highway Patrol from then until the time of
21 your retirement?

22 A. I was a trooper in New Bern. I believe it was
23 1996 I was transferred to the executive protection detail,
24 working security for then Governor Hunt. I got promoted to
25 sergeant during my time there and then first sergeant. I

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 9

1 left there in -- I believe it was 2003 and went to the
2 training academy for a year. I was an instructor there, and
3 then I laterally transferred actually down here to Brunswick
4 and New Hanover as the district first sergeant.

5 2008, I was promoted to lieutenant and sent to
6 Professional Standards, Internal Affairs. I stayed in
7 Internal Affairs until 2014. I was transferred to Troop C
8 headquarters, was there for about ten months, promoted to
9 captain over Troop C, and then ended up finishing my career
10 back in Professional Standards.

11 Q. How -- can you give us the exact years that you
12 were the Troop C captain?

13 A. From December 2014 until March of 2016, I believe.

14 Q. And during this time, was the Petitioner,
15 Mr. DeValle, was he within your chain of command?

16 A. Yes, ma'am.

17 Q. Okay. Can you provide the chain of command from
18 -- that Sergeant DeValle was within up to yourself?

19 A. Okay.

20 Q. You don't have to go above that.

21 A. He was a sergeant in Wayne County. I believe when
22 I first got there he may have been a sergeant in Durham
23 County. I may have my times wrong. But he was sergeant in
24 Durham County; transferred to Wayne County. He would have
25 had First Sergeant Jerry Burton, and then troop lieutenants

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 10

1 we had at the time were Lieutenant Chris Morton, now Captain
2 Chris Morton, and then Lieutenant Steve Finney, and then
3 myself.

4 Q. So as Troop C captain, how many districts were you
5 in charge of?

6 A. It was 14 counties. It was nine districts, 14
7 counties in the central part of the state.

8 Q. Sergeant DeValle was in the Wayne County district.
9 Can you explain the structure of the Wayne County district?

10 A. There was -- I can't remember exactly -- maybe 11
11 or 12 troopers assigned there, two sergeants, and a first
12 sergeant.

13 Q. Which of the positions within the Wayne County
14 district were supervisory positions?

15 A. There would have been two sergeants and then one
16 first sergeant, and that would've been it.

17 Q. What was your expectation for supervisor coverage
18 within the district?

19 A. We kind of had a standing rule that we expected
20 supervisors to be out with their -- with their squads -- I
21 won't say 24/7 'cause we didn't have enough supervisors
22 across the state to cover 24/7, but we expected early
23 supervisors and late supervisors to be working, and expected
24 the first sergeants to work at least one weekend a month.

25 Q. As a sergeant in Wayne County, who was Sergeant

Jeffrey O. Holmes

Direct/Lusic

Vol. 1, P. 11

1 DeValle supervising?

2 A. He had a squad of troopers.

3 Q. How important was it for a supervisor to be on
4 shift?

5 A. I mean, it was -- it was important. That's what
6 we expected. We expected the -- the men to have some
7 supervisor working with them to -- to lead them and guide
8 them, answer any questions, handle anything that may have
9 come up, whether a complaint or any other issues that came
10 up.

11 Q. Was there a procedure in place if a supervisor was
12 not on duty at the time?

13 A. Yes, ma'am. I mean, just because of the limited
14 number of supervisors we have statewide, there was always
15 going to be issues: Sickesses, vacations, court schedules
16 that may -- a supervisor may need to be in court during the
17 day and couldn't work a night shift. It was always stuff
18 that came up. And when that happened, we expected to be --
19 somebody to be the on-call supervisor, so that if there was
20 an issue to arise, the troopers or the public would have had
21 the ability to contact a supervisor.

22 Q. And how would that be established with the -- who
23 was on call?

24 A. Through the district, whatever -- whatever process
25 the district first sergeant had set up.

Jeffrey O. Holmes

Direct/Lusic

Vol. 1, P. 12

1 Q. Can you tell me a little bit about what the duties
2 of a sergeant in a district are in general?

3 A. Sergeant, I have always said, is one of the
4 hardest -- hardest supervisory positions on the Highway
5 Patrol, because you literally go from being one of the guys,
6 one day, to being their boss or supervisor the next day.
7 It's a big adjustment for the supervisors, but it's also one
8 of the most important, because you're the first level of
9 supervision that should -- should help maintain and -- and
10 -- the operations of -- of the district.

11 They should -- it's important they're out there.
12 We have a lot of young troopers. It's important to have
13 some senior people to -- to guide them and -- and kind of
14 mentor them through and then be that first level before it
15 reaches the first sergeant.

16 Q. What are a sergeant's duties with respect to the
17 public?

18 A. You know, partially like a trooper. I mean, he's
19 going to interact with the public. He's going to take
20 enforcement action. He's going to be dealing with the
21 public at wreck scenes. But also, if the public has any
22 questions or has any complaints or any issues, they're
23 generally going to want to speak to a supervisor. And
24 although we say anybody can take a complaint, any trooper --
25 even the newest trooper can take a complaint if the public

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 13

1 has it -- the public's generally going to want to speak to a
2 supervisor in some form or fashion.

3 Q. How important is preventative patrol for
4 supervisors?

5 A. Again, it's -- it's -- being that first level of
6 supervision, it's definitely a mixture. They do have a lot
7 of responsibilities in the office that they have to take
8 care of, and that just comes with the job, but they are --
9 there is -- a huge part of their job is -- is being with the
10 men out there. And that means, you know, being on
11 preventive patrol, assisting with calls as they can. They
12 really have to learn how to manage their time and split it
13 between the two, because they're both equally important, the
14 -- the office -- the administrative part of it and the field
15 part of it.

16 Q. I should take one step back. Can you just
17 describe what -- what you're talking about when you say
18 "preventative patrol"?

19 A. Preventive patrol is just being out and about in
20 your assigned duty area, looking for hazardous moving
21 violations, looking for disabled motorists, responding to --
22 to any calls for service, such as collisions. And although
23 a supervisor's not going to have a specific -- he's not
24 going to be the first person generally called to a call for
25 service; it's going to be the troopers that are assigned

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 14

1 their areas within their -- within their area, their areas
2 are broken up, and they're assigned specific areas. And so
3 the troopers will get the calls initially, but there are a
4 lot of occasions, whether it be inclement weather or
5 whatever, where the call volume goes way up and supervisors
6 have to get out there and assist them and take calls.

7 Q. Are you -- how would a supervisor know when the
8 call volume's going to go up and they would need to go on
9 preventative patrol?

10 A. Just part of being out there. You're going to
11 hear the radio. You're going to hear the radio traffic,
12 obviously. It's going to be increased. And generally, if
13 it starts getting that bad, then the -- the communication
14 center's also going to let the supervisors know that, "Hey,
15 we've got calls backing up, calls pending," and they have to
16 make the decision whether they're going to start taking
17 calls and/or calling out other troopers who may not even be
18 on duty, to help if it's -- if the situation dictates.

19 Q. You had said that troopers are usually the ones
20 that go to the -- a scene, a wreck. When do supervisors
21 need to go to wrecks?

22 A. Obviously, they can go to any of them they want
23 to, and -- and I -- the more they're at the -- personal
24 opinion, the more they're at, the better, because they can
25 always provide assistance, especially if you've got younger

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 15

1 members out there. But we did have an expectation that if
2 it was the -- a serious collision involving serious injuries
3 or death, we wanted a supervisor to be out there also, just
4 to make sure that -- that -- because then your investigation
5 is obviously ramped up if you've got a death involved and --
6 and -- to -- to assist the troopers that are working the
7 wreck and make sure they don't have any problems or issues
8 or questions.

9 Q. Uh-huh. And if a trooper needs help, how
10 frequently would they call their sergeant to come to a wreck
11 to answer questions of that nature?

12 A. I would hope that it would have been frequently.
13 I would rather them ask questions if they had them and --
14 and make sure things were correct than -- than just try to
15 figure it out on their own and not. I -- I would hope that
16 it would be frequent.

17 And that would go along, too, with -- you know,
18 you can have a district that's got a lot of senior people
19 and doesn't have many young people, and they're not going to
20 have as many questions. You could have the opposite: A
21 district that's got a lot of young people and they're going
22 to have a lot of questions. So -- but I would hope that
23 there's a comfort level there where it would fill -- that
24 they could frequently reach out and ask questions or -- or
25 concerns.

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 16

1 Q. Tell me a little bit about a -- a sergeant's
2 duties with respect to evidence lockers.

3 A. Generally, every -- every district office has a --
4 the evidence system. There's temporary lockers where the
5 members who obtain evidence from a stop or however it's
6 obtained, put it into a temporary evidence locker. And then
7 there's a permanent storage locker. The district first
8 sergeant's responsible for determining which of his
9 supervisor is going to be the primary evidence custodian.

10 And whoever that's determined to be, it's then
11 their responsibility to move the evidence from the temporary
12 locker into the permanent evidence locker and to make sure
13 all documentation is done, everything is accounted for.
14 They're also responsible for making sure the locker is
15 purged as evidence is adjudicated in court, and just
16 basically maintain that -- that locker and the safekeeping
17 and the well-being of it.

18 Q. If you're not the primary evidentiary custodian,
19 do you still have -- as a sergeant, would you still have
20 access to the evidence locker?

21 A. There's a primary and a secondary, and like I
22 said, it's up to the district first sergeant -- it was
23 usually left up to him whether he -- sometimes the first
24 sergeant would be the secondary; sometimes they would give
25 another supervisor the opportunity to be secondary. So you

Jeffrey O. Holmes

Direct/Lusic

Vol. 1, P. 17

1 could have two sergeants, one primary, one secondary,
2 depending on how the first sergeant wanted to do it.

3 Q. Okay. How important is it for troopers to be able
4 to access the evidence locker as needed?

5 A. Well, the -- the temporary evidence locker,
6 they're always going to have access to. The permanent, the
7 only time they would need it is if they are going to court
8 and need to -- you know, to take the evidence to court for
9 court proceedings. And they would have to reach out to the
10 -- to the supervisor to -- to get it.

11 Q. What percentage of time is a sergeant doing
12 administrative work, typically?

13 A. Varies from district to district. If you're in a
14 place like Wake County, the administrative duties are -- are
15 much higher -- there's much more of it than there is a place
16 if you were -- if you were stationed in Columbus County or
17 Sampson County or somewhere -- just based on the volume of
18 work. So it -- it varies greatly from county to county.
19 There's always going to be certain things that have to be
20 done: checking reports from their squad, so forth. But
21 again, the -- the volume of work in the district is going to
22 determine exactly how much.

23 I -- the -- to give you another example, the --
24 when I was in Brunswick and New Hanover, it was a tremendous
25 volume of work, and the sergeants really put forth a lot of

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 18

1 effort in the office to make sure everything was -- was kept
2 up with. Morehead City, single -- single-county district,
3 especially in the off season when the tourists aren't at the
4 beach, very slow. They literally could finish -- what took
5 us several days to finish, they could do it in a half a day
6 and -- and be done. So it just really varies from district
7 to district.

8 Q. As Troop C captain, do you have any recollection
9 of the percentage paperwork for Wayne County at the time
10 that Sergeant DeValle was there?

11 A. Not specifically. It was a -- every place in
12 Troop C, it seemed like, in the central part of the state,
13 was -- was busy in some capacity. It was -- it was nowhere
14 near the level that someplace like Wake County was, but it
15 was -- I mean, it was -- it was still a -- what I would
16 consider a moderately busy district.

17 Q. Can a sergeant do paperwork at home as opposed to
18 in the office?

19 A. Obviously, now -- now, all members have computers,
20 MDTs, that they can carry with them wherever they want. And
21 computer systems is set up -- it's much different than when
22 I first started. Everything had to be done in the office,
23 'cause you generally only had one or two terminals back then
24 that -- that people could work on. They're trying to make
25 it so that supervisors can actually get out of the office

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 19

1 and the -- the theory behind it is they can actually --
2 while they're out working with their members in the
3 district, can actually work on -- on items in their car and
4 not have to run back to the district office to do it.

5 There was never any -- to my knowledge, never any
6 specific policy dictating whether you could or could not
7 work from home. It was never -- to my knowledge, it was
8 never approved. We -- I know from my center -- I didn't
9 have a computer in my car, but I had a laptop, and, yeah --
10 yes, I worked from home. It was just -- it was out of
11 necessity, to try and keep your head above water. It was to
12 -- to work at the office and then take it home and work on
13 it at home all night. But there was never any -- at that
14 time, any specific policies dictating one way or the other.

15 Q. Okay. What -- have you ever spoken with Sergeant
16 DeValle about his obligations to be in Wayne County when he
17 was on duty?

18 A. Yes, ma'am.

19 Q. Can you tell me about that conversation?

20 A. Yes, ma'am. I don't remember the exact date, not
21 even close. But I remember just in the course of me being
22 out and about through the different districts and at
23 supervisor meetings that we would hold, I'd started hearing
24 some rumors that Sergeant DeValle -- it started as some
25 grumblings that -- that Sergeant DeValle was still being

Jeffrey O. Holmes

Direct/Lusic

Vol. 1, P. 20

1 allowed to live in Wake County and work in Wayne County.
2 And then it evolved into hearing rumors that he was not only
3 living in Wake County but he was in Wake County when he was
4 technically on duty working in Wayne County and not where he
5 was supposed to be.

6 And so I'd heard these from -- these grumblings
7 several occasions, from several different people. And my
8 supervisory philosophy was always: I'm not going to set my
9 people up for failure. I'm not going to go sit outside his
10 neighborhood. I think he lived in the southern part of Wake
11 County somewhere. But I wasn't going to -- I was going to
12 give him an opportunity to correct it if it was occurring.
13 So we had -- it was either a training session or it was a
14 supervisory meeting. I don't even remember specifically.
15 But we had a -- there was an occasion where First Sergeant
16 Burton and Sergeant DeValle were both in Raleigh and at
17 Troop C headquarters.

18 So after we had finished what we were doing, I
19 called them both into my office. I brought in -- Lieutenant
20 Finney was there. I brought him into the office as well to
21 -- to sit there and listen. And basically, I told him -- I
22 told both of them from the beginning that it was -- you
23 know, this was going to be a -- kind of a one-sided
24 conversation. And by that I meant I didn't want him to
25 respond at all, being -- "him" being Sergeant DeValle. I

Jeffrey O. Holmes

Direct/Lusic

Vol. I, P. 21

1 didn't expect him to deny or admit or anything, that I was
2 basically fixing to give him a shot across the bow. I told
3 him what I was hearing, that I was hearing these rumors and
4 these grumblings that -- that this was occurring, that he
5 was not where he was supposed to be when he was supposed to
6 be there.

7 And I said, "Look, if it's not happening and this
8 is not true, you can get up out of here and leave and not
9 think about this conversation again. But if it is
10 occurring, I expect it to stop now." I said, "You know what
11 policy states about the domicile policy, and I expect you to
12 be in compliance with policy, and when you're on duty, be in
13 your assigned duty area."

14 And -- and basically, that was it. I specifically
15 told him not to respond, and he did not respond, and they
16 left the office and -- and that was it.

17 Q. Now, I know you said you can't remember
18 specifically when this meeting occurred. It did occur after
19 you were troop captain, though --

20 A. Yes, ma'am.

21 Q. -- correct? And you became troop captain in 2014?

22 A. '14, I believe that's --

23 Q. Do you remember what month?

24 A. December was when I got promoted.

25 Q. What were your expectations for Sergeant DeValle

1 following that meeting?

2 A. I expected him to comply with policy, and -- and
3 policy as far as how the domicile policy was laid out at the
4 time. It -- I -- it's changed since then, but our -- our --
5 the -- at the time the current domicile policy and the
6 policy pertaining to work and that a member will be in his
7 assigned area when he's on duty unless otherwise given
8 permission not to be.

9 MS. LUSIC: I have no further questions.

10 THE COURT: Cross-examination?

11 MR. HENLINE: Yes, Your Honor.

12 CROSS-EXAMINATION BY MR. HENLINE:

13 Q. Good morning --

14 A. Good morning.

15 Q. -- Lieutenant Holmes. The conversations you had
16 when you were talking about the rumors and the grumblings,
17 there was never anybody that specifically came forward with
18 a written complaint that went through Troop, went through
19 Internal Affairs. Is that correct?

20 A. No, sir.

21 Q. Okay. Do you know if the rumors and grumblings
22 were firsthand, or were they second- or third-hand?

23 A. They were second- and third-hand. I -- I don't --
24 nobody who specifically originally brought up the issue came
25 directly to me. It was through multiple sources. And

Jeffrey O. Holmes

Cross/Henline

Vol. 1, P. 23

1 that's why I -- when I brought him in, I -- I basically
2 said, you know, "These are the rumors that are -- I am
3 hearing, and I'm just telling you now, if it is true, it
4 needs to stop. If it's not true, then you can forget this
5 conversation."

6 Q. Okay. Would you say the conversation was probably
7 more about him being in his district at the point in time he
8 was 10-41, or would it have also pertained to working from
9 home even though there's no policy against it?

10 A. It was more against him being where he was
11 supposed to be or being in his assigned area when he was 10-
12 41, yes, sir.

13 Q. Okay. And to your knowledge, did anyone ever
14 inquire with Sergeant DeValle about why he had been working
15 from home?

16 A. Not to my knowledge. When -- when he left that
17 day, in my mind it was -- honestly, in my mind, it was over
18 with. I assumed that either he would take care of it and
19 correct it, or it had not been occurring, that -- that it
20 was over with.

21 Q. Okay. And -- and I guess what I'm referring to
22 is, after WRAL's investigation, Internal Affairs got
23 involved. At -- from that point forward, do you know if
24 anybody ever --

25 A. I --

Jeffrey O. Holmes

Cross/Henline

Vol. I, P. 24

1 Q. Were you directly involved in --

2 A. No, sir.

3 Q. -- any of those investigations?

4 A. I -- in that interim time, I had moved back to
5 Professional Standards up at headquarters, so I was not
6 involved in any of that whatsoever. In fact, the only other
7 involvement I had at all was when Internal Affairs spoke
8 with me basically concerning the conversation that I just
9 told you about.

10 Q. And that role as -- I guess would be more as a
11 witness?

12 A. Yes, sir.

13 Q. Okay. And at the point in time you were his
14 lieutenant and his captain, were there any concerns, any
15 disciplinary actions administered against Sergeant DeValle
16 for failing to perform any assigned tasks, such as the
17 evidence collection, being unresponsive? Anybody --
18 troopers were trying to reach him, anything of that nature
19 that comes to mind?

20 A. Not that I recall, no, sir.

21 Q. And irrespective of this prior to that, did you
22 have any concerns about Sergeant DeValle's work ethic?

23 A. No, sir, never had any concerns about his work
24 ethic. He was a trooper from mine when I was down here in
25 B6 --

Jeffrey O. Holmes

Cross/Henline

Vol. I, P. 25

1 Q. Yes, sir.

2 A. -- and work ethic, no, sir, never had an issue
3 with -- with work ethic.

4 Q. Okay. And then in going back to the earlier part
5 of your testimony, when there's one first sergeant, two line
6 sergeants assigned to Wayne County, that's not going to give
7 24-hour coverage so much would it, correct?

8 A. Correct. Yes, sir.

9 Q. So there may be point in times where a trooper may
10 be working a district and a sergeant's only on call.

11 A. Correct. Yes, sir.

12 Q. At -- at those points in time, somebody would be
13 on call by telephone, correct?

14 A. Yes, sir.

15 Q. Okay. And so at that point in time, if a trooper
16 needed a sergeant, they're basically looking at the sergeant
17 as a resource, as a possibility of coming out for a
18 supervisory responsibilities but not necessarily an
19 emergency backup personnel, correct?

20 A. Yes, sir. I mean, if they're -- if they're
21 designated on call, then -- then the expectation would be
22 that, yeah, I'm not going to be able to call them because
23 I'm in a fight and I need him to come help me. It's going
24 to be because I have questions or I have -- something
25 happened I need to tell him about, yes.

Jeffrey O. Holmes

Cross/Henline

Vol. 1, P. 26

1 Q. Okay. And -- and the testimony about, you know,
2 members of the public needing to talk to a supervisor, I
3 guess, maybe as a formal complaint or if they have questions
4 about getting arrest or investigation, how that process
5 works, the office would only be accessible Monday through
6 Friday, during normal business hours, correct?

7 A. Correct. Yes.

8 Q. But they could -- would they then have to go
9 through communications?

10 A. Yes, sir. Communications should always have an
11 on-call schedule, and so if there's not actually a
12 supervisor that's -- that's actively working, there's
13 somebody that's listed as on call. Yes, sir.

14 Q. So there's point in times when a member of the
15 public could not drive to the Wayne County office --

16 A. Right.

17 Q. -- and find a sergeant to talk to.

18 A. Correct.

19 Q. They'd have to go through another source to --

20 A. Yes.

21 Q. -- to do that?

22 Yes, sir. And Wayne County, Wake County -- Wake
23 County, I know you said, was a lot busier. Would that be
24 because there's a lot more citizens there? But they also
25 have a lot more troopers and sergeants assigned there as

Jeffrey O. Holmes

Cross/HeHine

Vol. I, P. 27

1 well. Is that correct?

2 A. They do. I mean --

3 Q. Okay.

4 A. -- It's the old story that everybody's heard for
5 years, that every district is probably shorthanded --

6 Q. Yes, sir.

7 A. -- just because our numbers haven't increased in
8 so many years. But, yes, there are more troopers assigned
9 to Wake County, yes, sir.

10 Q. Yes, sir. Okay. And the evidence locker: If a
11 trooper comes in there on a weekend and places evidence into
12 the locker, there's period of times, I guess, where a
13 supervisor may not be working and that evidence could sit in
14 there for a day, maybe two days before it's transferred to a
15 permanent storage?

16 A. Yes, sir. I can't remember specifically, honest
17 -- at this point, what policy said about how long -- that
18 the temporary locker needed to be checked every so often by
19 the supervisors.

20 Q. Yes, sir.

21 A. But, yes, if somebody -- if a trooper at three
22 o'clock in the morning were to obtain evidence and go to the
23 office and put it in there, there would not be a supervisor
24 there at that moment to -- to put it in there. It would sit
25 in the temporary locker till the supervisor -- till the

1 evidence technician --

2 Q. That would -- that wouldn't compromise the chain
3 of evidence for court procedures, though, would it, for it
4 sitting --

5 A. No, sir.

6 Q. Because it's -- it's secured.

7 A. Correct.

8 Q. Correct?

9 A. Yes, sir.

10 Q. There's no one that can get into it except members
11 who are afforded the -- either a key or a combination to get
12 into --

13 A. Yes, sir.

14 Q. -- that system?

15 Okay. And in going back to Wayne County versus
16 Wake County, the number of sergeants that are assigned to
17 each of those districts, is that kind of commensurate with
18 the number of individuals working there?

19 A. Yes, sir. The --

20 Q. Okay.

21 A. -- at least as long as I can remember, the ideal
22 supervisor-to-trooper ratio was generally one supervisor for
23 every seven troopers. Now, it -- again, with the number of
24 lack of supervisors, lack of members that we have, that
25 number gets skewed sometimes in some areas, and -- and due

Jeffrey O. Holmes

Cross/Henline

Vol. I, P. 29

1 to vacancies, those numbers --

2 Q. Yes, sir.

3 A. -- will get skewed if there's an opening
4 somewhere. But that's generally what they try to keep.

5 Q. Okay. So I guess, like, if a -- if a sergeant's
6 assigned, say, seven members to track, a lot of the
7 administrative responsibility for keeping up with that
8 trooper is not going to be greatly different from one
9 district to another, but the call load that he's assigned
10 and the work he's generating from accidents, arrests, and
11 citations, and everything --

12 A. Correct.

13 Q. -- will be --

14 A. The number of members, hopefully, in a perfect
15 world, should be somewhat similar to the number of people
16 he's supervising. It -- the volume of work created by those
17 seven members may differ from district to district, yes,
18 sir.

19 Q. Yes, sir. Yes, sir. And are there -- are there
20 points in time where, say, a sergeant and a first sergeant
21 that are assigned to Wayne County may not be in that county;
22 they may be, say, like, at troop headquarters for a meeting,
23 I guess, similar to what you were testifying to earlier when
24 you -- when you met with them?

25 A. Yes, sir.

Jeffrey O. Holmes

Redirect/Lusic

Vol. 1, P. 30

1 Q. Okay. So they would not be in their district --
2 there's points in time their responsibilities as being a
3 supervisor are going to take them out of Wayne County, to --
4 to be able to do their -- their job function?

5 A. Yes, sir.

6 Q. Okay.

7 A. Yes, sir.

8 Q. And --

9 MR. HENLINE: That's all the questions I have,
10 Your Honor. Thank you, sir.

11 THE COURT: Redirect?

12 MS. LUSIC: Yes, just a few follow-up.

13 REDIRECT EXAMINATION BY MS. LUSIC:

14 Q. So I want to clarify: What is the difference
15 between being, like, 10-41, on call, and -- what is the
16 difference between being 10-41 and on call for a supervisor?

17 A. 10-41 is when I'm basically -- I'm checking on for
18 duty; I am actually physically in uniform, working, 10-41.
19 On call, again, we -- we don't have enough supervisors to
20 have 24-hour coverage, so if a -- a supervisor's working a 3
21 p.m.-to-midnight shift, he would be 10-41 from 3 p.m. until
22 he checked off whatever time he got -- got to his residence,
23 at, say, midnight or 12:15 or whatever. He would be 10-42.
24 But he may be considered on call -- whatever the first
25 sergeant -- however they've worked that out, but he may be

1 considered on call until whatever point in time the next
2 supervisor takes over those calls.

3 Generally, late calls would last until the -- the
4 old-school rule of thumb we always went by -- it's not
5 written in stone or policy, but till 5 a.m. And then the
6 early-call sergeant would start picking up calls at 5 a.m.
7 until he checked 10-41, and then he would work. So.

8 Q. Okay. And I believe you had said that pretty much
9 all the counties were short-staffed and so there couldn't be
10 a supervisor on at all times.

11 A. Right. Correct.

12 Q. And in addition, you'd said that even when they're
13 on, sometimes they have to go meetings outside their
14 district.

15 A. Correct.

16 Q. Considering that information, how important is it
17 for them to be in the county with the troopers that they're
18 supervising when they are on duty and not otherwise at a
19 meeting?

20 A. Well, I mean, I definitely consider it important,
21 and -- and our ultimate goal -- it's not a perfect world,
22 just simply because we couldn't snap our fingers and create
23 a lot more people, but in a perfect world, there would
24 always be a squad of troopers working and a supervisor
25 working with them.

1 And I always wanted to try to be as close to that
2 as you can, but obviously, the -- you know, it's not a
3 perfect world, and -- and circumstances dictated otherwise.
4 Whether it's meetings, whether it's training, whether it's
5 court, things always adjusted that. But I wanted that to be
6 -- I wanted the norm to be troopers working, a supervisor
7 working with them, and then we'd adjust when things
8 happened. I didn't want it to be abnormal to have the
9 troopers out there by themselves all the time. I didn't
10 want that to become the norm.

11 MS. LUSIC: Just one second, and then I think I'm
12 done.

13 (Pause in proceedings.)

14 MS. LUSIC: Okay. We're -- we're done with this
15 witness.

16 THE COURT: Further questions?

17 MR. HENLINE: Just one question, Your Honor.

18 THE COURT: All right.

19 RECROSS-EXAMINATION BY MR. HENLINE:

20 Q. And Captain Holmes, the on-call status, was there
21 any written policy that dictated how that worked or would a
22 first sergeant have discretion of how they worked out who
23 would be on call? I know the system would show somebody
24 being on call, but could a first sergeant override that and
25 -- and tell his men something different than what's showing

Jeffrey O. Holmes

Recross/Henline

Vol. 1, P. 33

1 up in the CAD system?

2 A. If the first sergeant changed it, which was
3 completely within his autonomy and authority to --

4 Q. Yes, sir.

5 A. -- to do so -- now, I did have an expectation that
6 the first sergeant, or whoever changed the call -- I -- it
7 was important that the communications center knew --

8 Q. Yes, sir.

9 A. -- so that the men could know. I want -- I mean,
10 I didn't -- I wanted to make sure there was a communication
11 line there. So, yes, they had the authority to do it; I
12 just wanted to make sure somebody was made aware of it so
13 that if we needed a supervisor, we could find one.

14 Q. Yes, sir.

15 MR. HENLINE: No further questions, Your Honor.

16 THE COURT: All right. Thank you, Captain.

17 THE WITNESS: Yes, sir.

18 THE COURT: You can step down. Any objection to
19 him being released so he can go? Is that --

20 MR. HENLINE: I'm fine with that, Your Honor.

21 THE COURT: All right. Thank you, sir. You're
22 free to leave.

23 THE WITNESS: Yes, sir. Thank you.

24 (The witness left the stand.)

25 MS. LUSIC: Thank you so much.

1 THE WITNESS: Thank you.

2 MS. LUSIC: Your Honor, our next witness is the
3 one that we are going to be calling in for telephonic
4 testimony.

5 THE COURT: Okay. Mr. William, you've got the
6 telephone over there.

7 HEARING ASSISTANT: Yes.

8 THE COURT: And Sheriff -- Sheriff said that you
9 can hook us up so that it comes through all of this stuff.

10 (Pause in proceedings.)

11 THE COURT: Ms. Lusic, if you'd give us the phone
12 number?

13 (Pause in proceedings from 10:45 a.m. until
14 10:46 a.m.)

15 THE COURT: I think if you sit at your seat
16 there's a -- there's a microphone that should pick it up.

17 MS. LUSIC: Sorry.

18 (Pause in proceedings from 10:46 a.m. until
19 10:47 a.m.)

20 (A phone number was dialed.)

21 THE COURT: Probably seeing that phone number pop
22 up and they know who it is.

23 (Pause in proceedings from 10:47 a.m. until
24 10:48 a.m.)

25 THE COURT: First Sergeant Burton? Sergeant

1 Burton? Sergeant Burton, can you hear me?

2 SERGEANT BURTON: I can barely hear you.

3 THE COURT: Okay. This is Don Overby. I'm the
4 Administrative Law Judge. And we're trying to get this
5 technology set up so we can have you on the telephone. Is
6 it getting any better?

7 SERGEANT BURTON: Not really. I'll turn my volume
8 up.

9 THE COURT: All right. Can you hear me now?

10 SERGEANT BURTON: (No audible response.)

11 UNIDENTIFIED SPEAKER: He has -- I think -- I
12 think you (unintelligible) by accident.

13 THE COURT: Uh-oh.

14 UNIDENTIFIED SPEAKER: But there's not a charge.

15 THE COURT: Hopefully.

16 UNIDENTIFIED SPEAKER: Probably (unintelligible).

17 (A phone number was dialed.)

18 (Pause in proceedings from 10:49:04 a.m. until
19 10:49:51 a.m.)

20 SERGEANT BURTON: Hello?

21 THE COURT: Sergeant Burton? How are we now? Can
22 you hear me now?

23 SERGEANT BURTON: Yes, sir, I can hear you.

24 THE COURT: Okay. Great. If you would, please,
25 raise your right hand.

Gerald (Jerry) Burton

Direct/Lusic

Vol. 1, P. 36

1 GERALD (JERRY) BURTON,
2 having been called as a witness for the Respondent, was duly
3 sworn and testified as follows:
4 THE COURT: Thank you, sir. Questions, Ms. Lusic?
5 DIRECT EXAMINATION BY MS. LUSIC:
6 Q. Good morning. Can you please state your name for
7 the Court?
8 A. I'm sorry? Say that again?
9 Q. Can you please state your name for the Court?
10 A. My name's Gerald Burton, and I go by Jerry.
11 Q. Jerry, when did you first become a member of the
12 State Highway Patrol?
13 A. I would -- I attended basic school and started
14 state employment in 1989 of -- in November of '89, and was
15 sworn in in May of two -- of 1990.
16 Q. Can you provide an overview of the positions you
17 held with the State Highway Patrol from that time until you
18 retired?
19 A. Yes, ma'am. I performed the functions of a state
20 trooper and then was promoted in 2012 to sergeant and
21 performed functions of a line sergeant, and then also in
22 twenty six -- excuse me -- 2007, I was promoted to first
23 sergeant and performed the functions of a supervisor and
24 then ran a district for the North Carolina Highway Patrol.
25 Q. What district did you run?

Gerald (Jerry) Burton

Direct/Lusic

Vol. I, P. 37

1 A. I was in Wayne County, which was C2.

2 Q. And when did you retire?

3 A. I retired in October of 2017.

4 Q. Can you briefly describe the structure of the
5 Wayne County district?

6 A. Say that again, please?

7 Q. Can you describe the structure of the Wayne County
8 district?

9 A. Yes, ma'am. We were -- the district was run by
10 the first sergeant, which was me. There were two line
11 sergeants that reported to me, along with a secretary. And
12 then under each -- each sergeant was troopers that were
13 assigned to them.

14 Q. Which of these positions were supervisory
15 positions?

16 A. I'm sorry?

17 Q. Which of these positions were supervisory
18 positions?

19 A. Supervisors were line sergeants, which were --
20 reported directly to me. And then the first sergeant
21 position was a supervisor.

22 Q. So was Sergeant DeValle a line sergeant?

23 A. Yes, ma'am.

24 Q. How in Wayne County did you organize the
25 supervisors to be on duty?

Gerald (Jerry) Burton

Direct/Lusic

Vol. I, P. 38

1 A. Usually, supervisors were on duty by assigned
2 shifts. The two shifts that -- I mean that troopers were on
3 were assigned to them. The troopers would work a day shift
4 and a night shift. They'd report to a line sergeant, and
5 that line sergeant would also be working that day that the
6 troopers that were assigned to him were on.

7 Q. Do you recall whether Sergeant DeValle was
8 assigned to the day or the night shift during his time
9 there?

10 A. Oh, Sergeant DeValle worked all shifts, day shift
11 and night shift. Mainly when -- when I was working, I
12 mainly worked day shift, and then the sergeant would work
13 night shift. The line sergeants, unfortunately, worked more
14 night shifts than they did day shifts.

15 Q. How important did you consider it for a supervisor
16 to be on duty?

17 A. It's important for them to be there so that
18 questions can be answered and that they can meet with each
19 -- each of their personnel. If they can't meet with them
20 daily, they should be able to at least talk to them daily on
21 the phone. However, just due to manpower issues, we were
22 not always able to have a supervisor on duty.

23 Q. How important did you consider face-to-face time
24 between supervisors and supervisees?

25 A. I'm sorry. Ask me that again?

Gerald (Jerry) Burton

Direct/Lusic

Vol. 1, P. 39

1 Q. How important did you consider face time as
2 opposed to talking on the phone, for instance, for a
3 supervisor and the people he was supervising?

4 A. Well, face -- face time is important, because you
5 can read the body language of the trooper and you can see if
6 things are going on with him that he wouldn't necessarily
7 tell you. However, we were not always able to meet -- meet
8 every day with the -- with each trooper that was working,
9 but we should at least make contact with them.

10 Q. Can you tell me about the duties as a sergeant
11 within Wayne County?

12 A. Sergeant duties would include actually getting out
13 and riding the roads of the county. It would also include
14 taking enforcement action if they deem necessary. It would
15 include checking paperwork that was turned in. It would
16 include inspecting records or handling evidence or looking
17 at fatal -- fatal collision files. And it would also
18 include talking to the general public as they walked into
19 the office.

20 Q. Would a supervisor be able to do all paperwork
21 remotely?

22 A. He would -- he should be able to do 90 percent of
23 the paperwork remotely.

24 Q. Were supervisors supposed to be working from home?

25 A. No, ma'am. Supervisors shouldn't be working from

Gerald (Jerry) Burton

Direct/Lusic

Vol. I, P. 40

1 home.

2 Q. What conversations did you have with Sergeant
3 DeValle about whether or not he could work from home when he
4 was on duty?

5 A. We never talked about it, except for one time when
6 Captain Holmes had called us in his office and talked about
7 things he was hearing or rumors he was hearing.

8 Q. Do you remember when that conversation with
9 Captain Holmes occurred?

10 A. Yes, ma'am.

11 Q. When was that?

12 A. Oh, I'm -- our numerous conversation -- I don't
13 remember the exact date.

14 Q. Do you remember a time frame, though?

15 A. No, ma'am. It was -- I couldn't tell you what
16 time of year. I couldn't even tell you what month.

17 Q. Can you describe a little bit about that -- how
18 that meeting took place?

19 A. Yes, ma'am. We were at -- myself, Sergeant
20 DeValle, and Sergeant Whitley were at the meeting in
21 Raleigh, and the captain told us that after the meeting was
22 concluded he'd like to see us in his office. So once that
23 meeting adjourned, myself and Sergeant DeValle walked into
24 Captain Holmes' office. The door was shut by Lieutenant
25 Finney. Captain Holmes said that he was -- he had heard

Gerald (Jerry) Burton

Direct/Lusic

Vol. I, P. 41

1 some rumblings; he was just shooting a shot across the bow,
2 so to speak; and told Sergeant DeValle that he needed to be
3 in Wayne County when he was supposed to be there, doing what
4 he was supposed to be doing.

5 So we talked a few minutes about that. Then
6 Captain Holmes asked Sergeant DeValle if he was clear. And
7 Sergeant DeValle said, "Yes, sir." He asked me if I was
8 clear, and I said, "Yes, sir." And the meeting was
9 adjourned.

10 Q. After this meeting, did you speak with Sergeant
11 DeValle about the meeting?

12 A. We did. We spoke a little bit about the meeting,
13 what his interpretation was, what my interpretation of the
14 meeting was.

15 We both had the same conclusion, that Sergeant
16 DeValle should have been at Wayne County when he was
17 supposed to be there, which was the beginning of a shift,
18 doing what he was supposed to be doing, which were
19 supervisory duties, and not leaving the county until the --
20 his assigned shift ended.

21 Q. Did Sergeant DeValle ever ask you if he could work
22 from home on his assigned shifts?

23 A. No, ma'am, he never asked.

24 Q. Were you aware at any time that Sergeant DeValle
25 was not working in Wayne County on an assigned shift?

Gerald (Jerry) Burton

Direct/Lusic

Vol. I, P. 42

1 A. No, ma'am. Now, what we did have was the three
2 sergeants -- myself and the two line sergeants -- when -- if
3 you were on call and you needed to -- to make a change, you
4 could contact one of the other supervisors and then they
5 would take the call. But that was being on call and not
6 while you're actually in the county.

7 Q. How would you have responded if you had found out
8 that Sergeant DeValle was not in Wayne County on one of his
9 assigned shifts?

10 A. I would have had a talk with Sergeant DeValle
11 similar to what Captain Holmes had, but it would probably
12 have been a little more direct.

13 Q. And if the behavior continued?

14 A. And -- I'm sorry?

15 Q. And hypothetically, if that behavior continued, if
16 you continued to learn that Sergeant DeValle was not working
17 from -- in Wayne County during his assigned shifts?

18 A. I -- I never learned Sergeant DeValle wasn't --
19 wasn't in the county. When Sergeant DeValle was served
20 those Internal Affairs papers, it was a shock to me. I had
21 no clue.

22 Q. Okay.

23 MS. LUSIC: That's all my questions for now.

24 THE COURT: All right. Questions, Mr. Henline?

25 MR. HENLINE: Yes, sir, Your Honor.

Gerald (Jerry) Burton

Cross/Henline

Vol. I, P. 43

1 CROSS-EXAMINATION BY MR. HENLINE:

2 Q. Sergeant Burton, this is Barry Henline. Can you
3 hear me?

4 A. Yes, sir.

5 Q. Okay. Going back to the time when you were the
6 first sergeant in Wayne County in 2015 and 2016, did you do
7 performance evaluations on Sergeant DeValle?

8 A. Yes, sir, I did.

9 Q. Okay. Did you note any kind of deficiencies in
10 his performance appraisals that relates to anything as far
11 as his completing assigned tasks and other assignments that
12 you'd given him?

13 A. No, sir, I never noticed anything, and I didn't
14 note anything on his appraisals, either.

15 Q. Okay. Did he ever have any difficulty completing
16 the work he was assigned to do at any point in time in your
17 knowledge?

18 A. No, sir. He -- Sergeant DeValle had the items
19 that I requested usually completed ahead of time.

20 Q. Okay. If a sergeant was to remain at home and not
21 perform any functions, would he get behind?

22 A. Yes, sir, I believe so.

23 Q. Okay. To your knowledge, did anyone ever inquire
24 with Sergeant DeValle why he had been working from home?

25 A. No, sir, I had never heard that Sergeant DeValle

Gerald (Jerry) Burton

Cross/Henline

Vol. I, P. 44

1 was working from home.

2 Q. Okay.

3 A. I mean --

4 Q. And I guess, more specifically, I'm referring to
5 after WRAL's investigation came forward and Internal Affairs
6 got involved. Do you know of anyone that ever inquired with
7 you or with Sergeant DeValle about why he had been working
8 from home?

9 A. No, sir. Nobody ever asked me that.

10 Q. Yes, sir. Okay. Were you ever directly involved
11 in the complaint or handling a portion of the investigation
12 of that complaint?

13 A. No, sir, I was not.

14 Q. Okay. And do you have an opinion of Sergeant
15 DeValle's work -- work ethic, irrespective of the
16 allegations that are in court today? Do you have an opinion
17 of what his work ethic was like?

18 A. Yes. Sergeant DeValle is a excellent worker.

19 Q. Okay. Were there occasions, to your knowledge,
20 where he was working from home with his computer during his
21 off time?

22 A. Oh, yes, sir. Sergeant DeValle quite often worked
23 from home on his off time.

24 Q. Okay. How about during periods of vacation when
25 he may have been out of state? Are you aware of any

Gerald (Jerry) Burton

Cross/Henline

Vol. I, P. 45

1 incidents where he was working or responsive to you?

2 A. Yes, sir. On -- first on vacation and other off
3 time, especially our Christmas rotation.

4 Q. Yes, sir.

5 A. Sergeant DeValle would take his computer with him
6 and work from home. He would return e-mails. He would
7 contact other troopers and help assist them if they had a
8 problem with their -- their eCitation or eCrash program.

9 Q. Yes, sir. And are you -- do you have any prior
10 knowledge from your time with the Highway Patrol about the
11 TraCS and eCitation programs?

12 A. Yes, sir. I was in charge of those programs prior
13 to getting promoted to first sergeant.

14 Q. Yes, sir.

15 A. And -- and I recruited Sergeant DeValle to come
16 over there and take my place.

17 Q. Yes, sir. And can you explain for -- to the Court
18 what TraCS and eCitation is and what it does?

19 A. Sure. TraCS is a automated crash program that
20 troopers -- or that officers use throughout the state. They
21 fill the report out on their computer, and they're able to
22 transmit it so supervisors can check their report and
23 transmit it to DMV, or the report can go directly to DMV.
24 And then eCrash is a electronic citation program that
25 troopers use to write citations -- or I should say all

Gerald (Jerry) Burton

Cross/Henline

Vol. I, P. 46

1 officers across the state write citations on, and then they
2 transmit it to the court system.

3 Q. Okay. So would you and Sergeant DeValle have, I
4 guess, kind of a superior knowledge of these programs,
5 having worked in there?

6 A. Yes, sir.

7 Q. And are you aware of Sergeant DeValle's spending
8 his off-duty time discussing these programs to help other
9 troopers out?

10 A. Well, Sergeant DeValle would tell me that he had
11 helped somebody through the night. They'd call him at two
12 or three in the morning and so he'd gone up and -- and tried
13 to help them with the program. Then -- so he'd -- he would
14 do that numerous times.

15 Q. Yes, sir. Okay. And going back in time a little
16 bit, was there a period of time when your district was
17 affected by Hurricane Matthew?

18 A. Yes, sir, very much so.

19 Q. Okay. And during that period of time, were the
20 members of your district performing preventive -- pretended
21 -- preventative enforcement patrol, or were they more likely
22 responding to calls for service?

23 A. No, sir, we didn't -- we -- I specifically
24 instructed the troopers not to be on preventive patrol, due
25 to the fact the county was cut in half --

Gerald (Jerry) Burton

Cross/Henline

Vol. I, P. 47

1 Q. Yes, sir.

2 A. -- and from the Neuse River --

3 Q. Yes, sir.

4 A. -- that the state gas pumps were on the north side
5 of the river and the troopers working the south side could
6 not get any fuel, so we had to limit their response. So we
7 went from an enforcement mode to a response mode.

8 Q. Okay. And did -- at some point in time during
9 this, did you instruct the sergeants to more or less just
10 hang out at the office and then check on the troopers when
11 they needed something?

12 A. Yes, sir.

13 Q. Okay. And with your sergeants, Sergeant DeValle
14 and Sergeant Whitley, did you guys have an agreement, if
15 they took time off, how they were to do that? Were they to
16 notify you, or could they -- did they have the authority to
17 take the time off and then just reflect it on their weekly
18 activity reports later?

19 A. Well, the -- the sergeants had the authority to --
20 to take time off. They didn't necessarily have to contact
21 me.

22 Q. Yes, sir.

23 A. They just needed to make sure that if they were to
24 take time off that their calls were covered by either myself
25 or by the other sergeant.

Gerald (Jerry) Burton

Cross/Henline

Vol. I, P. 48

1 Q. Okay. And if they were assigned duty officer
2 calls during this time if they took time off, would that
3 affect that agreement, or would it -- would they still be, I
4 guess, on call but still able to -- to call you or the other
5 sergeant to work that out if they needed somebody to respond
6 for them?

7 A. Yes, sir. If they were going to be off, they just
8 needed to make sure that myself or -- or the other line
9 sergeant would take calls for them.

10 Q. Yes, sir. Okay. And if -- if the Highway Patrol
11 had've chosen to demote Sergeant DeValle, would you have had
12 any problems or any concerns with supervising him as a
13 trooper?

14 A. No, sir. I'd love to supervise Sergeant DeValle.

15 Q. Okay. Do you remember sending Sergeant DeValle an
16 e-mail about -- that came from Troop about checking vehicles
17 that were starting to become visible as the floodwaters
18 receded from Hurricane Matthew?

19 A. I'm sorry. Ask me that again?

20 Q. Was there a e-mail that came from troop
21 headquarters during Hurricane Matthew that instructed the
22 districts how to handle cars that were becoming visible
23 after Hurricane Matthew's floodwaters subsided?

24 A. I don't -- I don't remember an e-mail that came
25 out. I just remember being in a -- in a response mode --

Gerald (Jerry) Burton

Cross/Henline

Vol. I, P. 49

1 Q. Yes, sir.

2 A. -- versus being in a -- an enforcement mode.

3 Q. Okay. And were you interviewed by Internal
4 Affairs about this matter?

5 A. Yes, sir, I was.

6 Q. Okay. Who -- do you remember who interviewed you?

7 A. One time, Captain Todd Evans interviewed me over
8 the phone, and one time I think it was Chad Parks and -- and
9 Rodney Sawyer --

10 Q. Yes, sir.

11 A. -- interviewed me at troop headquarters.

12 Q. Okay. In the conversation you had with Captain
13 Evans, do you recall asking him about Sergeant DeValle's
14 ability to return to duty?

15 A. Yes, sir, I do.

16 Q. Okay. And do you remember Captain Evans making a
17 comment that he didn't think Sergeant DeValle was going to
18 lose his job, but he -- but he said they were still getting
19 hit with media requests and that Vic, who I would assume is
20 Colonel Ward, was in his office the prior week and that Mike
21 Baker was contacting him about every two weeks about the
22 status of their investigation?

23 MS. LUSIC: I'm going to object to that question
24 as --

25 THE COURT: Overruled.

Gerald (Jerry) Burton

Cross/Henline

Vol. I, P. 50

1 MS. LUSIC: -- hearsay.

2 THE COURT: Go ahead.

3 A. I don't know what Sergeant Baker did, but I
4 remember -- I remember Todd Evans saying that Sergeant
5 DeValle -- he didn't think Sergeant DeValle was going to be
6 fired but he just couldn't put him back on the road at the
7 moment.

8 BY MR. HENLINE:

9 Q. Yes, sir. And --

10 THE COURT: Sergeant Burton, who was it that told
11 you that?

12 THE WITNESS: I'm sorry. Ask me that again?

13 THE COURT: Who was that that told you that they
14 did not think that Sergeant DeValle would lose his job but
15 that he could not be put back on the road?

16 THE WITNESS: That was Captain Evans.

17 THE COURT: Okay.

18 THE WITNESS: I talked to him on the phone.

19 THE COURT: All right. Thank you. Further
20 questions, Mr. Henline?

21 MR. HENLINE: Yes, sir. Just briefly, Your
22 Honor.

23 BY MR. HENLINE:

24 Q. Sergeant Burton, you said you -- when you worked
25 day shift, primarily Sergeant DeValle, Sergeant Whitley are

Gerald (Jerry) Burton

Cross/Henline

Vol. 1, P. 51

1 working night shift. Is that correct?

2 A. Yes, sir.

3 Q. Okay. And at that point in time, the office would
4 be mostly in a closed status, would it not?

5 A. Yeah, the office would close at -- at 5:00, and so
6 most of the hours from -- well, until 8 a.m. the next
7 morning, the office would be closed.

8 Q. Okay. And did you ever have any of the troopers
9 assigned to you come to you complaining that they couldn't
10 reach Sergeant DeValle?

11 A. No, sir. None of the troopers ever said a word
12 about it.

13 Q. Okay. And were there periods of time during each
14 year where you're required to -- to submit to inspections of
15 your office for reports you're required to keep, evidence,
16 that -- those kind of inspection periods?

17 A. Yes, sir.

18 Q. Were they pretty busy times?

19 A. They're very busy times.

20 Q. Okay. When -- when that occurred, did that kind
21 of take priority over everything else including, like,
22 preventive patrol and enforcement activities from a
23 sergeant?

24 A. Yes, sir, I would say so. Now, preventive patrol
25 for a sergeant is not -- percentage-wise of his job duties

Gerald (Jerry) Burton

Cross/Henline

Vol. 1, P. 52

1 is not as much what it is for a trooper, so it's scaled back
2 quite -- quite a bit.

3 Q. So would it be safe to say that a sergeant's
4 preventative patrol and enforcement would be more
5 commensurate with his ability to not have other
6 responsibilities he's handling at that time?

7 A. Yes, sir.

8 Q. Okay. And earlier, you -- you had talked about if
9 you had learned of this matter with Sergeant DeValle working
10 from home; would you have handled that matter yourself, or
11 would you have filed a formal complaint and submitted it
12 through trooper --

13 A. Yes, sir, I'd have --

14 Q. -- internal --

15 A. -- handled it by myself.

16 Q. Okay.

17 A. That would just be another job function for a
18 first sergeant in this district.

19 Q. Yes, sir. Okay. And just for clarification for
20 the Court: Captain Evans, was he a member of Internal
21 Affairs when he interviewed you?

22 A. Yes, sir.

23 Q. Okay.

24 MR. HENLINE: No further questions, Your Honor.

25 THE COURT: Redirect?

Gerald (Jerry) Burton

Redirect/Lusic

Vol. I, P. 53

1 REDIRECT EXAMINATION BY MS. LUSIC:

2 Q. Jerry, if you had found out -- this is a
3 hypothetical question; I'm not saying that you did find this
4 out. But if you had found out that Sergeant DeValle was
5 continually not coming into work on his assigned duty days,
6 would you handle that internally, or would you file a formal
7 complaint?

8 A. No. If I'd have found that out, I -- I would have
9 handled it internally. I mean, there's -- there's other
10 things that you could do to -- that could bring about
11 corrective action without having to send a complaint to
12 Internal Affairs.

13 Q. Was it your expectation that he be in the county
14 working when he was on duty?

15 A. Yes, ma'am, that was my expectation.

16 Q. If he was sick when -- if he came down sick when
17 he was assigned to be on duty, what procedure would he need
18 to have followed to stay at home?

19 A. He would check -- he would check 10-86 at his
20 residence prior to his shift starting, and then he would
21 check 10-87 and 10-41 at -- which would be the beginning
22 tour of his duty, which would be when he entered the county,
23 and it should be a minute or two prior to his assigned
24 shift.

25 Q. If he -- if he came down sick and could not work,

Gerald (Jerry) Burton

Redirect/Lusic

Vol. 1, P. 54

1 what procedures would he follow then?

2 A. Well, he could -- he could stay at the house. He
3 wouldn't have to check -- there's no ten code for that.
4 He'd be at the house, and then he would either call myself
5 or the comm center and let them know that he was sick.

6 Q. Would he need to check off -- check 10-42, check
7 off, if he was sick and returning home?

8 A. Oh, you mean -- well, if he -- if he was already
9 checked 10-41, then, yes, if he got sick and went home, he
10 would check off. If he were -- if he were sick prior to the
11 shift starting, then he would never -- he would never check
12 on to work.

13 Q. You -- you've stated that you -- you love working
14 with Sergeant DeValle. Would you consider Sergeant DeValle
15 a friend?

16 A. Yes, ma'am, I would.

17 Q. The conversation that you had with Captain Evans
18 where you reported that Captain Evans said he didn't think
19 that DeValle would lose his job based on the investigation,
20 do you recall when that happened within the Internal Affairs
21 investigation?

22 A. I believe that happened about December of the year
23 he was being investigated. It was early December, I
24 believe.

25 MS.. LUSIC: No -- no further questions right now.

Gerald (Jerry) Burton

Recross/Henline

Vol. 1, P. 55

1 THE COURT: Further questions, Mr. Henline?

2 MR. HENLINE: Just briefly, Your Honor.

3 RECROSS-EXAMINATION BY MR. HENLINE:

4 Q. First Sergeant Burton, did you have occasions
5 where -- where you might learn that a trooper was checking
6 10-41 but not immediately going out on patrol? Do you
7 remember if that ever happened?

8 A. There were several cases where -- where that
9 occurred.

10 Q. Okay. And what would your -- what level of
11 discipline and how would you handle that?

12 A. The one I'm thinking was a line sergeant that was
13 doing it in -- in Wake County.

14 Q. Yes, sir.

15 A. He would -- went through the disciplinary process.
16 He was demoted, transferred, and he -- through his appeal
17 process, he got his rank back and they kept him in Wake
18 County.

19 Q. Yes, sir. Do you -- do you recall any troopers
20 under your command that might have checked 10-41 and
21 remained at home rather than going out on patrol?

22 A. No, sir. I don't know -- I don't know of a one
23 that's done that.

24 Q. Okay. And did you have many members that -- that
25 resided outside of Wayne County and would have to 10-86 and

Gerald (Jerry) Burton

Recross/Henline

Vol. I, P. 56

1 10-87 to their shifts?

2 A. Yes, sir, about half -- about half the district at
3 one time did.

4 Q. Okay. Were there any occasions where those
5 troopers or supervisors may or may not have done what they
6 were supposed to be doing as far as the 10-86, 10-87?

7 A. Most troopers -- most everybody that lived out of
8 the county didn't check 10-85, 10-87. They just checked
9 10-41 when they got to the district line and they checked
10 10-42 at the end of their shift when they were at the
11 district line.

12 Q. Okay. And that would be based on what they're
13 supposed to be doing, not anything where there'd be a
14 supervisor who's checking behind them to make sure they're
15 doing that, correct? It's just kind of an honesty system?

16 A. Well -- well, the reason they did it is because
17 the comm center was overwhelmed, and by calling in and using
18 extra ten codes, that created more traffic for the
19 telecommunicators. So just over a period of time, the
20 natural tendency was to check 10-41 at the beginning of your
21 shift at the county line and 10-42 at the end when you're
22 leaving the district.

23 Q. Yes, sir. Okay. And one last question, First
24 Sergeant Burton. The -- the day that -- in question where
25 Sergeant DeValle was at home and was still showing checked

Gerald (Jerry) Burton

Recross/Henline

Vol. 1, P. 57

1 on on the CAD, do you remember if -- if your call number was
2 showing checked on the CAD as well that day? Do you have
3 any personal knowledge whether it was or wasn't?

4 A. I have no idea at all 'cause there were times I
5 was checked on and I wouldn't be in the CAD, and then
6 there's days I would be out of state and my call number's on
7 the CAD that I'm working.

8 Q. Yes, sir.

9 A. So I never relied too heavily on the comm center.

10 Q. Okay. So in your opinion, the CAD would be kind
11 of not reliable as far as what somebody's actual 10-41,
12 10-42, and duty status would be? It could be incorrect?

13 A. Yes, sir. I would say it appears incorrect quite
14 often.

15 Q. Yes, sir.

16 MR. HENLINE: No further questions, Your Honor.

17 THE COURT: Anything further?

18 MS. LUSIC: Nothing further.

19 THE COURT: Sergeant Burton, thank you very much
20 for taking your time to speak with us this morning. Thank
21 you, sir.

22 THE WITNESS: All right. Thank you for letting me
23 testify by phone.

24 THE COURT: Yes, sir. Thank you.

25 THE WITNESS: All right. Bye-bye.

John C. Morton

Direct/McInnes

Vol. I, P. 58

1 THE COURT: Bye.

2 (The call ended.)

3 THE COURT: Why don't we take a ten-minute recess?

4 MR. HENLINE: Yes, sir.

5 (The recording stopped at 11:21:49 a.m.)

6 (The recording restarted at 11:35:24 a.m.)

7 (Notes of the hearing assistant reflect that
8 Mr. McInnes called Captain John C. Morton and
9 that he was sworn; however, there is no audio
10 of the same and the recording begins with an
11 answer.)

12 DIRECT EXAMINATION BY MR. McINNES:

13 A. Yes, sir. In October of '92 I was stationed in
14 Johnston County as a trooper. I was there until July of
15 1997. I transferred to the motorcycle unit, stationed in
16 Wake County, in Raleigh. I was there from 1997 to February
17 2004, promoted to sergeant. In February of 2004, stationed
18 in Charlotte, in Mecklenburg County. I started the
19 Charlotte Motor Unit. I was there for a year. And in
20 January of 2005, I was assigned to the training academy as a
21 sergeant.

22 In -- I think it was April 2007 or so, I was a
23 first sergeant and was assigned to Robeson County, Troop B,
24 District 7. I was there for about four months or so, and
25 then I was a lateral transfer as a -- to Patrol headquarters

John C. Morton

Direct/McInnes

Vol. I, P. 59

1 as a first sergeant as a personnel officer. Promoted to
2 lieutenant in February 2011 and assigned to Troop C
3 headquarters, Raleigh.

4 And I went to Patrol headquarters in February 2017
5 as a lieutenant, and then promoted to captain in March 2017.
6 And in June of 2017, assigned as a troop commander for the
7 Troop B headquarters in Fayetteville, and that's where I'm
8 currently assigned.

9 Q. Okay. And in November of 2016, what was your
10 rank, sir?

11 A. I was a lieutenant at Troop C headquarters.

12 Q. All right. And do you recall the events of
13 Friday, November 11th, 2016, as they relate to Mr. DeValle?

14 A. Yes, sir.

15 Q. Okay. Tell us a -- what you remember.

16 A. I was -- I was acting as a trooper officer of the
17 day status. We had -- you know, to serve -- commissioned
18 officers served basically 24/7 on-call status for basically
19 seven days in a row. This would -- subject to troop
20 commander's scheduling, but on this particular day, I was --
21 I was troop OD and working a night shift. And I was -- went
22 -- checked on and then went to patrol -- I mean, troop
23 headquarters there in Raleigh, and I was at Troop C
24 headquarters early -- in the early part of that shift, which
25 was a Veterans Day shift.

John C. Morton

Direct/McInnes

Vol. I, P. 60

1 Q. Okay. And November 11th was Veterans Day. Is
2 that correct?

3 A. Correct.

4 Q. And how did you become involved with respect to
5 Mr. DeValle on that evening?

6 A. I received a phone call from Lieutenant Colonel
7 Billy Clayton, and he asked was I working, was I -- where
8 was I at. And I told him I was at troop headquarters and I
9 was a -- the troop OD, troop officer of the day. And he
10 proceeded to tell me that he had had a complaint come in or
11 a notification that Sergeant DeValle was at his residence
12 and was on duty. And he wanted me to go by his residence
13 and confirm or deny that.

14 Q. Okay. Did he tell you where he got that
15 notification from?

16 A. He didn't say specifically, but he did mention
17 that there was a -- probably from a news -- news outlet,
18 news media, and included in that he even told me -- he said
19 be prepared that I might even be on camera when I -- you
20 know, I arrived.

21 Q. What did you do after you got that call from
22 Lieutenant Colonel Clayton?

23 A. Well, I pulled up our CAD, and -- and I looked,
24 and I already had it open in my computer at my office. And
25 I -- and I saw that he, on the CAD, was assigned -- had

John C. Morton

Direct/McInnes

Vol. I, P. 61

1 checked 10-41 and assigned, you know, to -- on duty.

2 Q. Okay. Let -- let me stop you there. There's been
3 some of these ten codes --

4 A. Okay.

5 Q. -- thrown around. First of all, what is 10-41?

6 A. We have 10 codes that just for -- to minimize
7 radio traffic. So instead of saying the long "I'm beginning
8 my tour of duty, I'm beginning my shift," it is compressed
9 to a code, and that 10-41 code means "beginning tour of
10 duty." You know, it corresponds with 10-42, which means "I
11 have ended my tour of duty." So that's basically when you
12 begin work and when you are off work.

13 Q. Okay. And where should you be when you call --
14 when you get into the CAD system, 10-41?

15 A. You should be in uniform and ready to do the --
16 perform the job that you're assigned to do.

17 Q. And should you be in the county in which you're
18 assigned?

19 A. You should be.

20 Q. Okay. Now, what is 10-86 and 10-87?

21 A. 10-86 is -- means beginning authorized travel.

22 And then 10-87 is ending office -- authorized travel.

23 They're used in pairs. So for someone in -- at this period
24 of time, with the policy that was in place, you could -- if
25 you were not in your county at the beginning of your

John C. Morton

Direct/McInnes

Vol. I, P. 62

1 assigned shift, you were allowed to -- obviously, you had to
2 get there, so you were authorized to drive your patrol car
3 from your residence to the county line, and so you -- that
4 period of time did not count as work time; it was authorized
5 travel time.

6 So you would 10-86 to the county line. At that
7 point, you would end your travel, 10-87, and begin your tour
8 of duty was 10-41. So -- and they would go -- fall in
9 sequence.

10 And then while you're working and during your
11 assigned shift in your county and then the -- at the end of
12 your assigned shift, you would be -- you'd -- you could
13 leave and go home, so you would be -- you know, go 10-42,
14 ending your tour of duty when you depart the county, and
15 then also 10-86, authorized travel to your residence, and
16 then when you get there, you're 10-87 at your residence.

17 Q. Okay. And we've -- we've mentioned the CAD. What
18 is the CAD?

19 A. Our -- our CAD is a -- you know, forgive me for
20 the -- computerized automated dispatch. It's a -- it's --
21 it's our computer system that logs calls for service, times,
22 you know, avail -- you know, troopers and their, you know
23 personnel availability. It houses schedules, sets schedules
24 and collision information, citation information, personnel
25 information. It's -- it's the computer archives for

John C. Morton

Direct/McInnes

Vol. 1, P. 63

1 basically all the work that we do on patrol.

2 Q. Okay. And what are the different ways to call in
3 to change your status on the CAD -- or to actually -- what
4 are the different ways to change your status on the CAD?

5 A. Well, the fastest, easiest way is to -- by radio
6 transmission to the communications center. And that -- that
7 telecommunicator on the -- on the receiving end of your
8 radio traffic will then code that in to our CAD, based --
9 based upon the information you tell them.

10 And then another way would be is -- is by
11 computer. Troopers also have mobile data computers. They
12 have them in the car. And if they -- if they're certified
13 and they have that capability on a computer, they can make
14 certain entries on their own behalf.

15 Q. Okay. And when you say "if they're certified,"
16 what do you mean by that?

17 A. Well, you have to be signed off on or be trained
18 on the use of that function and have rights, you know, to
19 use that computer and query -- I don't. I've never had
20 that, you know, in my car in my career. I have a laptop
21 computer, and I -- so anything I have to do with the CAD, I
22 have to call in by radio.

23 Q. Okay. And have you ever known the CAD to be
24 inaccurate? (Someone coughed.) Inaccurate?

25 A. I would say far more times than not, it's mostly

John C. Morton

Direct/McInnes

Vol. I, P. 64

1 accurate. There -- there could be times, just by human
2 error, if somebody calls in and they say, you know -- they
3 get a number wrong, you know, then, "Hey, you know, is it a
4 C? Was he -- did he say C, or did he say D?" You know,
5 where they could -- or if they are really busy times and
6 maybe they forget to enter something, but -- but the vast
7 majority of the time, it's -- it's usually pretty accurate.

8 Q. Okay. And if a -- sorry. If a member is
9 certified, then they're the ones doing the entry into the
10 CAD system, correct?

11 A. The -- there are a lot of things that they can do
12 themselves to relieve some of the burden on the
13 telecommunicators and also relieve that margin of error that
14 -- "Hey, what did he say, a C? Did he say a B?" -- you
15 know, whatever. So they -- they enter it themselves.

16 Q. Okay. Now, I stopped you when you said you were
17 checking on his 10-41 status. What was --

18 A. Right.

19 Q. -- his status when you checked after you received
20 a phone call from the Lieutenant --

21 A. Yeah, I do have -- I do have access -- supervisory
22 access to view CAD entries, so I did look -- pull up our CAD
23 system and viewed the screen, and I did see that his last
24 entry at -- on that -- and the only entry for that date was
25 that he was on duty, 10-41.

John C. Morton

Direct/McInnes

Vol. 1, P. 65

1 Q. Do you -- do you recall when he was -- became
2 10-41?

3 A. It was just prior to 3 -- 3 p.m., I think.

4 Q. All right.

5 A. I'm not sure the exact -- I'm not -- have it, but
6 it was -- it was prior to 3 p.m.

7 Q. Okay. What did you do after you checked the CAD
8 system?

9 A. Well, I saw that he was on duty. I also looked to
10 verify his address. I -- in the same CAD system, I can -- I
11 pulled up his residence address, so I -- I needed a copy of
12 that so I could make sure I knew where to go.

13 I also pulled up his -- his assigned scheduled
14 shift and -- and viewed that he was -- actually, he was in
15 fact supposed to be working that day, or that evening, and I
16 believe he was assigned as a -- the late officer-of-the-day
17 status, which is the late shift supervisor of the night.

18 Q. Do you recall what his assigned hours were on that
19 day?

20 A. I believe he was supposed to have checked on -- it
21 was either a 2 or a 3 -- 1400 hours or 1500 hours or
22 something like that. It was a -- it was a evening. I'm not
23 looking at it. I don't have it with me, but it's --

24 Q. Okay.

25 A. -- it was a evening. I know it was after -- after

John C. Morton

Direct/McInnes

Vol. I, P. 66

1 noon.

2 Q. Okay. And what -- what time do you recall
3 Lieutenant Colonel Clayton calling you?

4 A. It was about somewhere 6:35, 6:45 or so, right
5 before 7:00. And we talked on the phone for -- for several
6 minutes. And he gave me his instructions of what he wanted
7 me to do.

8 Q. And those instructions were what?

9 A. He wanted me to go and -- go to Sergeant DeValle's
10 residence and either confirm or deny that he was there. He
11 also wanted me -- he said if he was there, he wanted to see,
12 you know, was he -- had he left, had he left and come back,
13 or had -- was he intending to go out or, you know, what --
14 what his intents were.

15 Q. Okay. After you pulled his address, what did you
16 do next?

17 A. I drove to his residence.

18 Q. Okay. And tell me what happened when you drove to
19 his residence.

20 A. Well, I -- I pulled into his -- his neighborhood.
21 And when I pulled up into his driveway, I did look at my
22 phone time, just so -- I was tracking my -- my times, based
23 upon -- which I believe to be a reliable source of time, was
24 my -- my cell phone time. I did observe that a marked
25 Highway Patrol car was parked to the right side of the

John C. Morton

Direct/McInnes

Vol. I, P. 67

1 garage, pointed out towards the roadway, so there was a
2 patrol car there. And then I went up to -- and rang the
3 front doorbell.

4 Q. Okay. What -- what happened after you rang the
5 doorbell?

6 A. Two children came to the door pretty quickly,
7 opened the door, and then immediately followed by
8 Mrs. DeValle. And I just asked, "Is Maurice here?" -- or
9 Maurice or Sergeant DeValle -- "Is he -- is he here?" And
10 they said, you know, "Hold on." And then they closed the
11 door, and about -- and then left me waiting on the porch for
12 his arrival.

13 Q. How long did you have to wait?

14 A. A few minutes.

15 Q. Okay. And what happened next?

16 A. Well, Sergeant DeValle came to the door. He
17 stepped out on the porch, closed the door behind him. He
18 was wearing shorts and a T-shirt. And I asked him was he on
19 duty, was he 10-41? He said he didn't think he was, but he
20 -- he might've still been; he checked the CAD; he might've
21 -- might've been on, but he didn't know if he was or not, so
22 he checked it.

23 Q. Okay. Well, what happened next?

24 A. Well, we -- I told -- I asked him if -- when he
25 first came out, he said that -- that he had been sick with

John C. Morton

Direct/McInnes

Vol. I, P. 68

1 -- and his daughter had been sick that day and that he
2 believed he might be coming down with a stomach bug, so I
3 was glad that we didn't shake hands at that -- at that
4 point, because I told him I didn't want the stomach bug
5 myself.

6 And I briefly explained to him -- I asked him,
7 "And so are you 10-41?" And he said -- he said he didn't
8 think he was, but he checked the CAD and he saw that he was.
9 And then -- let's see. At that point -- and then I said --
10 told him why I was there.

11 MR. McINNES: If --

12 THE COURT: Yeah.

13 MR. McINNES: If I may approach. I've got some
14 exhibit books that might help.

15 BY MR. McINNES:

16 Q. Captain Morton, I just handed you a notebook, And
17 in the notebook are some numbered tabs. Can you turn to the
18 document behind Tab 1 and tell me if you recognize that
19 document?

20 A. Right. These look like my handwritten notes from
21 that evening, a copy of my handwritten notes.

22 (Respondent's Exhibit Number 1 was identified
23 for the record.)

24 BY MR. McINNES:

25 Q. Okay. And these are the notes that you created.

John C. Morton

Direct/McInnes

Vol. I, P. 69

1 When did you create them?

2 A. I actually wrote those notes just -- at 7:59 p.m.
3 that same evening, after I had left his house. I drove to
4 the Lowes Foods parking lot and just sat and -- and I wrote
5 my notes while everything was fresh in my mind. This is
6 actually two pages. They're -- they're side by side on --
7 on a photocopy.

8 Q. Okay.

9 MR. McINNES: Your Honor, I'd like to move to
10 enter into evidence --

11 THE COURT: Any objection?

12 MR. HENLINE: No, Your Honor.

13 THE COURT: It's admitted.

14 (Respondent's Exhibit Number 1 was received
15 into evidence.)

16 BY MR. McINNES:

17 Q. Okay. All right. Now, up on the top left-hand
18 side, there's a series of numbers that look like times. Is
19 that correct?

20 A. That -- that's correct.

21 Q. Okay. Is there anything about these notes that
22 refreshes your recollection that -- that your recollection
23 was not accurate when you testified earlier?

24 A. No, just -- that gives me specifics that I -- to
25 recall. 7:33, I arrived at his residence. And at 7:35 was

John C. Morton

Direct/McInnes

Vol. I, P. 70

1 -- I was at his -- he came to the door -- or the wife and
2 kids and a dog came to the door at 7:35, and then Maurice
3 came right after that.

4 Q. Okay. Did he talk to you about -- did he -- did
5 y'all talk about why he was still 10-41?

6 A. Yeah, I asked if he was on duty. He had -- he had
7 said no. He said he'd tried to check off on his mobile data
8 computer around 5, but he had noticed that he was still on.

9 Q. Okay. What else happened in that conversation?

10 A. You know, he also -- he said he had checked on
11 around 3 but he was not intending on claiming the time. I
12 asked him all -- also if he had left the house, and he said,
13 no, he had not left the house.

14 Q. Okay. Anything else that occurred in that
15 conversation?

16 A. He -- then like I said, he -- before -- he had
17 said that his kids were sick -- or his -- I think his
18 daughter had been sick and that he felt like he might be
19 also with it as well.

20 Q. Okay. Anything else in that conversation?

21 A. Or you mean following? You're talking about the
22 entire --

23 Q. Yeah, I'm just trying --

24 A. I --

25 Q. I'm trying to get what happened during --

John C. Morton

Direct/McInnes

Vol. I, P. 71

1 A. What -- oh, the --

2 Q. -- this conversation on --

3 A. -- whole thing? So -- okay.

4 Q. Yeah.

5 A. So at that point, I asked him if he'd left -- left
6 the house. I told him why I was -- I was there. I asked
7 him these questions and I got what I needed. I did tell him
8 I hope he felt better. And then he -- he asked me was I
9 setting up on him, and I said -- I said, "No, I'm not." And
10 we would call "setting up on" -- that's when a supervisor
11 watches another member's house. And I -- I was not setting
12 up on him. I had orders that I was following through with,
13 and I really couldn't talk about it, because I was told not
14 to talk about it. I fulfilled my orders, and it was my
15 intent to -- to leave and go elsewhere.

16 Q. Okay. And did you leave and go elsewhere?

17 A. I did. I did go and drove to the Lowes Food --
18 Foods parking lot and composed the notes and -- of that
19 conversation.

20 Q. Okay. At some point did you check to see what
21 time Mr. DeValle had checked 10-42 --

22 A. Yes.

23 Q. -- or did he?

24 A. I did -- I did later. You know, I did reinquire
25 on the CAD screen of his duty status or his entries for the

John C. Morton

Direct/McInnes

Vol. I, P. 72

1 day, and I did see that he had checked 10-42 at 7:35 p.m. --

2 MR. HENLINE: Your Honor --

3 A. -- on that day.

4 MR. HENLINE: -- I'd like to be heard, quickly,
5 about an objection as far as the evidence being presented
6 here with the CAD times --

7 THE COURT: Overruled.

8 MR. HENLINE: -- as --

9 THE COURT: I'll take them and give them the
10 appropriate weight, but it's overruled.

11 MR. HENLINE: Yes, Your Honor.

12 BY MR. MCINNES:

13 Q. Okay. Let me ask you to turn to Respondent's
14 Exhibit Number 2, which is behind Tab 2 of this notebook.
15 Captain Morton, do you recognize this document?

16 A. This was -- appears to be a copy of a memorandum
17 that I wrote with a statement of my findings to Lieutenant
18 Colonel Clayton, dated 11 November 2016.

19 (Respondent's Exhibit Number 2 was identified
20 for the record.)

21 BY MR. MCINNES:

22 Q. And this is based on the notes that were the
23 previous exhibit?

24 A. Yes, sir.

25 MR. MCINNES: Your Honor, we'd move to enter in

John C. Morton

Direct/McInnes

Vol. I, P. 73

1 Respondent's Exhibit -- Exhibit Number 2.

2 THE COURT: Any objection?

3 MR. HENLINE: No objection, Your Honor.

4 THE COURT: Admitted.

5 (Respondent's Exhibit Number 2 was received
6 into evidence.)

7 BY MR. McINNES:

8 Q. Is there anything in this memo that is different
9 from your notes or your recollection as you sit here today?

10 A. I arrived at 7:33, basically the same thing. I
11 rang the front doorbell. Two children and his wife came to
12 the door. She closed the door behind herself. When I asked
13 -- they closed the door. They disappeared down the hallway.
14 And then Sergeant DeValle came to the door at 7:35. We
15 talked on the porch. He closed the door behind himself,
16 wearing shorts and a T-shirt.

17 I already mentioned his daughter was sick. He --
18 and he believed he was getting the same stomach bug. Said
19 he had tried to check off around five o'clock on his MDC but
20 noticed he was still showing -- showing on duty. I asked
21 what time he had -- he had checked on it. Said 3:00. Said
22 he had no intention of claiming the time. I just mentioned
23 that earlier. And asked if he had left the house, and he
24 replied no. I mentioned that earlier.

25 Told him I hoped he felt better soon. He accused

John C. Morton

Direct/McInnes

Vol. I, P. 74

1 me of setting up on his residence. I could -- told him I
2 couldn't discuss it. I had completed my orders, and I
3 departed at 7:50 p.m., and he went back into his residence.

4 Q. Okay. What was your further involvement with
5 respect to the investigation into Mr. DeValle after this?

6 A. Well, after I -- like I said, I -- after that
7 conversation, I left and took notes for -- so I could
8 recall. And I composed this memorandum to Colonel Clayton
9 in response of his orders to me. And then basically I
10 thought I was done with that, but I had to submit a -- a
11 file -- well, I guess it's called HB-307, which is a --
12 which is a complaint -- because I happened to be the officer
13 of the day.

14 IA doesn't start complaint -- you know,
15 investigations on their own initiative. It has to come from
16 somewhere. And because I was the troop officer of the day,
17 then I -- that fell on my watch. I just started that
18 process, forwarded it up, and that was basically it. I
19 didn't have anything to do with the investigation.

20 Q. All right. So you filled out an Internal Affairs
21 complaint?

22 A. It was -- right. It's a --

23 Q. Okay.

24 A. -- a --

25 Q. And who -- who did you give that to?

John C. Morton

Direct/McInnes

Vol. I, P. 75

1 A. Well, I sent it up through my chain of command, up
2 and eventually to the unit commander of Internal Affairs.

3 Q. Okay. And after that, what was your involvement
4 in the investigation?

5 A. I just had to explain several times what -- the
6 same questions, answer the same questions you're asking me
7 today, just kind of verifying the memorandum that I wrote to
8 Colonel Clayton, but --

9 Q. Okay. Did you --

10 A. -- but --

11 Q. -- give an interview to Internal Affairs?

12 A. I did.

13 Q. Okay. After that interview, did you have any
14 other involvement in the investigation?

15 A. No.

16 Q. Okay.

17 A. I was not an investigator. I had nothing to do
18 with it.

19 Q. Did you have any input into the decision that --
20 the disciplinary decision that was made?

21 A. None. None.

22 Q. Okay.

23 MR. McINNES: That's all the questions I have at
24 this time, Your Honor.

25 THE COURT: Questions?

John C. Morton

Cross/Henline

Vol. I, P. 76

1 MR. HENLINE: Yes, Your Honor. And, Your Honor,
2 if I may approach the witness for the --

3 THE COURT: Yes, sir.

4 MR. HENLINE: -- exhibit list? If I may?
5 (unintelligible)

6 THE WITNESS: No, sir.

7 MR. HENLINE: Yes, sir, thank you.

8 THE WITNESS: Uh-huh.

9 CROSS-EXAMINATION BY MR. HENLINE:

10 Q. Okay. Captain, if you'd refer to -- under Tab 3
11 in the book.

12 MR. HENLINE: This is -- Your Honor, this would be
13 the same as Respondent's Exhibit 1.

14 BY MR. HENLINE:

15 Q. Is that your notes from the night of?

16 A. It appears to be the same copy I was referring to,
17 a photocopy of my notes.

18 (Petitioner's Exhibit Number 1 was identified
19 for the record.)

20 MR. HENLINE: Okay. And, Your Honor, I would move
21 to admit that as Petitioner's Exhibit 1.

22 THE COURT: Why don't we hold them until you're
23 actually putting on evidence.

24 MR. HENLINE: Yes, sir, okay.

25 THE COURT: Then we'll be --

John C. Morton

Cross/Henline

Vol. I, P. 77

1 MR. HENLINE: Yes, sir.

2 THE COURT: -- admit them then.

3 BY MR. HENLINE:

4 Q. And, Captain, you said at 7:35 on the left side of
5 the sheet, at the top, second down, it says 7:35. Does it
6 say "came to door"?

7 A. Came -- uh-huh. Correct. "Came to door. Wife,
8 kids, and a dog, and Maurice later."

9 Q. Okay. And if you would turn to Tab 4, Page 2,
10 fourth paragraph down.

11 A. Fourth?

12 Q. Fourth --

13 A. Okay.

14 Q. I'm sorry. Fourth paragraph down on page 2 of
15 that document. Could you read that paragraph?

16 A. Beginning at "Then he came out"?

17 Q. Yes, sir.

18 A. (Reading from document:)

19 "And then he came out. And I had just noticed
20 the time at that time because I had just -- I had
21 my phone in my hand. I just checked the time, and
22 it was 7:35 when he stepped out. He was wearing
23 shorts and a T-shirt and not in uniform, and he
24 closed the door."

25 Q. Okay. And is this part of the Internal Affairs

John C. Morton

Cross/Henline

Vol. I, P. 78

1 interview that you were, I guess, as a witness to the events
2 that happened?

3 A. It appears to be. It's titled "Transcript of
4 Lieutenant Morton's Interview," but it is -- appeared --

5 Q. Okay.

6 A. -- appeared in the --

7 Q. Okay. And --

8 A. -- in the same context.

9 Q. -- if you'd refer to page 1 of the document. Were
10 you interviewed by Lieutenant Clark?

11 A. Yes, sir.

12 Q. November 15th, is that a -- about four days after
13 this? Is that a -- about the correct time?

14 A. Correct.

15 Q. Okay. Does this appear to be a transcript of the
16 Internal Affairs interview that you went through with
17 Lieutenant Clark about this matter?

18 A. Yes, sir.

19 Q. Okay. And if you'd turn to then Exhibit 5. This
20 document's titled "Report of Investigation." It bears your
21 name at the top. Is that correct? "Complaint of" --

22 A. That's --

23 Q. -- "Lieutenant Morton"?

24 A. Yes, sir.

25 Q. Do you know who drafted this document? And the

John C. Morton

Cross/Henline

Vol. 1, P. 79

1 reason I ask, I don't see an author's name on it anywhere.
2 I'm just trying to determine if you drafted it or if
3 somebody drafted it with information provided by your --

4 A. Well -- well, this is a 721. This is the actual
5 report of the investigation.

6 Q. Yes, sir.

7 A. I -- I submitted a 307.

8 Q. Yes, sir. So this would have been authored by
9 somebody else, correct?

10 A. Correct.

11 Q. Okay. The information contained within that
12 documents your statements to the investigators, would that
13 information be contained within this report?

14 A. Does -- does --

15 Q. And if you'd refer to page 2 of that document,
16 there's a section that has your name in it.

17 A. Right.

18 Q. Does that appear to be information that you had
19 provided?

20 A. Uh-huh.

21 Q. Okay. If you'd give me just a moment. Let me
22 find it here. Okay. Going down the third paragraph, it
23 records the time you arrived, correct, at 7:33 p.m.?

24 A. Yes, sir.

25 Q. Okay. And then would you read the last sentence

John C. Morton

Cross/Henline

Vol. I, P. 80

1 of that paragraph?

2 A. Beginning "Approximately one and a half," that --
3 that sentence?

4 Q. Correct.

5 A. "Approximately one and a half to two minutes
6 passed before Sergeant DeValle came to the door and stepped
7 out onto the porch, wearing shorts and a T-shirt."

8 Q. Okay. And kind of where I'm getting at with this
9 -- you had put it in your notes that Ms. DeValle and the
10 children came out first, at 7:35, by the notes you took that
11 night?

12 A. Correct.

13 Q. Okay. And --

14 A. Well --

15 Q. -- you also indicated that at some point that
16 Sergeant DeValle came out at 7:35 by your -- the statement
17 you gave to Internal Affairs?

18 A. The -- the wife and kids came to the door first.
19 And I stood out there for about a minute or so. Then about
20 7:35 Sergeant DeValle came out.

21 Q. Okay. And that's the time you'd given Internal
22 Affairs, too, in the statement you gave to them is 7:35,
23 correct?

24 A. 7:35.

25 Q. But in the report of investigation, it's showing

John C. Morton

Cross/Henline

Vol. I, P. 81

1 he came out a minute and a half to two minutes after.

2 A. That's what it says.

3 Q. Okay. And what I'm getting at, here, is it -- it
4 appears some of the times are off as far as when he actually
5 came out, because if she came out at 7:35 and he came out at
6 7:35, he could not have come out a minute and a half to two
7 minutes later, could he?

8 A. Well -- but also I remember standing out there for
9 about a minute and a half. The -- my notes are -- I don't
10 know if you can see. They're a rough sketch.

11 Q. Yes, sir.

12 A. And they were taken, you know, 30 minutes -- I
13 mean, I drive down almost --

14 Q. Right.

15 A. -- you know, 26 to 30 minutes later after the
16 fact.

17 Q. Right.

18 A. So -- but the -- the note -- the notable thing, I
19 arrived at 7:33. I looked at my watch --

20 Q. Yes, sir.

21 A. -- my phone when I got out of my patrol car.

22 Q. Yes, sir.

23 A. I walked straight to the front steps and
24 immediately pressed the front doorbell.

25 Q. Yes, sir.

John C. Morton

Cross/Henline

Vol. I, P. 82

1 A. And he's got a glass front door. I could see
2 activity down the hallway.

3 Q. Yes, sir.

4 A. Kids came right up -- right up to the door
5 immediate -- I mean, really fast. Wife came fast, too. I
6 mean, I -- right -- checking on the kids probably as much as
7 anything.

8 Q. Right.

9 A. I asked the -- she shut the door behind her. I
10 could kind of still see a walk -- I observed her walk down
11 the hallway, walk -- observed her leave my field of view,
12 probably into the living room area.

13 Q. Yes, sir.

14 A. I stayed on the porch. I wasn't exactly watching
15 my time during this time, but I know when he came out I
16 looked at the phone again and it was 7:35.

17 Q. Okay.

18 A. So --

19 Q. Okay. But if he came out at 7:35 and she had come
20 to the door at 7:35, that gives --

21 A. That -- that was -- that was probably -- I was
22 probably a little off on my -- on the exact time, but it's
23 -- within a two-minute span, I rang the doorbell, had
24 interaction with the wife and kids --

25 Q. Yes, sir.

John C. Morton

Cross/Henline

Vol. I, P. 83

1 A. -- saw -- seen them disappear back into the --
2 into the house, and then him come out, so --

3 Q. Okay.

4 A. -- it was about a two-minute total time span.

5 Q. Okay. And you arrived at 7:33, so by 7:35, he's
6 standing on the front porch with you.

7 A. Correct.

8 Q. Okay.

9 A. Uh-huh.

10 Q. And don't you think it would've been difficult for
11 a two -- him to respond in two minutes to somebody
12 unannounced coming to his door, anticipating what's going
13 on, who's there, getting to his computer to check off, and
14 still getting out within two minutes?

15 MR. McINNES: Objection.

16 THE COURT: Sustained.

17 BY MR. HENLINE:

18 Q. And Sergeant DeValle had informed you he was home
19 sick?

20 A. Yes.

21 Q. Did you see any evidence that would lead you to
22 believe otherwise? There wasn't alcohol involvement,
23 anything like -- that would lead you to believe anything
24 other than he was sick?

25 A. I took him at what he said. I didn't smell any

John C. Morton

Cross/Henline

Vol. I, P. 84

1 alcohol. But I didn't -- I didn't question --

2 Q. Okay.

3 A. -- that he wasn't sick.

4 Q. Yeah. And you stated you were happy you hadn't
5 shaken hands with him, correct?

6 A. Oh, yes, sir.

7 Q. Okay. Did you see anything while you were there
8 that that would (someone coughing; unintelligible) any --
9 any reason to believe that there was something going on
10 other than him being sick as to why he was he was home?

11 A. I didn't anything else.

12 Q. You said his wife was there, so it wasn't a --
13 like a child care issue that he was there, correct?

14 A. I -- I saw a wife and two kids and, I believe, a
15 dog, but I -- I never stepped foot inside the house.

16 Q. Yes, sir.

17 A. All of the -- all of our conversation took place
18 on the front porch.

19 Q. Okay. And if you'd turn to Tab 9. Do you
20 remember receiving an e-mail from First Sergeant Rodney
21 Sawyer on November 15th, 2016?

22 A. I imagine I did ask him for downloads.

23 Q. Correct. Do you know if those downloads were ever
24 done?

25 A. Do I -- excuse me?

John C. Morton

Cross/Henline

Vol. I, P. 85

1 Q. Do you know if the downloads of his computer were
2 ever performed?

3 A. I can't recall specifically. I mean, they -- they
4 -- I know that they -- they were -- they were requested, but
5 I never saw them.

6 Q. Okay.

7 A. So --

8 Q. Okay. Was that a request for -- for something for
9 you to do to get the -- or was that something that you would
10 disseminate down to somebody of a lower rank to perform --
11 or maybe a civilian personnel to perform?

12 A. That would've been for someone else to perform. I
13 don't have that technology. I can't do that. So I would've
14 had to have somebody else do that.

15 Q. Okay. Do you remember if you asked anybody else
16 to do it?

17 A. Oh, I'm sure I passed that straight along as a --

18 Q. Okay.

19 A. That would -- that would not have waited long
20 before that got pushed to --

21 Q. Yes, sir.

22 A. -- someone that did --

23 Q. Yes, sir.

24 A. -- could perform that duty.

25 Q. Do you have any personal knowledge if it ever was

John C. Morton

Cross/Henline

Vol. I, P. 86

1 performed or not?

2 A. I believe it was, but I -- I -- like I say, I
3 really was not involved in that particular thing other
4 than --

5 Q. Yes, sir.

6 A. -- making arrangements for the camera to be
7 viewed.

8 Q. Yes, sir. Okay. And as far as time entry into
9 the CAD, you said mostly it's correct, but there are
10 occasions it can be off?

11 A. Uh-huh.

12 Q. What --

13 A. Correct.

14 Q. In your opinion or in your personal knowledge,
15 what -- what are some instances you know that could throw
16 something off?

17 A. I know that during our extremely busy times, a
18 telecommunicator can forget to key something.

19 Q. Yes, sir.

20 A. And so the time entries, you know, could be
21 slightly off, although -- like, especially if they're on the
22 phone with somebody and then when they hang up the phone,
23 then they hit -- they key it in. So it could be times off
24 just, you know, a little bit, based upon till they get off
25 the phone. Sometimes if they key in your -- your tag --

John C. Morton

Cross/Henline

Vol. I, P. 87

1 your call number wrong, it's just human error --

2 Q. Yes, sir.

3 A. -- that way.

4 Q. Yes, sir.

5 A. So --

6 Q. So was -- and Trooper DeValle, I guess, he's
7 dispatched out of the Raleigh communications center --

8 A. That's correct.

9 Q. -- at that time? Okay. Would other troopers with
10 a similar call number be coming in and out of the Raleigh
11 area for training, other kind of assignments?

12 A. The Raleigh communications center is the --
13 arguably, the busiest communications center.

14 Q. Yes, sir.

15 A. And everybody who comes to Raleigh uses it.

16 Q. Yes, sir. So sometimes it could be if he was
17 C223, if B223 was leaving the training academy, there could
18 be some kind of confusion between the B and C --

19 A. That's possible.

20 Q. -- designator?

21 A. Yes, that's possible.

22 Q. And you said you went to Mr. DeValle's house that
23 day, correct?

24 A. Correct.

25 Q. And that was in Wake County?

John C. Morton

Cross/Henline

Vol. I, P. 88

1 A. Yes, sir.

2 Q. Those -- was it not in the CAD system that his
3 primary address was in Johnston County, in Smithfield?

4 A. I would have to refresh my memory with the print-
5 off that I had at the time.

6 Q. Well, let me -- let me rephrase the question. Do
7 you remember having a conversation with Colonel Clayton
8 about which address you were going to?

9 A. Yes.

10 Q. Okay. Could you explain to the Court what that
11 conversation was about?

12 A. He wanted me to go to his Raleigh residence.

13 Q. Okay. So Highway Patrol's aware that there was
14 two different residence [verbatim] in the CAD system,
15 correct?

16 A. Correct.

17 Q. And if a member of the Highway Patrol was at home
18 and claiming to be sick, but it was substantial evidence
19 they were not sick, would they be charged with feigning
20 illness?

21 A. It's possible.

22 Q. You've seen it before, I guess?

23 A. Yes, sir.

24 Q. That's happened?

25 A. Yes, sir.

1 (Pause in proceedings.)

2 MR. HENLINE: No further, Your Honor.

3 THE COURT: Redirect?

4 MR. McINNES: Yes, Your Honor, just a couple of
5 questions.

6 REDIRECT EXAMINATION BY MR. McINNES:

7 Q. Mr. Henline asked you whether you saw any evidence
8 to dispute that Mr. DeValle was sick on Friday, the 11th,
9 correct?

10 A. Correct.

11 Q. And you said you didn't see any evidence that he
12 was not sick, right?

13 A. No, I just noticed he was not in uniform. He was
14 in shorts and a T-shirt.

15 Q. Okay. Did --

16 A. But I didn't smell any alcohol --

17 Q. Okay.

18 A. -- but --

19 Q. Did you see any evidence that he was sick?

20 A. Not really. I -- once he said the magic words
21 "stomach bug," I tried to not get it myself --

22 Q. Okay.

23 A. -- If he -- if he had that.

24 Q. Didn't smell any vomit on his breath?

25 A. No. And not -- didn't want to get close enough to

1 even try.

2 Q. Okay. Let me -- let me refer you to Tab 9 --
3 their Tab 9 that Mr. Henline asked you about, the e-mail
4 from Rodney Sawyer to you. Do you see that, sir?

5 (Petitioner's Exhibit Number 9 was identified
6 for the record.)

7 A. I do.

8 BY MR. McINNES:

9 Q. And is there a CC on that e-mail?

10 A. CC -- Clark, Paul T.

11 Q. And who is Clark, Paul T.?

12 A. He's Lieutenant Clark, seated next to you.

13 Q. Okay.

14 THE COURT: I'm sorry. I didn't hear the last
15 part. Lieutenant, and what was that?

16 THE WITNESS: Sitting next to him.

17 THE COURT: I just didn't hear what you said.

18 THE WITNESS: Oh, yes, sir. Yes, sir.

19 BY MR. McINNES:

20 Q. Yeah, and what -- what was his role with respect
21 to the DeValle investigation?

22 A. He was assigned to -- assigned to IA, I believe,
23 at that time, yes, sir.

24 Q. All right.

25 A. Forgive me, sir. There's been a lot gone on since

John C. Morton

Redirect/McInnes

Vol. I, P. 91

1 this time, so --

2 Q. I understand.

3 A. Uh-huh.

4 Q. And Mr. Henline asked you, "Have you ever known
5 anybody to be at home sick" -- be -- they could be charged
6 -- they could be charged with feigning an illness, correct?

7 A. Yeah, that's possible, yes, sir.

8 Q. Could they also be charged with -- with lack of
9 truthfulness?

10 A. Yes, sir.

11 Q. Could they also be charged with neglect of duty?

12 A. Yes, sir.

13 MR. MCINNES: That's all I have at this time, Your
14 Honor.

15 THE COURT: Further questions?

16 MR. HENLINE: Nothing further, Your Honor.

17 THE COURT: Okay. Thank you, sir. You can step
18 down.

19 THE WITNESS: Thank you. You want me to leave
20 this all here?

21 MR. MCINNES: Yeah, just leave that there.

22 THE COURT: Further evidence?

23 MR. MCINNES: Yes, Your Honor. We have -- we
24 would call to the -- well, I guess first I need to make sure
25 that Captain Morton can be released.

1 MR. HENLINE: I have no objection.

2 THE COURT: All right. You're free to go, unless
3 you really want to stay.

4 THE WITNESS: I don't want to stay.

5 MR. McINNES: Thank you.

6 THE WITNESS: Thank you.

7 (The witness left the stand.)

8 THE COURT: All right.

9 MS. LUSIC: I have one question, because we have a
10 couple of witnesses after the next one. I'm just trying to
11 give them an estimate -- or I anticipate we'll take a lunch
12 break after the next witness?

13 THE COURT: Sure.

14 MS. LUSIC: Okay.

15 MR. McINNES: Well, he'll be -- he'll --

16 THE COURT: Depending on how long, maybe, before
17 he gets --

18 MS. LUSIC: He --

19 MR. McINNES: He'll be pretty long. He --

20 MS. LUSIC: He will be a rather lengthy one --

21 THE COURT: Okay.

22 MR. LUSIC: -- longer than our other ones.

23 THE COURT: All right. Yeah, we'll -- we'll take
24 a lunch break.

25 MR. McINNES: We would call to the stand First

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 93

1 Sergeant Sawyer.

2 THE COURT: All right. Come around, please, sir.

3 RODNEY W. SAWYER,

4 having been called as a witness for the Respondent, was duly
5 sworn and testified as follows:

6 THE COURT: Thank you, sir. Have a seat, please.

7 DIRECT EXAMINATION BY MR. McINNES:

8 Q. Please state your name for the record, sir, full
9 name.

10 A. Rodney Wilson Sawyer.

11 Q. Okay. And how are you currently employed, sir?

12 A. I am currently a first sergeant with the North
13 Carolina State Highway Patrol, assigned to Troop A, District
14 2, which is comprised of Bertie, Hertford, and Gates
15 Counties.

16 Q. When did you first become a member of the Highway
17 Patrol?

18 A. I went to the patrol basic school in 2000, 2001
19 graduated the academy and was assigned as a trooper to Troop
20 A, District 4, Tyrrell County.

21 Q. Okay. Where did you go after that? And just kind
22 of -- can you give us an overview --

23 A. Okay.

24 Q. -- of your career?

25 A. 2001, I was assigned to Tyrrell County. 2003, I

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 94

1 believe I transferred within the district to Beaufort
2 County, until 2008. 2008, was promoted to the rank of
3 sergeant and assigned to Charlotte, Mecklenburg County.
4 2009, I transferred back to Bertie County, to Troop A,
5 District 2, and then again transferred back to A4, to
6 Beaufort County, in 2013.

7 2014, I was promoted to the rank of first sergeant
8 and assigned to the Internal Affairs Unit at Patrol
9 headquarters in Raleigh, and held that position until March
10 -- or end of March 2017, and was assigned to my current duty
11 station in A2.

12 Q. Okay. And during the period of 2014 when you're
13 first assigned to Internal Affairs and when you left, what
14 was the structure of Internal Affairs?

15 A. The Internal Affairs Unit is a unit located at
16 Patrol headquarters. It falls within the section -- the
17 Professional Standards Section. Internal Affairs Unit is
18 overseen by a captain, who is known as the unit commander of
19 Internal Affairs. And then under the captain, at the time I
20 was there, there were two investigatory teams. The two
21 teams are comprised of one lieutenant and one first
22 sergeant. So at the time I was there, there were two
23 lieutenants and two first sergeants.

24 Q. Okay. And who was your lieutenant during the time
25 that you were Internal Affairs?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 95

1 A. Lieutenant Paul Clark was my lieutenant.

2 Q. Okay.

3 A. We comprised one of the investigatory teams, RAY
4 [phonetic].

5 Q. Okay. Who was your captain at that time?

6 A. At the time this origin -- the complaint
7 originated and we began this investigation, the unit
8 commander was Captain Todd Evans.

9 Q. Okay. And who did he report to at the time
10 this --

11 A. He reported to the director of Professional
12 Standards, which at the time was Major Joe Cotton.

13 Q. Okay. And who did Major Cotton report to at the
14 time this investigation was --

15 A. Major Cotton --

16 Q. -- begun?

17 A. -- reported directly to Colonel Grey, the Patrol
18 commander.

19 Q. Okay. All right. Can you describe just generally
20 what your duties in -- at Internal Affairs was at this time
21 -- at that time?

22 A. My duties at Internal Affairs as an investigator
23 is to take complaints where -- however they come in, either
24 externally or internally. Any tasks are assigned by my
25 superiors regarding the case to investigate those cases,

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 96

1 investigate allegations, conduct interviews, collect
2 evidence, collect documentation, supporting documents to
3 support or deny allegations, and comprise reports,
4 investigative reports, to present to my captain and, through
5 the chain of command, ultimately to the Patrol commander.

6 Along with other duties, Internal Affairs
7 investigators, we collect the records throughout the state
8 regarding Patrol vehicle crashes, chases, use of force
9 reports throughout the state, and house those in a database,
10 pretty much the filing system for critical incidences that
11 occur throughout the state.

12 We also held positions on various boards,
13 administrative boards, throughout the organization and even
14 outside the organization.

15 Q. Okay. How did you become involved in the
16 investigation of Mr. DeValle?

17 A. Myself and Lieutenant Clark were directed by
18 Captain Evans to begin an investigation into allegations
19 concerning Sergeant DeValle which stem from a complaint that
20 had came to the commander's office.

21 Q. Okay. And we talked a little bit about the
22 complaint with Captain Morton, but what would have happened
23 after Captain Morton lodged that complaint?

24 A. The original complaint came in through the public
25 information officer, who at the time was Sergeant Mike

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 97

1 Baker. Sergeant Baker relayed the complaint to Lieutenant
2 Colonel Billy Clayton. And the complaint was essentially
3 that Sergeant DeValle was -- checked 10-41, on duty, and was
4 still at his residence, not working, was the gist of it.

5 Q. Okay. Let me stop you there. When we're saying
6 "complaint," is there a formal complaint and an informal
7 complaint?

8 A. There is a formal complaint. The formal
9 complaint, I believe, was not really lodge -- was not really
10 completed until a few days later, with the personnel
11 complaint. And that is when Captain Morton referred to --
12 to his name being on the personnel complaint. And -- and at
13 that time Sergeant DeValle was served with the service
14 memorandum and the complaint. That's when the official
15 complaint was.

16 Q. Okay.

17 A. But prior to that, a few days prior to that, we
18 were aware of the allegation that came in and aware of
19 Lieutenant Colonel Clayton's instructions to Lieutenant
20 Morton to go to Sergeant DeValle's residence and --

21 Q. Okay.

22 A. We were aware of that, actually, prior to the
23 actual formal written complaint --

24 Q. Okay.

25 A. -- being filed.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 98

1 Q. Now, after the formal complaint was made, you --
2 you reference that there was service on Mr. DeValle. What
3 do you mean by that?

4 A. We refer to it as a service memorandum. And that
5 is the memorandum that is presented to the member, serving
6 him, much like you would serve a subpoena or some civil
7 process -- serving him, notifying him, putting him on notice
8 that there's a complaint against him and that he is under an
9 active investigation.

10 Q. Okay. And if you can pick up -- pick up the
11 smaller of the two notebooks and turn behind Tab 3. Can you
12 identify the document that is labeled "Respondent's Exhibit
13 3"?

14 A. Yes, sir, I can.

15 Q. And what is that?

16 A. This is the -- what we refer to as the service
17 memorandum. It's a memorandum from Captain Evans, who was
18 the director of Internal Affairs -- unit commander of
19 Internal Affairs, to Captain Holmes, who was the troop
20 commander of Troop C. Essentially, the memo instructed him
21 to -- to inform Sergeant DeValle of the complaint and the
22 initiation of this investigation.

23 (Respondent's Exhibit Number 3 was identified
24 for the record.)

25 BY MR. McINNES:

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 99

1 Q. Okay. And was Mr. DeValle -- was he asked to
2 acknowledge receipt of this?

3 A. He -- it was customary practice, the way business
4 was conducted, anything -- any document that a member is
5 served as part of a complaint, he is required to initial and
6 date -- or sign and date --

7 Q. Okay.

8 A. -- to some degree, acknowledging that he has
9 received it.

10 Q. And did Mr. DeValle do that in this case?

11 A. He did. The service memorandum, his signature and
12 date of 11/14/16 appears on the bottom, along with
13 Lieutenant Steve Finney, who was the Troop C officer who
14 served him the memorandum.

15 Q. Okay. And if you'd turn to the second page of
16 that tab, what is this document?

17 A. This is the personnel complaint. This is the
18 official complaint. We had -- this is an electronic -- we
19 had just recently, prior to this, switched to an electronic
20 database, and this is what -- the personnel complaint. This
21 took the place of the old HP-307, which was a handwritten,
22 more manual form.

23 But this is the electronic version of a personnel
24 complaint. It was initiated, sent to the troop for service.
25 They would serve it, attach any documents that were signed,

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 100

1 initialed, and then transmit it back electronically to
2 Internal Affairs.

3 Q. Okay.

4 A. Serves the same purpose as the hard copy; it's
5 just a way of doing it electronically.

6 Q. Okay. All right. And this would have been served
7 at about the same time as the service memo, correct?

8 A. This -- this personnel complaint would have been
9 attached to the service memorandum.

10 Q. Okay. All right. And what -- in fact, down at
11 the bottom, it lists the -- the items that are attached. Do
12 you see that, sir?

13 A. Yes, sir.

14 Q. And the bottom one is the service memo, and that's
15 the -- page 1 of this Tab 3, correct?

16 A. Yes, sir, that's correct.

17 Q. And then it mentions three policy directives,
18 correct?

19 A. Yes, sir.

20 Q. Okay. And did Mr. DeValle acknowledge receipt of
21 this document?

22 A. Yes, sir, he did.

23 Q. And that would've been about the same time as his
24 -- the receipt of his -- the service --

25 A. They would've --

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 101

1 Q. -- memo?

2 A. -- been served at the same time.

3 Q. Okay.

4 A. Same date, same time --

5 Q. Okay.

6 A. -- as one packet.

7 MR. McINNES: Your Honor, I would move to enter
8 into evidence Respondent's Exhibit Number 3.

9 THE COURT: Any objection?

10 MR. HENLINE: No objection, Your Honor.

11 THE COURT: It's admitted.

12 (Respondent's Exhibit Number 3 was received
13 into evidence.)

14 BY MR. McINNES:

15 Q. Okay. Now, First Sergeant Sawyer, if I can direct
16 you now to Tab C -- or Tab -- sorry -- Tab 5 of that same
17 notebook. Do you see a document that's been labeled
18 Respondent's Exhibit Number 5?

19 A. Yes, sir, I do.

20 Q. Okay. And what is that?

21 A. This is Policy Directive H.01, Rules of Personal
22 Conduct and Job Performance.

23 (Respondent's Exhibit Number 5 was identified
24 for the record.)

25 BY MR. McINNES:

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 102

1 Q. Okay. And is that the same directive that's
2 referenced on the personnel complaint?

3 A. This is one of the three attached policy
4 directives noted on the personnel complaint.

5 Q. Okay. And just generally, can you describe what
6 this -- what this directive is?

7 A. H.01 is a policy directive that breaks down
8 various types of conduct. Complaints are -- are broken into
9 whether they're job performance violation or they're
10 personal conduct violation. And this policy kind of breaks
11 down the areas or larger headings of -- of those types of
12 violations. And these headings is what the unit commander
13 of Internal Affairs uses to classify a complaint when it
14 comes in. A complaint comes in; the captain use -- Internal
15 Affairs commander looks at each one, finds the section of
16 policy the complaint fits, best fits in, and classifies the
17 complaint as a -- as violation within this policy.

18 Q. Okay. All right. And let me ask you this: This
19 directive, does -- does every member of the Highway Patrol
20 have access to this document?

21 A. Yes, sir, they do.

22 Q. And are they required to review the document?

23 A. Yes, sir, they are.

24 Q. Okay. And how do they -- how do they acknowledge
25 that?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 103

1 A. When a new policy -- when a policy is created,
2 when a policy is updated or -- or revised, we receive a
3 policy update. Now it comes through electronically, through
4 a PowerDMS -- what we call a DMS system, which is a database
5 that our electronic policy is stored on and updated on and
6 revised on.

7 Every member has access through -- to that through
8 the Patrol's intranet. There's a tab for policy, so it --
9 any trooper -- every trooper in the state can access the
10 policy manual from his mobile data computer.

11 Prior to going electronic, each member was issued
12 a -- a hard copy, a policy book, which they were required to
13 have in their patrol car, in their possession. The front
14 page of that policy book required a signature that you
15 received it and that you read it and that you understand it.

16 And then policy revisions, which were added were
17 documented using HPTC1, which is Highway Patrol Training
18 Center Form 1, which is a form used to document multiple
19 things: Training, you received certain training. It was
20 also utilized to document that you had received and updated
21 your policy.

22 Q. Okay. Now that the policies are online or -- or
23 digital form, is there a way that troopers are required
24 to --

25 A. These policies come in through the PowerDMS

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 104

1 system. It's customary for troopers to check PowerDMS
2 periodically to ensure if there are any policy updates.
3 However, e-mails are generated from Professional -- or from
4 Professional Standards saying these policies have been
5 updated, and it's up -- it's the responsibility of a
6 supervisor to ensure that all members sign in through
7 PowerDMS, review the policies. Once they have signed into
8 it, looked at that policy, reviewed it, they're required to
9 do an electronic signature.

10 They would hit the "sign" button. You would get a
11 warning saying, "By signing this, you acknowledge you have
12 read and you understand." It confirms that you are who you
13 say you are, your identity, you're not signing for someone
14 else, and you confirm that, and that's an electronic
15 signature that you received and understand your policy.

16 Q. Okay. And this particular copy of this document,
17 this was -- well, how was this provided to Mr. DeValle?

18 A. How was this particular one provided to --

19 Q. Yeah. Is it in Word or --

20 A. This -- this would've been attached.

21 Q. Okay.

22 A. This would've been attached, and we -- this
23 would've been printed out --

24 Q. Okay.

25 A. -- on paper --

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 105

1 Q. Hard copy.

2 A. -- hard copy --

3 Q. Okay.

4 A. -- and attached to the personnel complaint and the
5 service memorandum and provided to Sergeant DeValle at the
6 time that he was served with the complaint.

7 Q. Okay. And did Mr. DeValle acknowledge that he
8 received it?

9 A. His signature and date of 11/14/16 appears at the
10 bottom of each page of policy, along with -- I see most of
11 them have -- also have Lieutenant Steve Finney's initials on
12 them.

13 Q. Okay. Let me -- let me direct you to the page 3
14 of this document. It's Section 7. What is that section?

15 A. Page 3, Section 7, this policy is the policy
16 section that deals with truthfulness.

17 Q. And what does it read?

18 A. (Reading from document:)

19 "Truthfulness. Members shall be truthful and
20 complete in all written and oral communications,
21 reports, and testimony. No member shall willfully
22 report any inaccurate, false, improper, or
23 misleading information."

24 Q. Okay. Is truthfulness important in the Highway
25 Patrol?

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 106

1 A. Absolutely.

2 Q. And how so?

3 A. In all areas of law enforcement, and even more so
4 with the North Carolina State Highway Patrol, we're in a
5 position that we hold the public trust. And it's the
6 responsibility of each member to maintain the public trust,
7 that they are sworn to uphold the law, and the -- the -- the
8 right to enforce the law, to make arrest, with that grave
9 responsibility is of the utmost important of any law
10 enforcement officer, to be truthful, to have integrity in
11 carrying out their duties.

12 Q. And can it -- can it be made more difficult if
13 they are in fact untruthful?

14 A. I mean, a --

15 Q. Is --

16 A. Any situation, there is, if -- if you're not
17 receiving reliable, factual, truthful information, then your
18 -- your result or whatever you're looking at is not going to
19 be --

20 Q. Okay. And what about --

21 A. -- honest and truth --

22 Q. -- testifying in court? Is there -- are you
23 familiar with the phrase Giglio?

24 A. Yes, sir, I am.

25 Q. What is that?

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 107

1 A. Giglio is a United States Supreme Court case.
2 Forgive me for not recalling the -- the long name, but I'll
3 just refer to it --

4 Q. That's okay.

5 A. -- as Giglio.

6 Q. Yeah.

7 A. And essentially, that case ruling is that once a
8 -- a law enforcement officer is found that he has been
9 untruthful or his integrity has been brought into question,
10 then it is the responsibility of a prosecutor, in every case
11 that is brought forward after that, to inform the defense
12 and the Court that -- that his integrity is going to be in
13 question.

14 We refer to it as being "Giglio-impaired." Being
15 able to testify and having your integrity attacked is a key
16 function of a law enforcement officer. It's a key function
17 of a member of the State Highway Patrol. And if you're
18 deemed Giglio-impaired, then you're unable to perform an
19 essential job function of a state trooper, and it could lead
20 to disciplinary action, including dismissal.

21 Q. Okay. And how -- oh. How do you as a trooper --
22 how do troopers learn about the importance of truthfulness?

23 A. Truthfulness is instilled from day one at the
24 academy. It's understood by every member of the Highway
25 Patrol from day one that there are certain offenses that

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 108

1 will ultimately lead to your dismissal, truthfulness being
2 one of them. And it is instilled in every member of the
3 Highway Patrol, throughout the academy and throughout their
4 career.

5 Q. Okay. Let me ask you to turn back to page 2 of
6 this document, HP.01, and just ask you whether -- under
7 Section 6, what are the last two categories of
8 unsatisfactory job performance?

9 A. The last two bullets under Section 6,
10 unsatisfactory job performance, is absence without leave and
11 unnecessary absence from assigned duty.

12 Q. Okay.

13 MR. McINNES: Your Honor, I would move to enter
14 into evidence Respondent's Exhibit Number 5.

15 THE COURT: Any objection?

16 MR. HENLINE: No, Your Honor.

17 THE COURT: All right. It's admitted.

18 (Respondent's Exhibit Number 5 was received
19 into evidence.)

20 BY MR. McINNES:

21 Q. First Sergeant Sawyer, if I could ask you to turn
22 to, in that same notebook, the document behind Tab 6. It's
23 labeled Respondent's Exhibit Number 6. Can you tell me what
24 that document is, sir?

25 A. This is Highway Patrol Policy Directive H.02,

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 109

1 Investigation of Complaints and Charges against Highway
2 Patrol Employees.

3 (Respondent's Exhibit Number 6 was identified
4 for the record.)

5 BY MR. McINNES:

6 Q. Okay. Just generally, can you describe what this
7 directive addresses?

8 A. This is a policy that addresses how complaints are
9 received and how -- against members -- and how they are
10 investigated --

11 Q. Okay.

12 A. -- internally.

13 Q. So is it safe to say this sets out the procedure
14 for an investigation of a complaint?

15 A. Yes, sir. This would outline the procedure, the
16 process for which an internal investigation is conducted.

17 Q. Okay. Is there anything in this directive that --
18 that is pointed out or -- or brought to the attention of the
19 person being investigated?

20 A. H1 -- we discussed there, H.01 and H.02 are the
21 two policies that are presented to every member who is
22 served with a complaint, outline what the sections of -- of
23 -- or the different violations, classes of violations are
24 and their subsections, and then the process in which the
25 investigation or the complaint would be handled.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 110

1 Q. Okay.

2 MR. McINNES: Your Honor, I would move to enter
3 into evidence Respondent's Exhibit Number 6.

4 THE COURT: Any objection?

5 MR. HENLINE: No objection, Your Honor.

6 THE COURT: Admitted.

7 (Respondent's Exhibit Number 6 was received
8 into evidence.)

9 BY MR. McINNES:

10 Q. Okay. If you could turn to the document behind
11 Tab 7. It's been labeled as Respondent's Exhibit Number 7.
12 Can you identify that document, sir?

13 A. Yes, sir, I can. This is Policy Directive E.09,
14 Assignments, Transfers, Retirements, Resignations, and
15 Resident Requirements.

16 (Respondent's Exhibit Number 7 was identified
17 for the record.)

18 BY MR. McINNES:

19 Q. Okay. And was this provided to Mr. DeValle at the
20 beginning of the investigation?

21 A. Yes, sir, it was.

22 Q. Okay. And did he sign each page of that?

23 A. He did sign and date each page of that policy, and
24 he indicated he received it.

25 Q. Okay. Let me direct you to page 5 of this

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 111

1 document, sir. And I'm going to direct you to the very
2 bottom of page 5. And it goes over into page 6. The -- the
3 section that is labeled "Regulations for Living Outside of
4 Duty Station." Do you see that, sir?

5 A. Yes, sir.

6 Q. Okay. What does this section inform the member
7 regarding their duties to sign on to and off of work?

8 A. This policy -- this section policy lays out how a
9 member is required -- if they live outside their duty
10 station, how they are to check into authorized travel mode
11 to report to their duty station, the 10-86, 10-41 that was
12 discussed earlier, work their tour of duty, and then prior
13 to responding -- or returning to their residence, check
14 10-42 and then authorized travel back to their residence
15 outside of the work hours, outside the assigned -- assigned
16 shift, and at that time any authorized travel mode is not
17 compensable.

18 Q. Okay. And once again, this relates to people that
19 are living outside of the county in which they're assigned,
20 correct?

21 A. Correct. The policy at that time was a member was
22 required to reside in the county he was assigned or up to 20
23 miles outside of the county he was assigned.

24 Q. Okay.

25 A. If you -- your residence was outside the county

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 112

1 you were assigned, within the 20-mile allowance, then this
2 policy applied to you.

3 Q. And when could you check 10-41 if you lived
4 outside the county?

5 A. For -- per policy, you -- you had to be in that --

6 Q. It --

7 A. -- duty station.

8 Q. Let me -- let me --

9 A. Okay.

10 Q. Let me just direct you to the sentence that begins
11 on page 6, the first sentence -- first full sentence:

12 "Members affected" --

13 A. "Members affected by this policy shall take
14 10-86" --

15 Q. Yeah, go ahead and read that.

16 A. -- "with appropriate communications center upon
17 leaving their residence en route to begin their
18 tour of duty, and 10-87, 10-41 at or before their
19 scheduled start time upon entering the county of
20 their assigned duty station."

21 Q. Okay. And then what does the next section --
22 sentence say?

23 A. "Likewise, members shall remain in their assigned
24 duty station until the scheduled time they go
25 10-42. Members shall check 10-42, 10-86 with the

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 113

1 appropriate communications center at the end of
2 their scheduled shift, and upon leaving the
3 county, their assigned duty station. Members
4 shall check 10-87 upon reaching their residence."

5 Q. Okay. All right. And the very last sentence of
6 that same paragraph says?

7 A. "Pursuant to this policy, en route travel, 10-86,
8 10-87, is not compensatory."

9 Q. Yeah. Now, what if you lived in county? What --
10 do you know what the policy is for checking on 10-41 if you
11 live in the county of your duty --

12 A. If you live within the county of your duty
13 station, within your area, then you would simply check
14 10-41, 10-42, because there's no reason for you to be in
15 authorized travel mode.

16 Q. Okay.

17 MR. McINNES: Your Honor, I would move to enter
18 into evidence Respondent's Exhibit Number 7.

19 THE COURT: Any objection?

20 MR. HENLINE: No, Your Honor.

21 THE COURT: It's admitted.

22 (Respondent's Exhibit Number 7 was received
23 into evidence.)

24 BY MR. McINNES:

25 Q. All right. So all of those documents appear to

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 114

1 have been dated November 14th, 2016, correct?

2 A. Yes, sir.

3 Q. Okay. Let me -- let me backtrack a little bit on
4 it and direct your attention to the document behind Tab 4,
5 Respondent's Exhibit 4. Can you identify that document,
6 sir?

7 A. Yes, I can.

8 Q. And what is it?

9 A. This is what we refer to in Internal Affairs as
10 "the script." This is a -- it's a script that we begin each
11 interview with when we're beginning an interview with a
12 member accused of a complaint.

13 (Respondent's Exhibit Number 4 was identified
14 for the record.)

15 BY MR. McINNES:

16 Q. Okay. And at the top of this, there's a statement
17 about the date. What date is this document dated?

18 A. "Today's date is 15 November 2016. "

19 Q. Okay. And who -- who actually -- what -- what is
20 the procedure for --

21 A. This -- this is a script. It's a pre -- it's a
22 pre-filled-out form that prior to an interview, whoever is
23 conducting the interview typically -- I spoke with our
24 investigatory teams, so comprised of a lieutenant and a
25 first sergeant. Generally, the lieutenant would take the

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 115

1 lead on -- on the interview -- not always, but -- but that
2 -- that was just a general procedure.

3 So we would get this script and we would fill it
4 in, fill in the blanks specific to the interview we're
5 getting ready to do, such as the date, the investigators,
6 the member we're -- we're interviewing, the policies that
7 apply in paragraph 2, and also the paragraph halfway down
8 the page. Then the -- the specific policies may vary from
9 interview to interview, depending on what the allegation is.

10 Those are completed based on the interview, and
11 then prior to the interview, after we begin the interview
12 and go on tape, this is read verbatim.

13 Q. Okay.

14 A. The statements as long -- as well as the questions
15 and the member's answers. And all that is noted on this
16 form and recorded as part of the interview.

17 Q. Okay. And who is the one -- the person actually
18 checking the box to show that the questions have been asked?

19 A. Those would be Lieutenant Clark.

20 Q. Okay. And who is the one circling "yes" or "no"?

21 A. Lieutenant Clark.

22 Q. Okay. All right. So this is essentially
23 confirming that he's received notice of the complaint and
24 he's received the documents that we've just talked about.
25 Is that correct?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 116

1 A. Yes. That first section is confirming that he
2 received all the documentation that we have previously
3 discussed and that he has the opportunity to review them,
4 that he understands them, that he initialed and dated them,
5 and that he received copies of them.

6 Q. Okay. Now, on this paragraph about two-thirds of
7 the way down that begins "Also under" --

8 A. Yes, sir.

9 Q. Okay. Describe to me what that paragraph is -- is
10 talking about.

11 A. This paragraph -- it's customary on our
12 investigations to remind members prior to the interview of
13 -- of three specific policies, one being Subsection 7,
14 Truthfulness -- all this is in Directive H.01 --
15 Truthfulness, Section 25, Conduct while under Investigation,
16 and Subsection 35, Obstruction of Investigation.

17 Q. Okay.

18 A. That's uniform for all investigations, all
19 interviews we do. We remind members of truthfulness, their
20 conduct while under investigation, and that they are not to
21 obstruct the investigation in any way. And then they are
22 advised and they are provided a copy of the specific policy
23 directive applicable to -- to their complaint, to the --
24 what's being looked at. In this case, it was H.01 Section 4
25 covers violation of rules. And the specific rule that we

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 117

1 were investigating that it was alleged that he violated was
2 found in Policy Directive E.09, Section 4, with the general
3 heading, "Procedures for Establishing Residence."

4 Q. Okay. And the Directive E.9, Section 4 is -- is a
5 part of what we were talking about -- or part of it is what
6 we were talking about when we were talking --

7 A. The general heading of Section 4 is "Procedures
8 for Establishing Residence," but within that discusses
9 living outside the duty station, 10-86, 10-87, 10-41, when
10 you check 10-41, when you check leaving the duty station.
11 All that is comprised within that subsection.

12 Q. Okay. And then the very last question on here,
13 can you read that, sir?

14 A. The very last question is: "Do you admit or deny
15 the allegation of violation of rules?"

16 Q. And what was Mr. DeValle's response to that?

17 A. He responded that he admitted.

18 Q. Okay.

19 MR. McINNES: Your Honor, I would move to enter
20 Respondent's Exhibit Number 4 into evidence.

21 THE COURT: Admitted.

22 (Respondent's Exhibit Number 4 was received
23 into evidence.)

24 BY MR. McINNES:

25 Q. Okay. So you've got a complaint. He's got the

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 118

1 documents. You've read him the script. Let me ask you --
2 let me back up a little bit and say: Have you or Lieutenant
3 Clark done any investigation prior to conducting the
4 interview?

5 A. Typically, in most investigations, the accused
6 member is the last interview we do, when we've spoke with
7 witnesses, other involved members prior to interviewing the
8 member accused. I would have to look at the report of
9 investigation to look at the dates, but I believe we did
10 speak with other Patrol members prior to speaking to
11 Sergeant DeValle.

12 Q. Okay. The -- tell me a little bit about what was
13 involved in the complaint. And I guess may -- or in the --
14 in the investigation. Maybe we can do it this way.

15 Let me direct your attention to the document
16 behind Tab 8, which has been labeled Respondent's Exhibit
17 Number 8. Can you identify that document, sir?

18 A. Yes. This is HP-721, Report of Investigation.
19 (Respondent's Exhibit Number 8 was identified
20 for the record.)

21 BY MR. McINNES:

22 Q. Okay. What is this?

23 A. This is the report of investigation that is
24 generated by, in this case, Lieutenant Clark and myself that
25 is pretty much a summary of the investigation. Attached to

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 119

1 this would be the transcripts of all the interviews with
2 verbatim, you know, transcripts. But it serves as a summary
3 of the investigation and a synopsis of each interview.

4 Q. Okay.

5 A. And then explains any supporting documents or
6 additional information relevant to the case.

7 Q. All right. And Captain Morton was asked whether
8 he authored this document.

9 A. Yes, he was.

10 Q. Who authored this document?

11 A. Lieutenant Clark and myself authored this
12 document.

13 Q. Okay. And is that kind of a combined effort or --

14 A. It would be. We would divide it up, or he'd take
15 one interview, I'd do another interview, or, you know, your
16 -- it's just --

17 Q. Okay.

18 A. But we -- together, we were -- he -- Lieutenant's
19 ultimately responsible for submitting the report, but we
20 would work on it together.

21 Q. Okay. And what is in this introduction section?

22 A. The introduction is pretty much a -- a standard
23 for all HP-721s that were conducted by Internal Affairs. It
24 begins with a paragraph stating that on 14 November that the
25 personnel complaint was filed against the member and who it

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 120

1 was filed by.

2 The second paragraph would be a summary of the
3 complaint. The third paragraph generally -- which would be
4 the -- the fifth paragraph on this one -- would be a -- a
5 statement of how the unit commander of Internal Affairs
6 classified the complaint, and then the last paragraph in
7 this section would -- would state who the investigators were
8 and when investigation began.

9 Q. Okay. Let me ask you -- let me direct your
10 attention to the second paragraph at the introduction, in
11 the sentence -- the very first sentence there. It
12 references that senior command staff was notified by WRAL
13 news reporter through the public -- Patrol's public
14 information officer that they'd received a tip that Sergeant
15 DeValle had on multiple occasions checked in on duty and
16 would not leave his residence.

17 Okay. I'm not asking you about that, but what I
18 -- what I am asking you about is: Did you ever feel any
19 pressure from any -- any of your supervisors or anybody in
20 the -- higher in the chain of command that this was
21 different because it began with a WRAL report?

22 A. No, sir, absolutely not.

23 Q. Okay. And you -- you conducted this report just
24 as if it was any other report. Is that correct?

25 A. All -- all complaints that rose to this level that

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 121

1 were investigated at the -- at the Patrol commander's office
2 level were given the same due diligence and effort. And
3 this -- this received no special attention or extra effort
4 or less effort simply due to the fact that it came in from a
5 news source, media source.

6 Q. Okay. First Sergeant Sawyer, let me direct you to
7 the second page. And just -- If you can kind of summarize
8 what is -- what y'all did with respect to the investigation
9 and how it's reported here in this --

10 THE COURT: I tell you what. Before we get into
11 that, let's take our lunch break.

12 MR. McINNES: Okay.

13 THE COURT: You can step down. We'll come back at
14 one -- at -- excuse me.

15 (The recording stopped at 12:52:14 p.m.)

16 (The recording restarted at 2:01:16 p.m.)

17 THE COURT: All right. Further questions,
18 Mr. McInnes?

19 MR. McINNES: Thank you, Your Honor.

20 BY MR. McINNES:

21 Q. First Sergeant Sawyer, I think when we left off we
22 were -- where were we? -- getting ready to get into the
23 interviews that y'all did.

24 A. Yes, sir.

25 Q. Is that right?

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 122

1 Okay. Can you -- and using the Exhibit 6 as
2 necessary, can you kind of describe the steps that you and
3 Lieutenant Clark took with respect to this investigation?

4 A. Exhibit 8?

5 Q. Did I say -- yeah, 8. I'm sorry.

6 A. Yes, sir. This report is actually divided up in
7 two sections, and they're -- it's divided up based on
8 allegation, the first allegation being the violation of
9 rules concerning the residency policy.

10 Q. Uh-huh.

11 A. And then the second part of the report -- it's on
12 page 6 -- begins on page 6, with this allegation of
13 insubordination. And then the -- the interviews were a
14 single interview with each member. However, the part of the
15 interview that relates directly to the residence policy is
16 recorded under one section, and the other parts that are
17 going to be relevant to insubordination allegation would be
18 recorded in the other section of the report.

19 Q. Okay.

20 A. Do you want me to just go through this and --

21 Q. Well, if you can summarize who you spoke to and
22 kind of the -- the primary findings. And before you do
23 that, let me -- let me ask you: As an Internal Affairs
24 investigator, is it your job to make any recommendations
25 regarding the discipline that should or shouldn't be

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 123

1 provided or given to the member?

2 A. No, sir.

3 Q. Okay. So what is your function, again?

4 A. Our function is purely to investigate -- being an
5 investigator, to collect facts, to conduct interviews, to
6 solicit testimony or -- or to -- material to -- the
7 interview material and statements based on -- from witnesses
8 to place into the report itself.

9 Q. Okay. And let me -- don't want to get too far in
10 the weeds. It looks like you-all interviewed Lieutenant
11 Morton, Captain Holmes, First Sergeant Burton, and then
12 Sergeant DeValle. Is that correct?

13 A. Yes, sir.

14 Q. Okay. We've heard from Lieutenant Morton, right?

15 A. Yes, sir.

16 Q. Is there anything that you think is important to
17 add about your interview with Mr. -- or with Captain -- now
18 Captain Morton?

19 A. Best of my recollection, our interview with
20 Lieutenant Morton was consistent to his testimony here
21 today.

22 Q. Okay. And we've heard from now retired Captain
23 Holmes. Is there anything that --

24 A. I would say the same. My interview with Captain
25 Holmes was very consistent to his testimony here today.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 124

1 Q. Okay. And what about First Sergeant Burton?

2 A. I would say likewise.

3 Q. Okay. All right. Now, with respect to your
4 interview with Sergeant DeValle, what -- tell me if you can
5 summarize that and -- and tell us what he said as a part of
6 that interview.

7 A. We conducted an interview with Sergeant DeValle on
8 15 November 2016 at Patrol headquarters. After reading the
9 script and going through those questions that we discussed
10 earlier, we began a interview question with him to it -- and
11 usually our interview begins with an open-ended question:
12 "Tell us about -- tell us about the events on November 11th
13 when Lieutenant Morton arrived."

14 And Sergeant DeValle gave us his version of those
15 facts. And the -- they're recorded. They're very similar
16 to the facts that Lieutenant Morton expressed. There's not
17 much variation that I recollect between their accounts.

18 Q. Okay. Well, in -- let me ask you to refer to what
19 is behind Tab 8A and labeled "Respondent's Exhibit Number
20 8A." Can you identify that document?

21 A. Yes, sir.

22 Q. What is this document?

23 A. This is a member statement. This is a written
24 statement from Sergeant DeValle that he provided to Internal
25 Affairs investigators on 11/15/2016 prior to his interview.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 125

1 (Respondent's Exhibit Number 8A was identified
2 for the record.)

3 BY MR. McINNES:

4 Q. Prior to his interview?

5 A. Yes, sir.

6 Q. Okay. And is that standard operating procedure?

7 A. Yes, sir.

8 Q. Okay.

9 A. Standard is -- once he is served the service
10 memorandum, he would be instructed to write a statement.
11 However, if -- if he's being interviewed the same day he's
12 served, the very next day, I don't -- I don't know if he --
13 I'm -- I don't recall if he prepared this statement prior to
14 him coming to his interview and presented it once he got
15 there, or actually he actually wrote it once he appeared,
16 not -- but it was the same day. It was on the 15th, dated
17 11/15.

18 Q. Okay. Let me direct you to -- let me see -- page
19 4 of 8 of this Exhibit 8. And let me direct you to the
20 second paragraph, the first full paragraph, that starts
21 "Sergeant DeValle admitted." Do you see that?

22 A. Yes, sir.

23 Q. What did he admit to at that time?

24 A. We noted in our report, "Sergeant DeValle admitted
25 that he did not notify a supervisor to inform him that he

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 126

1 was sick and unable to report to duty."

2 Q. Okay.

3 A. "Sergeant DeValle was the on-call supervisor that
4 day for the district -- or that night for the
5 district, and he admitted to us that he did not
6 make any arrangement for another supervisor to --
7 to take his calls for the remainder of his shift
8 and that night. He did advise that he informed
9 his first sergeant of his sickness and his
10 inability to work the following day."

11 Q. Okay. Did you-all ask him about some specific
12 dates in 2016?

13 A. We did.

14 Q. Where did you get those dates from?

15 A. Those dates were provided to us from an anonymous
16 source. It was part of the -- best I can recall, it was
17 part of the news that WRAL -- when they advised the command
18 staff of the complaint, they also advised either the command
19 staff directly or through the PIO office that these were
20 additional dates.

21 Q. Okay. Let me direct your attention to
22 Respondent's Exhibit 8B behind Tab 8B.

23 A. Yes, sir.

24 Q. Can you identify that document?

25 A. Yes, sir.

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 127

1 Q. What is that?

2 A. This was a -- it's -- it's -- it was a document
3 provided to us anonymously. I believe it came to Internal
4 Affairs through the command staff. I'm not sure where it
5 originated prior to that.

6 (Respondent's Exhibit Number 8B was identified
7 for the record.)

8 BY MR. McINNES:

9 Q. Okay. But you don't know where it originate --
10 you don't have --

11 A. No, sir.

12 Q. -- personal knowledge --

13 A. I do not know where this originated from. We have
14 not -- best of my knowledge, I -- I do not know who the
15 author is or who submitted it.

16 Q. Did y'all receive this at the beginning of the --
17 the investigation?

18 A. We did. We received this fairly early on, I
19 believe.

20 Q. Okay. And is -- are those the dates about which
21 you asked Sergeant DeValle about his whereabouts?

22 A. Yes. These are the specific dates that we
23 inquired during our interview and asked Sergeant DeValle to
24 -- to account for his whereabouts or his -- his duty status
25 on those dates.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 128

1 Q. And what were his responses in general?

2 A. In general, some time had passed. This was
3 November 15th, I believe, we were interviewing him. The
4 dates went back to September -- of September 28th, October
5 6th, October 1st, October 4th, September 30th, October 2nd.

6 In general, he could not recollect that far
7 specifically what he did or did not do that day. We did
8 confirm that some of those days he was actually off duty
9 those days. That was on his days off.

10 Q. Okay.

11 A. Other dates were actually -- he was assigned a
12 shift those days.

13 Q. Okay. Let me direct your attention to the --
14 well, one, two, three -- third full paragraph that starts
15 "Sergeant DeValle was questioned."

16 A. Yes, sir.

17 Q. It's page number 4 of 8 --

18 A. Yes, sir.

19 Q. -- on Exhibit 8. And let me ask you -- well, what
20 did Sergeant DeValle say about whether there were times that
21 he was on duty but remained at his residence?

22 A. He did not speak specifically to those dates with
23 certainty whether or not he reported or failed to report for
24 duty or whether or not he was at his residence at the time
25 he checked on for duty or remained at his residence while he

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 129

1 was checked on for duty. He did admit that there had been
2 occasions in the past that he checked on for duty and
3 remained at his residence for some period of time. Sergeant
4 DeValle also admitted that there were times when he had
5 returned to his residence during his shift to take his meal
6 hour.

7 Q. And let me stop you there. Do you know how far,
8 either in miles or -- or minutes, his residence is from the
9 Wayne County line?

10 A. Not off the top of my head. It's greater than 20
11 miles.

12 Q. Okay.

13 A. If my recollection's clear, it was approximately
14 45 minutes maybe.

15 Q. Okay. And he said -- when he said he would take
16 his lunch hour there, does that mean he'd be an hour at
17 residence, or do you recall?

18 A. On a patrol shift, a -- our shifts are generally a
19 nine-hour scheduled shift with a one-hour meal break
20 sometime within that shift. Therefore, it's eight work
21 hours with a meal hour assigned. Members are allowed to
22 take a meal hour at a restaurant. They're allowed to go
23 home to their residence, take a meal hour, if they're within
24 their district.

25 One of the caveats -- or one of the provisions in

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 130

1 being allowed to live outside the district within the 20
2 miles is that you cannot return to your residence if it's
3 outside your duty station for meal hour without
4 authorization from supervisors.

5 Q. Okay. Did he talk about whether he would check in
6 his 10-41, 10-42 status either by calling in or using his
7 MDC?

8 A. Yes, sir.

9 Q. And first of all, what is an MDC?

10 A. MDC is a motor -- mobile data computer. It's a
11 laptop computer that --

12 Q. Okay.

13 A. -- that mounts into the car that you can carry in
14 the office or --

15 Q. Okay.

16 A. -- wherever with you.

17 Q. And what did he say about his use of the MDC for
18 checking in?

19 A. Sergeant DeValle said it was his common practice
20 to check 10-41 and 10-42 using his MDC.

21 Q. Okay.

22 A. And that would be a common practice, I would say,
23 of -- of a lot of members in the Highway Patrol.

24 Q. Okay. Captain Morton testified about having to be
25 certified to use the MDC. Is that correct?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 131

1 A. There are certain applications on the MDC that you
2 have to be certified for. One -- it's been a -- we were
3 initially issued one a long time ago. There was a period of
4 training. You had to be granted access by the Patrol to
5 have access to the CAD to do those functions of checking on,
6 checking off, checking out for meal, checking out for court.
7 And as Lieutenant Captain Morton stated, you know, the
8 purpose of that was to relieve the comm center --

9 Q. Uh-huh.

10 A. -- a little bit and so you wouldn't have to call
11 them every time your duty status changed. You could change
12 it yourself.

13 Q. Uh-huh.

14 A. And that would be reflected in the CAD.

15 There are certain applications, such as eCitation,
16 that you have to have certain levels of clearance with the
17 SBI to access. NCIC or the DCI, Division of Criminal
18 Information, the -- the informational databases, DMV
19 databases, to access public information -- the public's
20 information securely. And you have to receive
21 certifications to -- to --

22 Q. Okay.

23 A. -- to operate those systems.

24 Q. But checking in and out on CAD, it's not one of
25 those applications --

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 132

1 A. That would just be simply training. The Patrol
2 would have to grant your registry -- it's assigned by
3 registry -- registry number. And when you sign on to your
4 computer, you sign in with your name and with your registry
5 number. So your registry number -- when you check -- change
6 your duty status, your terminal recognizes your number so it
7 knows who to change -- whose --

8 Q. Okay.

9 A. -- duty status to change.

10 Q. And when a member changes status from, say, 10-40
11 to -- or ten -- 10-40 to 10-42, what -- does that member get
12 a notification?

13 A. Yes.

14 Q. How is a member --

15 A. It --

16 Q. -- notified?

17 A. It's much like a text message. I would compare it
18 to a text today. You would send a message. There's a --
19 there's an alert tone that lets you know it's sent. And
20 then once it's confirmed with the CAD or the CAD receives
21 it, a response is sent back and you get an alert tone that
22 it -- that it came back and -- just the status change is
23 displayed on the -- on the MDC.

24 Q. Okay. And if you don't get that alert -- if you
25 don't get two alert tones, then it hasn't been entered in

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 133

1 the CAD. Is that a fair statement?

2 A. Well, that's a -- it's a setting for the alert
3 tones. I mean, technically, I guess you could cut those
4 alert tones off or have your volume turned down where you
5 didn't hear those tones.

6 Q. Okay.

7 A. But those -- the program's designed to let you
8 know -- it's a whoosh sound where it sends --

9 Q. Uh-huh.

10 A. -- like you send a text off.

11 Q. Uh-huh.

12 A. And then when it's confirmed, there's a tone that
13 lets you know it come back, and it's displayed on the
14 screen. You can all do -- also do a query status, check a
15 query and pull up a district, pull up the whole district
16 roster, who's 10-8 -- or who's on duty, who's not off duty
17 -- and it would reflect your duty status on a query screen.

18 Q. Okay. And in general, First Sergeant Sawyer, how
19 accurate would you say the CAD system is?

20 A. I would say the CAD is -- is pretty accurate. We
21 rely on the CAD system for various things. Ultimately, it's
22 on the member to ensure his duty status is -- is correct.
23 The CAD's only going to reflect what's entered into it.
24 There are mistakes made. There are errors made. There are
25 some safeguards in place. If you're outside your troop, we

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 134

1 talked about -- it was talked about earlier -- B and C and
2 entering the wrong number, the alpha -- phonetic alphabet is
3 the proper way to -- to call that. You would say, "A Adam,"
4 or "B Boy," "B Boy," "C Charles" to distinguish between "B"
5 and "C," especially if you were in a different troop.

6 If you're in Troop C and you're talking to Troop C
7 and you say "C3," whatever, it's understood you're a C car.
8 But if a B car would be talking to Troop C and said,
9 "B3-31," the comm center might assume it was C3-31. And
10 that's why the phonetic alphabetic is important. But
11 usually that's only when you're in a different troop.

12 Q. Phonetic alphabet?

13 A. The phonetic alphabet, yes, sir.

14 Q. As in Alpha, Bravo, Charlie --

15 A. That would be --

16 Q. -- Delta?

17 A. -- a military version of the --

18 Q. Okay.

19 A. -- of the same thing.

20 Q. All right. Let me skip a little bit. Did y'all
21 ask him about his Goldsboro address?

22 A. Yes, sir, we did.

23 Q. What -- what did you ask him, and what did he say?

24 A. We presented to him his HP-740 --

25 Q. Uh-huh.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 135

1 A. -- which is the authorization to reside outside
2 his duty station, in which the address he was using was a
3 Smithfield, I believe, address --

4 Q. Oh, yeah. Sorry.

5 A. -- the Smithfield address that he used, which was
6 -- that address was within the 20 miles and would have been
7 compliant with policy.

8 Q. Okay. How does that -- what -- do you know the
9 Smithfield address right now, as you sit here? Tell you
10 what --

11 A. Exhibit 8E --

12 Q. 8E? Uh-huh.

13 A. -- behind Tab E, Edward --

14 Q. Okay.

15 A. -- would be the HP-740, Request to Reside Outside
16 County of Assigned Duty Station, which was completed by
17 Sergeant DeValle. And on that, the physical address in the
18 first section -- at the bottom of the first section,
19 physical address of residence member will reside was 400
20 Hillside Drive, Smithfield, North Carolina 27577.

21 (Respondent's Exhibit Number 8E was identified
22 for the record.)

23 BY MR. McINNES:

24 Q. Okay. Did y'all ask him about a Sergeant Hardy --
25 or First Sergeant Hardy?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 136

1 A. I don't recall starting off asking him
2 specifically about Sergeant -- First Sergeant Hardy.

3 Q. Okay. All right. Let me refer you to page 7 of 8
4 of Exhibit 8 and -- and ask you about the bottom of the
5 page, the supporting documents. Do you see that, sir?

6 A. Page 7 --

7 Q. Page 7 --

8 A. -- of 8?

9 Q. -- of 8, yes, sir.

10 A. Yes, sir. Supporting documents.

11 Q. Okay. And what are those documents?

12 A. These are all the documents that were gathered
13 during the course of the investigation that were attached to
14 this report of investigation to support the materials within
15 the report.

16 Q. Okay. Let me ask you to just kind of go through
17 these supporting documents and tell him how you and
18 Lieutenant Clark used those in your investigation.

19 A. Yes, sir.

20 Q. And we've already talked about some of them, like
21 8A. It's the member's statement. We've talked about 8B,
22 but how did that fit into your guys' investigation?

23 A. This was just a piece of the initial complaint
24 that came in. And I don't recall at what point during the
25 investigation it came in. I believe it was early -- earlier

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 137

1 on. And it was alleged that there were videos or pictures
2 to substantiate that he was at his residence during these
3 certain dates and times. And we questioned Sergeant DeValle
4 specifically about each date and time.

5 Q. Okay. Now, there are some colored notes on this
6 page. Do you see those, sir?

7 A. I do.

8 Q. Whose notes are those?

9 A. The blue is my handwriting.

10 Q. Okay.

11 A. And at the top left, there's hours entered in
12 BEACON. The blue written throughout the page would reflect
13 the number of hours that Sergeant DeValle entered into the
14 Beking -- BEACON system or -- which is our payroll system --
15 for hours worked on those days.

16 Q. Okay.

17 A. For example, 9/28, there was no time entered by
18 Sergeant DeValle in BEACON. However, on 10/6, Sergeant
19 DeValle entered ten hours of work time in BEACON for that
20 day.

21 Q. Okay.

22 A. The red writing is in handwriting of Trooper -- of
23 Lieutenant Clark.

24 Q. Okay. And walk me through those dates, if you
25 can.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 138

1 A. These dates -- and these dates will correspond
2 with the HP-201s and the BEACON times entries, which are
3 also in this. On 9/28, there was no time entered in BEACON.
4 10/6, Sergeant DeValle indicated that he worked ten hours
5 that day, and indicated ten hours in the BEACON payroll
6 system, as he did on 10/1.

7 On 10/4, no -- no time was entered, but Lieutenant
8 Clark indicated in red that that was a actual scheduled day
9 off, so there would be no time entered for that day. And
10 that applies back to 9/28 as well.

11 Q. Let me stop you. On 10/1, it -- there's a red
12 note says, "No" -- looks like "No CAD time"? Do you see
13 that?

14 A. "No CAD time."

15 Q. What does that mean?

16 A. That would indicate there was no time entered into
17 the CAD. He entered ten hours in BEACON for that day, but
18 there were no work hours or no time entered into the CAD
19 system.

20 Q. Okay. How about 9/30?

21 A. 9/30, there were ten hours in blue, ten hours
22 entered into the BEACON payroll system. Lieutenant Clark
23 indicated, based on the CAD, that he checked on at 4 p.m.
24 that day, and the comm center checked him off at 0424 the
25 next day.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 139

1 And that's a common practice of the comm center.
2 If -- if a member -- just say a member's supposed to work 3
3 p.m. to 12 midnight --

4 Q. Uh-huh.

5 A. -- and for some reason he doesn't check off or
6 doesn't get checked off, and even though he is off and he's
7 still on the CAD, the comm center will, prior to the next
8 workday, the next shift coming out, usually clear the CAD
9 out. So it was indicated that on 10/2 he did not check his
10 self off that day and there was no record that he called the
11 comm center to indicate that he was 10-42 that day. And at
12 4:24 a.m., that morning, the comm center cleared him off the
13 CAD and checked him off.

14 Q. Okay. Now, that's just the CAD.

15 A. That's the CAD.

16 Q. But it -- it's not the BEACON, correct?

17 A. CAD, the computer-aided dispatch, is what the comm
18 center uses and what we all use to see who's working right
19 now, where they're assigned, what wreck they're on, where
20 they're at, where they're assigned.

21 BEACON is through the Office of State Personnel.
22 It's administrative database in which members enter their
23 own time, their work hours. It is verified by a supervisor,
24 according -- compared to their HP-201, their daily report --
25 their weekly report of daily activity. They're compared.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 140

1 If the hours are right based on 201 and the CAD and what was
2 worked, then the supervisor will approve that time in
3 BEACON. And the hours approved in BEACON is what the
4 member's -- his salary is based on.

5 Q. Okay. So the member enters his own time into
6 BEACON?

7 A. Correct. And it's sent to a supervise [verbatim].
8 A supervisor would then approve it --

9 Q. Okay.

10 A. -- approve his time.

11 Q. And in --

12 A. If it was not entered correctly, it would be sent
13 back to the trooper for correction, or a time administrator
14 could correct it.

15 Q. Okay. Or a what administrator?

16 A. A time administrator, a supervisor or the -- the
17 secretary in the office has that ability --

18 Q. Okay.

19 A. -- to correct the time for the trooper.

20 Q. And --

21 A. BEACON is very individual. Only you have control
22 of your time.

23 Q. Uh-huh.

24 A. But there's certain people who, in supervisory
25 positions, can control or enter or alter time --

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 141

1 Q. Okay.

2 A. -- on behalf of a member, of a subordinate.

3 Q. Okay. So, like if the member says, "Well, hey, I
4 -- you know, I wrote in ten hours, but I forgot I" --

5 A. A common example would be you work a 3-to-12
6 shift --

7 Q. Uh-huh.

8 A. -- and you go home, and then during a late -- a
9 hour later, you get called out for a late call.

10 Q. Okay.

11 A. And you go out and you do a wreck for two hours
12 and you come back home. You've entered in your BEACON only
13 the ten hours you worked, and you may be off the following
14 day. So the secretary or supervisor would go in and enter
15 those additional two hours for you --

16 Q. Okay.

17 A. -- would be an example. But there's numerous
18 examples of --

19 Q. Okay.

20 A. -- why you would enter alternate time.

21 Q. And during the fall of 2016, Mr. DeValle's
22 supervisor was First Sergeant Burton, correct?

23 A. That's correct.

24 Q. And he's the one that would review and approve the
25 time that Mr. DeValle put into BEACON. Is that correct?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 142

1 A. First Sergeant Burton would have been responsible
2 for approving Sergeant DeValle's time.

3 Q. Okay. And once again, you asked Mr. DeValle about
4 these particular dates, and he said he didn't remember what
5 particular dates, but he did admit that there were times
6 that he signed in 10-41 and didn't leave his home, correct?

7 A. He'd admitted there were times that he checked on
8 for duty and did not leave his residence for either an hour
9 or several hours, and there were occasions that he checked
10 on for duty and did not leave his residence at all.

11 Q. Okay.

12 A. But he could not recall specifically on these
13 specific dates we asked that were noted, whether that was
14 one of those dates or not.

15 Q. Okay. What -- what is 8C?

16 A. I'm sorry?

17 Q. What is the document labeled 8 -- Respondent's
18 Exhibit 8C?

19 A. 8C? 8C is a -- is the printout from the CAD, what
20 we call the "PIF screen," which is the personal information
21 screen. And it is just stating -- that's just the screen
22 that -- that notes Sergeant DeValle's address in the CAD as
23 it --

24 Q. Okay.

25 A. -- is listed in the CAD.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 143

1 (Respondent's Exhibit Number 8C was identified
2 for the record.)

3 BY MR. McINNES:

4 Q. Okay. And it has both his Smithfield address and
5 his Raleigh address. Is that --

6 A. It does.

7 Q. -- correct?

8 Why does it have two different addresses?

9 A. The address at the top is the Smithfield address
10 that in this case -- the way it's set up in the CAD is
11 usually a primary address. And then there's a place at the
12 bottom for additional notes. If a member is using --
13 utilizing a residence to conform to the residence policy,
14 then that address is usually documented in the notes
15 section.

16 Q. Okay.

17 A. We're a transient organization, and members may
18 have a primary residence back in the mountains or on the
19 coast where they came from, but they're assigned to Raleigh.
20 Their apartment that they -- they use while they're assigned
21 in that duty station would be listed in the comments
22 section.

23 Q. And so the primary residence should be up top --

24 A. In --

25 Q. -- and the secondary address --

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 144

1 A. In my experience, that's how most of them are. I
2 don't know -- there's no -- nothing saying one has to be one
3 place or the other, but --

4 Q. Okay. All right. What is Document 8D?

5 A. 8D is a continuation of that same CAD personal
6 information screen.

7 Q. Uh-huh.

8 A. It's the following page of the -- the Y -- and
9 it's very faint.

10 (Respondent's Exhibit Number 8D was identified
11 for the record.)

12 BY MR. McINNES:

13 Q. Yeah.

14 A. The -- you can -- on my copy, it's very faint.

15 Q. Uh-huh.

16 A. But the first highlighted blank there is
17 "Secondary Employment." And that's the block where you
18 indicate whether a member has approval to engage in
19 secondary employment: Yes, if he does; no, if he does not.
20 This indicates that Sergeant DeValle had received
21 authorization and was engaged in -- in secondary employment.

22 On the other side is the block where you indicate
23 whether you reside outside your assigned duty station or
24 reside -- I'm sorry -- you reside in your duty station.

25 Q. Oh, okay.

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 145

1 A. And that is indicated "N," with a "No." And if it
2 is "No," then you have to indicate what county he does
3 reside in. And this indicates that he resides in Johnston
4 County, J-o-h-n-s. He's assigned to Wayne. This is showing
5 that he does not live in Wayne but -- and his residence is
6 in Johnston is what that --

7 Q. Which is where Smithfield is.

8 A. Which is a Smithfield address, correct.

9 Q. Okay.

10 A. And then there's additional information on that
11 page: Sports, hobbies, church affiliation. That's just
12 included on that personal information screen.

13 Q. Okay. What is Document 8E?

14 A. 8E is a HP-740 form, which is the authorization
15 form -- the request and authorization to reside outside a
16 county of assigned duty station. This would be a form that
17 a member fills out requesting to reside outside his assigned
18 duty station.

19 (Respondent's Exhibit Number 8E was again
20 identified for the record.)

21 A. The middle section there is a -- is a section in
22 which the supervisor would verify that the residence is
23 compliant with Patrol policy, with the route -- most direct,
24 quickest route listed from the duty station to the
25 residence. And then it is -- the supervisor indicates that

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 146

1 it is or is not within the 20 miles, and it's signed and
2 dated by the supervisor.

3 And then once it approved at the district level by
4 the district first sergeant, it goes -- in this case, it
5 went to troop, to Captain Holmes. And Captain Holmes
6 approved this address to be compliant with policy, to be a
7 residence for him while stationed in Wayne County.

8 BY MR. McINNES:

9 Q. Okay. But once again, the --

10 A. And this is referring to the Smithfield address --

11 Q. Correct. Okay.

12 A. -- which is listed in the first blank --

13 Q. Right.

14 A. -- first block.

15 Q. All right. What is Document 8F?

16 A. 8F is a HP-745A. There's several copies of that
17 -- or two copies of that, with a third copy being HP-745.
18 The third page, the back page, HP-745, is a request to work
19 secondary employment. This would be the initial author --
20 the initial request and authorization that would be
21 submitted and received by a member to engage in secondary
22 employment. It's -- the member's required to say what kind
23 of employment it is, what those duties are, and a supervisor
24 is required to contact the employer to ensure there's no
25 conflict of interest between the secondary employment and

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 147

1 the Patrol.

2 And then the two -- the previous pages are 745As,
3 which is a continuation. You don't have to go through the
4 whole process as you would initial, but these are saying
5 he's already been approved for secondary employment in the
6 past with this employer, everything's still in good
7 standing, and continuation of that approval is granted.

8 (Respondent's Exhibit Number 8F was identified
9 for the record.)

10 BY MR. McINNES:

11 Q. Okay. And these were requests that he could
12 engage in a lawn care service. Is that correct?

13 A. Yes, sir. In his comments, he -- he indicated
14 that he was in a grass-cutting business.

15 Q. Okay. Were you or Lieutenant Clark able to verify
16 that he engaged in the lawn care service while 10-41?

17 MR. HENLINE: Objection, Your Honor.

18 THE COURT: Overruled.

19 A. We -- we did not confirm or dispel that he ever
20 engaged in secondary employment while on duty.

21 BY MR. McINNES:

22 Q. All right. What is Respondent's Exhibit 8G? And
23 just for the record, this is a -- it's, like, a five-page
24 exhibit.

25 A. 8G is a CAD printout of the times -- it's a unit

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 148

1 activity log. It's the activity log for Sergeant DeValle on
2 specified dates. To the left side you'll see a number, six
3 -- the first line, 16-11-11-1453-0900-223. The 16 is the
4 year. 11 would be the month. The second 11 would be the
5 day. So this is November 11th, 2016, and at 1453, which
6 would be 2:53 in the afternoon, and nine seconds, Sergeant
7 DeValle indicated that he was 10-41, beginning his tour of
8 duty.

9 (Respondent's Exhibit Number 8G was identified
10 for the record.)

11 BY MR. McINNES:

12 Q. Okay.

13 A. And then the column -- the 1966 --

14 Q. Uh-huh.

15 A. -- the next column, is the registry number of the
16 person who made the CAD entry. 1966 is Sergeant DeValle's
17 registry number, so that first line indicates that Sergeant
18 DeValle checked himself on, utilizing his MDC, on 11/11/16
19 at 1453 hours. And then you can go through each line and
20 it's --

21 Q. Okay.

22 A. -- every time his duty status changed, there was a
23 CAD entry.

24 Q. Okay. And the second line, the middle of it says
25 "Sign off." Is that correct?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 149

1 A. Sign off? If you'll see just prior to that, the
2 42, at the top of that column where the 41s and 42s are, and
3 the 7, 8s, there's a ten. That's the ten code.

4 Q. Okay.

5 A. So all those would be 10-41, 10-42, 10-7, 10-8.
6 The 10-50 on further down would be a wreck that he was
7 assigned to.

8 Q. Okay.

9 A. But that would be --

10 Q. So what time --

11 A. -- the ten code.

12 Q. -- did he go 10-42?

13 A. On the 11th --

14 Q. On the 11th.

15 A. -- which is the date that Lieutenant Morton went
16 to Sergeant DeValle's residence, he indicated he checked
17 10-41 at 1453, at 2:53 in the afternoon, and he checked
18 10-42 -- he signed himself off utilizing his MDT, based on
19 his registry number, at 1935 hours, which is seven -- 7:35.

20 Q. Okay. And just to kind of close a loop, here,
21 when -- if you go on the same page, first page, down at the
22 bottom of the CAD entries there's some numbers other than
23 1966. Do you see those?

24 A. Yes.

25 Q. And what do those reflect?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 150

1 A. That would be the registry number of the
2 individual who made that CAD entry. Troopers, sworn members
3 of Patrol, their registry numbers start at 1000 and go into
4 the two thousands. All sworn members are anywhere from 1000
5 to 2999. Motor carrier members who came over from DMV are
6 -- have a 3000 registry number. And civilian staff have a
7 7000 registry number. So this would indicate 7271, whoever
8 this civilian personnel is who made that CAD entry, which
9 would be a telecommunicator at the comm center --

10 Q. Okay.

11 A. -- who made that CAD entry.

12 Q. Okay. And what is the significance of the next
13 four pages of this document, Exhibit 8G?

14 A. The -- these are the dates in question that we
15 referred to earlier, those specific dates. We ran CAD --
16 unit activity logs from the CAD for each date, showing
17 Sergeant DeValle's activity, his 10-41 time, 10-42 time, for
18 those dates in question.

19 Q. Okay. And the fourth page out of five, looks like
20 there's a green highlighter. Do you know why that's
21 highlighted?

22 A. I probably need to refer back --

23 Q. Okay.

24 A. -- and see what was significant on -- on 10/6.

25 Q. Okay. Is it fair to say you are checking the CAD

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 151

1 against -- you mentioned HP-201. And I'll refer you to
2 Exhibit H -- 8H. Do you see that?

3 A. Yes, sir.

4 Q. And that's the HP-201.

5 (Respondent's Exhibit Number 8H was identified
6 for the record.)

7 A. Yes --

8 BY MR. McINNES:

9 Q. Correct?

10 A. Yes, sir.

11 Q. And that's a weekly report of daily activity.

12 A. Yes, sir.

13 Q. Correct? And so you're checking -- and we'll talk
14 about this in a little bit, but you're checking the CAD
15 against the HP-201 and against the BEACON.

16 A. Yes, sir.

17 Q. Okay. All right. Tell me what the HP-201 is.

18 A. HP-201 is a weekly report of daily activity. This
19 is a form utilized by members to track their daily activity,
20 their hours worked, their miles driven, cases made, calls
21 for service, whatever activity they do.

22 They break their time down in certain categories
23 and break their enforcement down in -- in various
24 categories, indicate the number of citations were issued,
25 the serial numbers for those citations, everything they do

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 152

1 throughout the week. And they do this daily.

2 And then at the end of the week, on Sunday or the
3 last working day of their shift for that week, they would
4 submit this report to their supervisor for that week of --
5 that week work. And these numbers will be then entered into
6 the CAD system, and the 201s filed --

7 Q. Okay.

8 A. -- per policy.

9 Q. And on this first page of 8H, there's highlighting
10 and some red --

11 A. Yes, sir.

12 Q. -- notation. What is that --

13 A. The red is --

14 Q. -- referring to --

15 A. -- my handwriting.

16 Q. Okay.

17 A. This is -- this is for November 11th. This is --
18 the highlighted day is that Friday. It was Veterans Day.
19 That was the same day Lieutenant Morton went to Sergeant
20 DeValle's residence.

21 The top block shows that his assign -- the top
22 block is the assigned shift --

23 Q. Uh-huh.

24 A. -- which is a 5 P to 4 A. The second line would
25 be his actual work shift. He would record what he actually

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 153

1 worked that day. He showed approved leave, that he was on
2 leave that day.

3 And then the nine corresponds with the column to
4 the left of "Work Time," the column to the left, "Work
5 Time." And he indicated -- or "Leave Time," rather. The
6 nine hours would be 9000, Approved Leave, which -- 9000 is a
7 BEACON code. This is what a supervisor would compare to the
8 BEACON entry to make sure what the member recorded on HP-201
9 matches his entry in BEACON --

10 Q. Okay.

11 A. -- that the two correlate and correspond. It
12 would be approved, and that's what would be entered into
13 both the CAD system and the payroll system.

14 Q. Okay. And what column -- what -- what does that
15 -- what date is that column that's highlighted --

16 A. The column -- that's that Friday. Our weeks --
17 Highway Patrol weeks run Monday through Sunday. Monday is
18 our first day of our week, Sunday being the last day. And
19 that's primarily due to weekend activities, enforcement
20 activities.

21 Q. Uh-huh.

22 A. It's why we run Monday through Sunday. So those
23 columns would correspond with the days of the week: Monday,
24 Tuesday, Wednesday, Thursday, the highlighted column would
25 be Friday, and then Saturday and Sunday.

1 So this was Friday, November 11th. I indicated a
2 "H" or "S" 'cause I was just -- that's a note to myself to
3 question -- it was a holiday. BEACON requires you to
4 actually enter holiday leave if you're to take leave on the
5 actual holiday. And then we were just questioning to look
6 if he took sick leave, the "S" being for -- for sick leave,
7 to compare what he entered in BEACON.

8 Q. Okay. And then what about that second table
9 there? What is that?

10 A. The -- the second block there is where you log
11 your -- your duty hours. The first -- the very first column
12 is your day of week, Monday through Sunday. The second
13 column would be your mileage driven on your car that you
14 record. The third column will be hours off -- or hours of
15 leave. He indicated Tuesday and Wednesday he took eight
16 hours of leave both those days. They would be his regular
17 scheduled days off. And then he indicated on Friday, which
18 is highlighted, that he took ten hours of leave --

19 Q. Okay.

20 A. -- which would be the -- the same Friday in
21 question, the -- that would correspond with the -- the top
22 block.

23 Q. Okay.

24 A. And then the hours worked on the other days would
25 be divided up in his activities.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 155

1 Q. Okay. And Mr. DeValle told Lieutenant, slash,
2 Captain Morton that he was not going to take any time for
3 11/11, correct?

4 A. I believe he was not going to claim any time --

5 Q. Right.

6 A. -- was what was said.

7 Q. And this is consistent with what he told --

8 A. He did not claim any hours worked for the 11th.
9 He showed that he was on leave -- took leave hours that
10 entire day.

11 Q. Okay. And the second page of this exhibit is
12 just, like, the back page, where Sergeant DeValle signed it?

13 A. That's correct. It's a two-page document, and
14 it's more activities. Different positions within the Patrol
15 have different type of activities, and it's recorded in
16 various places throughout this form. And then at the bottom
17 is the signature blank for the -- for the member. And then
18 once a supervisor checks it and approves it, he -- the
19 supervisor would approve it --

20 Q. Okay.

21 A. -- in the other block.

22 Q. All right. Can you tell us what the next pages
23 are that summarize what --

24 A. Those are other copies of HP-201 submitted by
25 Sergeant DeValle, and these were covering the -- those

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 156

1 specific dates in question --

2 Q. Okay.

3 A. -- to see what he entered on his 201, and we then
4 related that to his time entry in BEACON --

5 Q. Okay.

6 A. -- to verify if he entered work -- worked hours or
7 leave hours or what each assigned shift was versus his work
8 shift.

9 Q. So the fourth page in looks like week beginning
10 10/3/2016. There are a couple of highlighted columns. Do
11 you know why those are highlighted?

12 A. I believe the highlighted dates are the specific
13 dates that we looked at. These are weekly reports, so we
14 have a whole workweek. But October 4th and October 6th were
15 two of the specific dates that we looked at, based on that
16 anonymous sheet or the sheet that was received anonymously.

17 Q. Yeah, well, what -- why don't you turn back to 8B.

18 THE COURT: 8B?

19 MR. McINNES: 8B, yes, Your Honor.

20 BY MR. McINNES:

21 Q. And tell me how the dates listed on here relate to
22 this -- this one we were just referring to, the HP-201 we
23 were just referring to.

24 A. Okay.

25 Q. How do -- how does -- how --

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 157

1 A. The --

2 Q. -- does that relate?

3 A. October 4th is highlighted, showing that it was --
4 it was a assigned day off.

5 Q. Uh-huh.

6 A. On -- on 8B, that would correspond to the second
7 line, "Video and/or pictures from 9/28."

8 Q. Uh-huh.

9 A. That was 9/20 -- that was -- well, it's not that
10 date. It's 10/4.

11 Q. Right.

12 A. The -- later on that column --

13 Q. Yeah.

14 A. -- it'd be 10/4.

15 Q. Okay. So on --

16 A. And again, 10/6 and throughout the ones that are
17 highlighted -- or those specific dates listed on that
18 anonymous --

19 Q. Okay.

20 A. -- on that document that was submitted
21 anonymously.

22 Q. And so some of them, like on the 4th, he was
23 scheduled for a day off, and --

24 A. He was scheduled --

25 Q. -- so him being home wouldn't be a -- wouldn't be

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 158

1 out of the ordinary.

2 A. Right. Him -- him being at his residence with a
3 patrol car at his residence would be expected.

4 Q. Okay. But some of them -- for example, October
5 6th, if he was at home, it -- if he was at home, he
6 shouldn't have claimed ten hours. Is that --

7 A. On October 6th, he was scheduled a 1 P. to 12 A.
8 shift, and he indicated that he worked a 1 P. to 11 P. shift
9 for a total of ten hours worked, in which case his patrol
10 car would not be at his residence 'cause he would be
11 working.

12 Q. Okay. And the next page shows 9/26, the week
13 beginning 9/26/2016.

14 A. Correct.

15 Q. Looks like there's three highlighted days, one of
16 which is a scheduled day off, correct?

17 A. October 28th was the date listed on that document,
18 which we verified that was a scheduled day off and he was a
19 -- he indicated that he was off that day. There was no time
20 entered otherwise. Friday and Saturday were both dates
21 listed in which he was scheduled to work. He indicated that
22 he did work for a total of ten hours both of those days.
23 And the allegation was that he was at his residence and his
24 car was at his residence at some point during that shift.

25 Q. Okay. All right. And once again, you're --

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 159

1 you're comparing this HP-201 to the CAD system and then to
2 the BEACON entries, correct?

3 A. Correct.

4 Q. And --

5 A. The CAD entries in Tab G, Respondent Exhibit 8G,
6 and the HP-201s, and then the BEACON entries, which I
7 believe are the next tab, were all compared together.

8 Q. Yeah. Turn to 8I, if don't mind. What is that
9 document?

10 A. This is a BEACON -- this is a report of entered
11 BEACON time.

12 (Respondent's Exhibit Number 8I was identified
13 for the record.)

14 BY MR. McINNES:

15 Q. Okay.

16 A. It's got the member's name, the -- his personnel
17 position number, and then the date of time entered, the date
18 in which time was entered for.

19 Q. And there are two entries that are highlighted.
20 Do you know why those were highlighted?

21 A. Again, those were dates that were specified in the
22 document that we specifically asked him about, 10/1 and
23 9/30. And BEACON confirmed that he entered ten hours of
24 work -- work time for those days.

25 Q. Okay.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 160

1 A. BEACON assigns a code to different types of time.
2 Two columns over from the highlight is 9500 for both of
3 those highlighted. 9500 is -- is designated as work time.

4 Q. Okay.

5 A. 9000 would be a leave --

6 Q. Okay.

7 A. -- would be leave -- leave hours.

8 Q. We kind of skipped through 8J, which is
9 Lieutenant, slash, Captain Morton's notes we've already
10 talked about.

11 (Respondent's Exhibit Number 8J was identified
12 for the record.)

13 BY MR. McINNES:

14 Q. 8K is the memo created from those notes.

15 (Respondent's Exhibit Number 8K was identified
16 for the record.)

17 BY MR. McINNES:

18 Q. 8L, what is this document?

19 A. This is a letter provided to internal fire -- to
20 Internal Affairs by Sergeant DeValle. Sergeant DeValle
21 received a letter at his residence from WRAL, from Cullen
22 Browder, and as part of the investigation, he provided this
23 to us.

24 (Respondent's Exhibit Number 8L was identified
25 for the record.)

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 161

1 BY MR. McINNES:

2 Q. Okay. Why is it in the Internal Affairs file?

3 A. It was a document that came during the course of
4 the investigation and was added to the investigation packet.

5 Q. Okay. And do these -- and take your time if you
6 need to, but the dates that are listed on this letter, do
7 they match up to some of the -- the dates that are on this
8 anonymous letter dated eight -- or Exhibit 8B?

9 A. They do --

10 Q. Okay.

11 A. -- including the date of 11/11, which was the day
12 Morton -- Lieutenant Morton went to DeValle's residence.

13 Q. Okay. Do you know what Sergeant DeValle did after
14 he received this?

15 A. Other than provide us a copy of it, no, I do not.

16 Q. Okay. Did y'all reinvest -- or reinterview him
17 after you received this?

18 A. We -- we did reinterview him at some point, but
19 not as a direct consequence of receiving this, no.

20 Q. Okay. Respondent's Exhibit 8M is just -- is that
21 once again just trying to --

22 A. 8M is just a -- a copy of a printout of some media
23 coverage, WRAL's site. And this is just for historical
24 reference. It really bears no weight in the investigation
25 itself other than it is being covered in the media.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 162

1 (Respondent's Exhibit Number 8M was identified
2 for the record.)

3 BY MR. McINNES:

4 Q. Okay.

5 A. And that -- and that's a customary thing with a
6 lot of cases we did. If there was a media attention given
7 to it, we would -- not every media source, but several media
8 sources for that case and just put it in the file for
9 historical records.

10 Q. Did that media coverage change your investigation?

11 A. No, sir, not at all.

12 Q. Okay. Let me skip to 80 (eight-oh) and ask you
13 what that document is.

14 A. 80 (eight-oh) is a report from the SAP system.
15 And I don't know that I can tell you what "SAP" stands for
16 at this moment. S-A-P system. SAP is the database in which
17 we track a lot of things from a logistics standpoint: Cars,
18 inventory, parts, tires, oil filters, oil, gasoline. Those
19 type things are recorded in SAP.

20 This is a SAP report of fuel that was showing the
21 dates and the locations and the times that Sergeant DeValle
22 acquired fuel for his patrol car during the dates that we
23 were looking at in the course of the investigation.

24 (Respondent's Exhibit Number 80 was identified
25 for the record.)

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 163

1 BY MR. McINNES:

2 Q. Okay. Let me back you up to the main document and
3 page 7 of 8 of the Exhibit 8. Captain Morton was asked
4 about the video and shown a -- an e-mail regarding his --
5 Mr. DeValle's video recordings from his -- from his camera.
6 Do you know whether that -- that request was actually
7 followed up on?

8 A. The camera itself was not downloaded. There was
9 some period of time over a few weeks, couple weeks --

10 Q. Well, let me refer you to --

11 A. On 28 --

12 Q. -- the supplementary in -- information in the
13 second paragraph --

14 A. 28 November. I actually went to Troop C. His car
15 when he -- Sergeant DeValle was on administrative leave, the
16 Patrol took possession of his patrol car. His patrol car
17 was being stored at Troop C headquarters in Raleigh. I went
18 to Troop C headquarters along with the Troop C first
19 sergeant, and we together looked at DeValle's camera and
20 reviewed his video back to those dates.

21 We reviewed Sergeant DeValle's in-car camera using
22 the record-after-the-fact feature. No video recordings were
23 -- were found to be on the camera's hard drive for the dates
24 and times listed in the complaint. Video recordings did not
25 exist due to either the patrol vehicle and camera system not

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 164

1 being powered off during these dates and times or due to the
2 non-triggered recordings being overwritten by more recent
3 events.

4 Q. What -- what are not --

5 A. And not --

6 Q. What are --

7 A. I'll -- I'll explain -- I'm sorry.

8 Q. Yeah, go ahead. Go ahead.

9 A. The in-car camera system is basically recorded on
10 a loop. Triggered events -- an event is triggered by
11 activating the blue lights and making a -- an enforcement
12 contact or engage in a chase. Anytime the blue lights are
13 activated, that's a triggered event. And the camera records
14 that and saves it. The camera records all the time --

15 Q. Okay.

16 A. -- whether the lights are on or not. After you
17 cut the car off, the camera continues to record for a set
18 period of time. After you cut the blue lights off after an
19 enforcement contact, the camera still continues to record
20 for a triggered event. And like I say, it just records all
21 the time. However, non-triggered event recording, the time
22 that the camera's just recording all the time while you're
23 going down the road, while you're sitting at lunch, what --
24 whatever you're doing, continues to record. And there's
25 only a certain amount of time that allows. So, once it

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 165

1 fills up, it starts to loop and record back over itself.

2 So, when we looked at his video, enough time had
3 passed or enough activity had passed on the camera that
4 there was no triggered events for any of the dates in
5 question, which means the blue lights were not activated,
6 there was no -- there was nothing that was intentionally
7 recorded by Sergeant DeValle. So then when you look at the
8 non-triggered events, the loop, it had been a sufficient
9 time that the loop had overwritten itself by those dates.

10 Q. Okay. And then the final paragraph of the
11 supplementary information section talks about the fuel logs
12 that we just talked about, correct?

13 A. Yes, sir.

14 Q. Can you read the last sentence of that paragraph?

15 A. "An Inquiry into the logs revealed" -- talking
16 about the fuel logs -- "revealed Sergeant DeValle went
17 several days between refueling on multiple occasions, which
18 is consistent with his statements that he would remain at
19 his residence while on duty."

20 Q. Okay. Now, I believe you earlier testified that
21 you're not called upon to make any recommendation about the
22 discipline to be taken against a member. Is that --

23 A. No, sir. Absolutely not.

24 Q. Are y'all called upon to make a conclusion of any
25 sort?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 166

1 A. No, sir.

2 Q. Okay. So, really, it's just a report of the
3 investigation that you performed as -- as Exhibit 8. It's
4 just a report of the steps that you took, correct?

5 A. This is a report of the steps we took and what we
6 found, and attached to it is all the documents that
7 supported what we looked at and what we found.

8 Q. Okay. And where does it go after you-all get done
9 with a report of --

10 A. Once this --

11 Q. -- investigation?

12 A. -- was completed, the report, the -- all the
13 supplementary information, transcripts of the interviews,
14 and everything associated with this case, performance
15 evaluations provided by the district -- everything that was
16 part of this packet is turned into the unit commander of
17 Internal Affairs, which would have been Captain Evans by
18 Lieutenant -- Lieutenant Clark would have submitted it to
19 Captain Evans.

20 Q. Okay. And what does Captain -- what would Captain
21 Evans --

22 A. Captain Evans --

23 Q. -- do with --

24 A. -- would review it. He would -- it was customary
25 for him to read the report, read the transcripts, review the

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 167

1 case to make sure the report reflected accurately our
2 summations, reflected accurately the interviews, and make
3 sure all documentation was present, to --

4 We -- we're involved in it. We write it, and we
5 know it, so it's good for a third person to read it and be
6 -- he may see something that doesn't make sense or doesn't
7 read right. He would make corrections -- grammatical
8 errors, spelling errors. He would submit that back to us
9 for any corrections. If he thought there was something that
10 needed to be followed through a little bit more, he would
11 instruct us, say, "Go back and look at this a little more in
12 depth."

13 Q. Uh-huh.

14 A. But the way we operated, we were in constant
15 communication on a daily basis. Captain Evans knew where we
16 were in the investigation, what steps we were taking.
17 Discussions of what we need to look at and look at more were
18 done throughout the investigation and not held till the end
19 of the report. Captain Evans was very involved in the case,
20 as he -- as he was all cases.

21 But once Captain Evans approved the report and
22 Internal Affairs was officially done with the investigation,
23 Captain Evans would deliver the report to the director of
24 Professional Standards; which at that time was Major Joe
25 Cotton.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 168

1 Q. Okay. Now, do you know when this report of
2 investigation, the HP-721, was finally completed and all the
3 documents compiled?

4 A. I do not.

5 Q. Okay.

6 A. I was no longer Internal Affairs when this case
7 was finalized.

8 Q. When this investigation report was finalized?

9 A. Well, the whole packet. This report was
10 finalized. I --

11 Q. Okay.

12 A. -- finalized this one, but the whole packet when
13 it was submitted was after my tenure at Internal Affairs.

14 Q. Okay. Let -- so let me ask you this: What --
15 what events occur -- occurred in November of 2016 that might
16 have changed your role?

17 A. The North Carolina gubernatorial election.

18 Q. Okay. And what effect did that have on your role
19 in Highway Patrol?

20 A. Customary when a new governor comes in, especially
21 of a different political party, there's administrative
22 changes. That's the norm. That's expected. It was
23 expected in this case in -- in 2016, early 2017 as well.

24 We -- we initiated this investigation under
25 Colonel Grey, at Colonel Grey's direction. However, during

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 169

1 the course of this investigation, Colonel Grey was relieved
2 of his duties, a new command staff came in, and this case
3 was picked up and followed up on by the current command
4 staff.

5 Q. Okay. Do you know whether you and Lieutenant
6 Clark submitted this initial investigation report to Captain
7 Evans or to the new administration?

8 A. We did. We submitted the original 721, report of
9 investigation, to Captain Evans, and it was submitted to
10 Major Cotton. And that report was submitted to Colonel
11 Grey.

12 Q. Okay. What happened after that?

13 A. My understanding is that Colonel Grey was not
14 allowed to make decisions, personnel decisions, until after
15 the inauguration. And after -- and that was at the orders
16 of the Secretary of Crime -- Secretary of Public Safety.
17 And as we know now, Secretary Perry was replaced by
18 Secretary Hooks, Colonel Grey was replaced by then acting
19 commander Lieutenant Colonel Ward, and I believe initially
20 it was under Lieutenant Colonel Ward's direction that as --
21 in his role as acting commander, that this case was
22 revisited.

23 Q. Okay. Who -- who became the new captain and
24 major --

25 A. Captain Evans --

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 170

1 Q. -- involved?

2 A. -- was -- was transferred. Lieutenant Clark was
3 transferred. Ultimately myself and First Sergeant Parks
4 were transferred. Lieutenant -- Captain Wingo, James Wingo,
5 came in to be the new unit commander of Internal Affairs.
6 And Major Brian Regan was appointed to be the new director
7 of Professional Standards.

8 Q. Okay. I believe you talked about at some point
9 you were asked to do some additional investigation. Is that
10 correct?

11 A. We were.

12 Q. Okay. Let me direct your attention --

13 MR. McINNES: And before I go there, I guess I
14 need to move to enter into evidence Exhibit 8 and all of the
15 exhibits thereto, which would be A through O.

16 THE COURT: I believe you skipped M -- N.

17 (Pause in proceedings.)

18 BY MR. McINNES:

19 Q. Okay. Let me just ask you to refer to Exhibit 8N.

20 A. Yes, sir.

21 Q. What was that document?

22 A. This is a memorandum from Major Puvis [phonetic],
23 who was the director of support services at the time, over
24 the personnel section, memorandum to Captain Holmes, who was
25 the Troop C commander. And this was the directive to place

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 171

1 Sergeant DeValle on administrative duty, relieving him of --
2 of normal duties and placing him on admin duty --

3 Q. Okay.

4 A. -- which is customary in cases.

5 (Respondent's Exhibit Number 8N was identified
6 for the record.)

7 BY MR. McINNES:

8 Q. Okay.

9 MR. McINNES: We would renew our request to admit
10 Exhibit 8 and all of the Exhibits A through O into the
11 record at this time.

12 THE COURT: Any objection?

13 MR. HENLINE: Just briefly, Your Honor. I'd like
14 to be heard on a couple of the items. On -- Your Honor, on
15 8B, I would object to that document coming in. I know
16 there's testimony given on it, but it contains a lot more
17 than that. And if you compare it to 8L, which is the letter
18 that came from WRAL and was given to Mr. DeValle, who
19 obtained -- gave it to Internal Affairs, that anonymous
20 letter supposedly came through somebody in our command --
21 the Patrol's command staff, who is yet unknown or unnamed.
22 But if you look, the dates don't match up.

23 THE COURT: Right now, as far as I'm concerned, it
24 came from a window off the street --

25 MR. HENLINE: An anonymous source.

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 172

1 THE COURT: -- so --

2 MR. HENLINE: And, Your Honor, the dates don't
3 match up. The WRAL letter says -- first date starts at
4 9/30, and this one starts at 9/28.

5 THE COURT: Yeah.

6 MR. HENLINE: I don't think this letter came from
7 WRAL. I -- and I don't know where it came from. I have
8 concerns about the -- it would be multiple levels of hearsay
9 and the validity of this document.

10 THE COURT: Well --

11 MR. McINNES: Your Honor, if I may, I guess what
12 was testified to was how this document was used in the
13 investigation and how it was -- these dates were used to
14 investigate particular dates and to compare the BEACON to
15 the -- to the CAD to the HP-201s. And it's not offered for
16 the truth of the matter asserted. It is offered to
17 demonstrate the investigative process that the Internal
18 Affairs went through.

19 MR. HENLINE: And, Your Honor, my argument would
20 be 403, that it's highly prejudicial because there's
21 unreliable information in here that goes above and beyond
22 that information.

23 THE COURT: And I'll give that --

24 MR. HENLINE: I don't object to the testimony.

25 THE COURT: I'll give that information the

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 173

1 appropriate weight, and does in some regard point toward the
2 -- or give him some grounds of things to look at. And so to
3 the degree that it's not substantiated by that particular
4 exhibit, then it'll get no weight.

5 MR. HENLINE: Yes, sir.

6 THE COURT: But --

7 MR. HENLINE: Yes, sir.

8 THE COURT: -- I'll give the --

9 MR. HENLINE: And the only other objection I'd
10 have is to 8M, the media reports, Your Honor. I don't think
11 there's a foundational basis for those --

12 THE COURT: It was not --

13 MR. HENLINE: -- to come in as hearsay.

14 THE COURT: -- but --

15 MR. McINNES: Your Honor, I -- I don't really
16 object to that not being entered into --

17 THE COURT: All right.

18 MR. McINNES: -- to evidence.

19 MR. HENLINE: And -- and any other thing, I'm not
20 in objection to, Your Honor.

21 THE COURT: Pardon me?

22 MR. HENLINE: The remainders, I'm not in objection
23 to.

24 THE COURT: Okay.

25 (Pause in proceedings.)

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 174

1 MR. McINNES: Okay.

2 THE COURT: Hold on --

3 MR. McINNES: If I may?

4 THE COURT: Hold on one second.

5 MR. McINNES: Oh, I'm sorry.

6 (Pause in proceedings.)

7 THE COURT: All right. They're all admitted, with
8 the exception of N [sic].

9 (Respondent's Exhibit Number 8, Exhibit
10 Numbers 8A through 8L, as well as Exhibit
11 Numbers 8N and 8O, were received into
12 evidence.)

13 BY MR. McINNES:

14 Q. All right. First Sergeant Sawyer, we were
15 beginning to talk about a request for additional
16 investigation that -- let me ask you: What do you recall
17 about a request for further investigation?

18 A. Like I say, it was a new command staff or a new --
19 new IA captain, new Professional Standards director, new
20 acting commander, who were not familiar with this case.
21 They read our report, and through their reading it,
22 reviewing the report, they had some questions of their own
23 they wanted to just revisit and tie up so everything would
24 be clear in their mind.

25 Q. Okay. And let me refer you to Respondent's

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 175

1 Exhibit Number 9, behind Tab 9, and ask you if you can
2 identify that document, sir.

3 A. I can. This is the HP-721, our report of
4 investigation. It's indicated that this is a supplementary
5 investigation to the original.

6 (Respondent's Exhibit Number 9 was identified
7 for the record.)

8 BY MR. McINNES:

9 Q. Okay. And if you'd turn to the second page. What
10 does this -- what -- what does this additional investigation
11 refer to?

12 A. The new command staff wanted us to focus -- in the
13 original investigation, was -- we were not -- there was no
14 allegation of Sergeant DeValle being untruthful or a
15 truthfulness issue. However, during the course of the
16 investigation, some issues were -- or statements were deemed
17 by the command staff to warrant further investigation into
18 the truthfulness of either the matter or statements given by
19 -- by one or more people. So additional allegation of
20 truthfulness was added, and we -- we focused additional
21 interviews directed toward truthfulness in addition to tying
22 up loose ends with the residency issues that we've already
23 discussed.

24 Q. Okay. And let me -- let me refer you back to
25 Exhibit 3, Tab 3, and the first page of that exhibit, which

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 176

1 is the service memo. Do you see that, sir?

2 A. Yes, sir.

3 Q. Okay. Do you see the paragraph that begins "You
4 are to inform"?

5 A. Yes, sir.

6 Q. You see that? What does that sentence say?

7 THE COURT: Which exhibit are you on, three?

8 MR. McINNES: Exhibit 3, Your Honor.

9 THE COURT: Okay. And which page?

10 MR. McINNES: First -- first page.

11 THE COURT: All right. Go ahead.

12 A. The paragraph beginning "You are to inform,"
13 correct?

14 BY MR. McINNES:

15 Q. Uh-huh. Correct.

16 A. "You are to inform Sergeant DeValle that this
17 investigation is not limited to these specific
18 allegations but may extend to other sections of
19 the Highway Patrol Code of Conduct revealed by
20 this investigation."

21 Q. Okay. And is it normal that an investigation will
22 go in directions that are not foreseen initially?

23 A. Absolutely.

24 Q. Okay. And is that Exhibit 3 adequate notice to
25 that particular member?

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 177

1 A. Correct.

2 Q. Okay. All right. So what did y'all do when you
3 were asked to look into some other things?

4 A. We reinterviewed Captain Morton. He had been
5 promoted. He was actually captain by this time, which is
6 indicated on the 721. It's Captain Morton. Again,
7 interviewed Lieutenant Finney and First Sergeant Burton and
8 Sergeant DeValle.

9 Q. Okay. With respect to Sergeant DeValle, was there
10 any -- were there any kind of additional findings based on
11 his reinterview? Take your time if you need to.

12 (Pause in proceedings.)

13 A. I don't recall anything new. The focus -- as I
14 recall, the focus of this reinterview here was, one, with
15 Captain Holmes to clearly identify what his direction was to
16 Sergeant DeValle in their meeting sometime earlier, and then
17 specifically ask Sergeant DeValle about not complying with
18 Captain Holmes' directive, and then to focus on the time
19 that Lieutenant Morton was at DeValle's residence versus the
20 time that Sergeant DeValle allegedly checked off utilizing
21 his MDC.

22 Q. Okay.

23 A. And that was the emphasis of looking at the
24 truthfulness of Sergeant DeValle's statements regarding when
25 he checked off in relation to speaking with Lieutenant

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 178

1 Morton.

2 Q. In any of his interviews did Sergeant DeValle say
3 that he was working from home?

4 (Pause in proceedings.)

5 A. Yes.

6 Q. Okay. What did he say?

7 A. "Sergeant DeValle assured investigators that when
8 he was home and working from his residence he was
9 working and involved in the business of the
10 Highway Patrol" --

11 THE COURT: Where --

12 A. -- "not taking" --

13 THE COURT: Where are you reading from --

14 THE WITNESS: I'm sorry.

15 THE COURT: -- now?

16 THE WITNESS: Page 4 of 6 on the supplemental
17 investigation.

18 THE COURT: All right.

19 THE WITNESS: On the second full paragraph, third
20 paragraph down, I guess, beginning "Sergeant DeValle
21 assured."

22 A. He said he was not -- when he was home, he was not
23 taking a hot bath or just hanging out. And they were quotes
24 of Sergeant DeValle.

25 "Sergeant DeValle acknowledged that policy

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 179

1 requires members to be in their duty station and
2 that there's no policy that allows members to work
3 -- perform job tasks from outside their duty
4 station. Sergeant DeValle explained that it was
5 very rare that he would remain at his residence
6 and work from home and would often -- and it would
7 often be due to unusual circumstances."

8 BY MR. McINNES:

9 Q. Okay. Let me direct you to page 5 of 6 and the
10 third paragraph on that page that begins "Sergeant DeValle
11 stated."

12 A. All right. I'm sorry. I was continuing to read.
13 That last sentence of that same paragraph --

14 Q. Oh.

15 A. -- also adds to that.

16 "He stated he would work from his residence on
17 occasion and would respond to e-mails, return
18 telephone calls, or do work on his computer while
19 still at his residence."

20 Q. Uh-huh.

21 A. I apologize; I was continuing reading that
22 paragraph.

23 Q. Okay. Did -- 5 of 6 --

24 A. Yes, sir.

25 Q. -- the third paragraph in, did he indicate that he

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 180

1 had contacted Paul Nelson?

2 A. He did.

3 Q. Who is Paul Nelson?

4 A. Paul Nelson is the smartest man on the Highway
5 Patrol. He is -- works the Technical Service Unit, TSU,
6 which he's the computer programmer. Anything to do with the
7 CAD and computer networking, programming, he is -- he is the
8 man to do that.

9 Q. And why would Sergeant DeValle contact him?

10 A. Sergeant DeValle indicated to us that he contacted
11 Paul Nelson to see if -- if he was able -- if Paul Nelson
12 was able to go into his e-mail through the server, through
13 the e-mail server, which is housed there at TSU, to pull out
14 any e-mails or anything that he did on his MDT -- MDC on
15 these dates for the purpose of helping him to recall what he
16 was doing those days, perhaps if he had a e-mail that he
17 sent to a trooper about something that would help him
18 recall, "Okay, on this date, this was what I was doing."
19 And he indicated that was his purpose on that.

20 Q. Did he indicate that Mr. Nelson was any assistance
21 in that?

22 A. Sergeant DeValle provided to Internal Affairs no
23 e-mails or no documentation or indicated there was nothing
24 found by Nelson that improved his recollection on those
25 dates in question. Only one e-mail was found on those dates

Rodney W. Sawyer

Direct/McInnes

Vol. 1, P. 181

1 in question, and that was the e-mail that -- that was sent
2 by Sergeant DeValle on October 14th.

3 Q. Okay. And if you look down at the bottom of page
4 4 -- 5 of 6, it says that the supporting documents -- and it
5 looks like the only supporting documents are the e-mail sent
6 from Sergeant DeValle's MDC. Do you see that, sir?

7 A. Yes, sir.

8 Q. Okay. And then attached at the end, here, are a
9 couple of pages in color that look like they're from pages
10 of a CBS Fantasy Football League. Do you see that, sir?

11 A. Yes, sir, I do.

12 Q. Now, when it says "e-mails," what -- it -- were
13 you aware of any e-mails other than these e-mails that are
14 attached to this supplementary investigation?

15 A. No, sir. I'm not aware of any e-mail that --
16 other than these two provided.

17 Q. Okay. Do you know what those e-mails are about,
18 sir?

19 A. One is referring to his Fantasy Football League,
20 and the other is the e-mail that he sent to troop
21 headquarters.

22 Q. Okay. What is the e-mail about troop head -- he
23 sent to troop headquarters?

24 A. The message is cut off. You'll see that.
25 Something about mobile field force. MFF is mobile field

Rodney W. Sawyer

Direct/McInnes

Vol. I, P. 182

1 force 2016, SOP, which is special overtime project.
2 Entries, I'm assuming, had been entered -- it's what's cut
3 off -- has been entered for Trooper Fowler and Trooper
4 Sanders.

5 Q. Okay. All right.

6 A. And that's just a notification e-mail saying that
7 he had entered SOP time for those members.

8 Q. And who did you turn this -- let me -- let me back
9 up a little -- a second and go to the first page of
10 Respondent's Exhibit Number 9 and ask you who the
11 investigators were on this supplemental investigation.

12 A. These interviews were conducted in March of 2017.
13 The new command staff was in place. Captain Evans had be --
14 and Lieutenant Clark had both been reassigned. Myself and
15 First Sergeant Parks remained in Internal Affairs for about
16 four weeks to work as a transition with the -- with the new
17 staff. And it was during this time that myself and then
18 First Sergeant Parks conducted this interview.

19 Q. Okay.

20 A. We were the only two there that had any experience
21 doing -- and conducting interviews, and they -- they wanted
22 us to -- to conduct these interviews and to help with that
23 transition process.

24 Q. Okay. And do you know who this supplemental
25 report was provided to?

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 183

1 A. This was submitted once myself and First Sergeant
2 Parks were done with it, it was submitted to Captain Wingo.

3 Q. Okay. All right. Let me back up one second. You
4 talked about Mr. DeValle admitted that he would travel to
5 his home for lunch breaks. Do you know whether or not First
6 Sergeant Burton approved those -- that travel to his home?

7 A. I do not.

8 Q. But that is not according to policy, correct?

9 A. One of the stipulations of residing outside of
10 your duty station is that you cannot return to your
11 residence during your shift for meal.

12 Q. Okay. All right.

13 MR. McINNES: That's all the questions I have at
14 this time, Your Honor.

15 THE COURT: All right. Cross-examination?

16 MR. HENLINE: Yes, sir.

17 CROSS-EXAMINATION BY MR. HENLINE:

18 Q. First Sergeant, earlier you'd testified -- and
19 this is going back to Exhibit 4, which said Mr. DeValle had
20 admitted, at the bottom of the page --

21 A. Yes, sir.

22 Q. -- to -- admitted that there was allegation of
23 violation of the rules. At -- at that point in time, the
24 only thing he formally had been accused of is the residency
25 violation. Is that correct?

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 184

1 A. Correct. That was the -- what we were
2 investigating, his violation of E.9 --

3 Q. Yes, sir.

4 A. -- the residency policy.

5 Q. Okay. At that point in time, truthfulness or
6 untruthfulness, neglect of duty had not been presented to
7 him as far as making an admission. Is that correct?

8 A. That's correct. We were not specifically looking
9 at that, yes, sir.

10 Q. Okay. And earlier you were talking about issue --
11 issues of Giglio?

12 A. Yes, sir.

13 Q. Does the Highway Patrol have the authority to
14 declare anybody Giglio-impaired, or would that be more of a
15 -- a judge's or a district attorney's determination?

16 A. It's my understanding that would come from a -- a
17 prosecutor or -- or from a judge.

18 Q. Okay. But I would assume that the Patrol is
19 concerned that that could be an issue. Is that correct? Is
20 that what --

21 A. Absolutely. Testifying --

22 Q. Okay. That's what you're --

23 A. -- would be a key --

24 Q. -- testifying to?

25 A. -- function of a trooper, so that would be a great

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 185

1 concern to Patrol if a trooper was unable to testify in
2 court.

3 Q. Okay. Did anyone ever contact the Wayne County
4 district attorney where Sergeant DeValle was working to --
5 to see if he would make a determination?

6 A. Not that I'm aware of.

7 Q. Okay. Are you aware of any judicial official or
8 district attorney who's ever rendered Mr. DeValle Giglio-
9 impaired over this matter?

10 A. Not that I am aware of.

11 Q. Okay. And earlier you were discussing the 10-86,
12 10-87, and it's in policy that's not compensable time,
13 correct?

14 A. Correct.

15 Q. But if you're not actually traveling to a
16 district, you wouldn't be 10-86, 10-87, would you?

17 A. If you resided inside the county of your assigned
18 duty station, there would be no need to engage in authorized
19 travel --

20 Q. Yes, sir.

21 A. -- to your duty station, because you'd already be
22 there.

23 Q. Yes, sir.

24 A. So there would be no need to check 10-86, 10-87.

25 Q. Right. But let's say, you know, if you were

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 186

1 assigned to in-service school for a week at the training
2 academy, you would not be subjected to the 10-86, 10-87
3 parameters. Even though you reside in another county,
4 you're authorized to be there, so you're not going to be
5 under 10-86, 10-87, correct?

6 A. If it's for work-related purposes, most of that
7 time, in my opinion, would be 10-41 time. If you're
8 traveling --

9 Q. Okay.

10 A. -- to in-service or traveling across the state to
11 me -- as I traveled from my duty station to here, you know,
12 that was 10-41 time.

13 Q. Yes, sir.

14 A. A supervisor can grant you permission to operate
15 your patrol vehicle while off duty.

16 Q. Yes, sir.

17 A. And if you're off duty while operating your patrol
18 vehicle, that's when you would utilize the 10-86, 10-87 --

19 Q. Yes, sir.

20 A. -- because that time is not compensable.

21 Q. Would it -- would it be -- I guess the way the
22 policy's structured is to make somebody aware that if they
23 reside out of the county and they work in another county,
24 that when they do report to their duty station they cannot
25 be compensated for the time that they're traveling from

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 187

1 their house to their county line, correct?

2 A. Correct. And that would be the -- why it would be
3 indicated in the CAD.

4 Q. Correct. Okay.

5 A. And in case a member rode up on something or
6 something happened during that time --

7 Q. Yes, sir.

8 A. -- he would have authorization to -- to be in his
9 car, in uniform, outside his duty station --

10 Q. Yes, sir.

11 A. -- while not being on duty.

12 Q. Yes, sir. Okay. And the truthfulness policy, it
13 mentions willful violations. Is that correct?

14 A. I would have to look at it. I believe so.

15 Q. It's Exhibit 8, if you could refer back to it.
16 There -- well, maybe it's --

17 (Pause in proceedings.)

18 A. It says:

19 "Member shall be truthful when completing all
20 written and oral communications, reports, and
21 testimony. No member shall willfully report any
22 inaccurate, false, improper, or misleading
23 information."

24 Q. Okay.

25 A. "Willfully" is in that, yes, sir.

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 188

1 Q. So -- so with truthfulness, we're looking at
2 willful, "You know better," "You shouldn't have done this,"
3 "You know you're intending to deceive someone in the
4 information you're reporting." Would that be correct?

5 A. That would certainly be included in truthfulness,
6 yes, sir.

7 Q. Okay. Is there anything kind of outside of that
8 you think would be willful?

9 MR. McINNES: Objection to a legal conclusion.

10 THE COURT: Overruled.

11 A. I believe there -- there -- there could be a
12 difference in a mistake and --

13 BY MR. HENLINE:

14 Q. Yes, sir.

15 A. -- being untruthful. If you do not recall or mis-
16 recall events, you're not necessarily untruthful. However,
17 patterns of behavior or patterns of anything over time could
18 -- could show even though maybe not the intent was there,
19 but over time could, in my mind, show a willful neglect to
20 do something accurate, which led to misinformation, which
21 would -- could easily lead to truthfulness [verbatim].

22 Q. Okay. And when Mr. DeValle was being questioned
23 about where he was on specific dates, that was the first
24 date before Internal Affairs -- would that have been
25 November 16th?

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 189

1 A. Our first interview with --

2 Q. Yes, sir.

3 A. -- DeValle?

4 Q. The allegation arose November 11th. Is that
5 correct?

6 A. Correct. We received allegation -- the command
7 staff received the allegation on the 11th. The formal
8 complaint was filed on the 14th. DeValle was -- Sergeant
9 DeValle was interviewed on the 15th.

10 Q. Oh, the 15th. Okay. So -- and some of these
11 allegations are going back to the latter part of September,
12 up through about the middle of October? Would that be
13 correct?

14 A. Those were -- those were dates that were provided
15 to us --

16 Q. Yes, sir. That's the dates you were specifically
17 looking at, though, correct?

18 A. Those dates and record were the ones that we were
19 specifically focused on.

20 Q. Okay. And so the dates we're focusing on are
21 probably at least two weeks to maybe four weeks in the past?

22 A. From the middle, end of September --

23 Q. Yes, sir.

24 A. -- through November 11th.

25 Q. Yes, sir. Okay. And do you think that played a

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 190

1 role in Sergeant DeValle not knowing specifically where he
2 was on those dates? Could that have played a role in it,
3 and not being able to give you a specific place he was and
4 an act he was performing on a specific date?

5 A. Sergeant DeValle indicated that -- or stated to us
6 that he -- he could not recall specifically what he did on
7 those dates --

8 Q. Yes, sir.

9 A. -- some of which were a month, month and a half,
10 close to two months earlier.

11 Q. Yes, sir. Okay. With the mobile data computers,
12 if you're checking 10-41, 10-42, were you -- were you ever
13 issued one?

14 A. Yes, sir.

15 Q. Are there periods of time where you're
16 transmitting and it's not going through, the -- for whatever
17 reason, it just keeps cycling and the transmission's not
18 being --

19 A. In my experience, usually that's due to a
20 connectivity issue.

21 Q. Yes, sir.

22 A. It's worked on wireless Internet. If you're not
23 connected to the Internet wirelessly or hard-lined in or --
24 we're all issued -- each member is issued a MiFi wireless --

25 Q. Yes, sir.

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 191

1 A. -- device that you connect to, which allows you to
2 -- to electronically correspond with the CAD for that --

3 Q. Yes, sir.

4 A. -- for that purpose.

5 Q. Yes, sir.

6 A. If you're not connected or you have no Internet
7 service, then of course you would not be able to access the
8 CAD --

9 Q. Yes, sir.

10 A. -- based on --

11 Q. So that would prohibit --

12 A. It would rely on -- connectivity would be a factor
13 in that.

14 Q. Would that give you some difficulty, then, in
15 checking 10-41, 10-42, if you're having a connectivity
16 issue?

17 A. If you were not connected, then you would not be
18 able to.

19 Q. Yes, sir. And earlier we -- we were talking about
20 the date from September 30th, 2016, to October 1st, 2016,
21 which is when communications center checked Sergeant DeValle
22 off at 0424?

23 (Pause in proceedings.)

24 A. And I recall discussing that. If you could point
25 me to where that is, I'll be --

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 192

1 Q. That -- I'm sorry; that's what I'm trying to find
2 myself.

3 A. -- better to speak to it.

4 Q. I apologize. If I would have made better notes
5 than I did on --

6 (Pause in proceedings from 3:27 p.m. until
7 3:28:19 p.m.)

8 Q. Okay. It is in 8 -- 8G, and I believe that would
9 be the second page in 8G. It's the page with the CAD 10-41,
10 10-42 logs.

11 A. Yes, sir.

12 Q. And if we refer to -- I know you had testified on
13 10/1 he was checked off at 0424 by the communications
14 center, correct? That's showing the registry number 7487
15 out to the side?

16 A. What -- what page are you on, again? I'm sorry?

17 Q. It -- I'm sorry. Your --

18 A. 8G.

19 Q. 8G, the second page.

20 A. The second page.

21 Q. Yes, sir. And if you go down four lines from the
22 top --

23 A. Okay. 16-10-02-0424. I --

24 Q. Yes, sir --

25 A. Yes, sir.

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 193

1 Q. -- Registry Number 7487. That's what you were
2 testifying earlier to that the communications center checked
3 him off at 0424 hours. Is that correct?

4 A. Correct.

5 Q. And the day before that, going up one line, would
6 be 9/30/2016, correct?

7 A. Correct.

8 Q. And it shows him 10-41 at?

9 A. On 9/30, the CAD indicated that he was 10-41 at
10 1604.

11 Q. Okay. And that would be 4:04 p.m.?

12 A. That would be 4:04 p.m.

13 Q. Yes, sir. It does not show a 10-42 time --

14 A. Does not --

15 Q. -- does it?

16 A. -- show a 10-42. 10-42 time -- the next 10-42
17 time would be October 2nd.

18 Q. Okay. And that's when the communications center
19 checked him off?

20 A. Whoever 7487 is --

21 Q. Okay.

22 A. -- the registry number --

23 Q. So --

24 A. -- that corresponds with.

25 Q. -- if he -- if something happened, say, a

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 194

1 connectivity issue, issue with communications, that he was
2 not checked off, he would've stayed 10-41 that entire time
3 on the CAD, correct? It was --

4 A. His duty status would not have changed unless it
5 was changed by --

6 Q. Correct.

7 A. -- someone.

8 Q. So when he checked -- was checked 10-42 by
9 communications on the 2nd, it was because he was still 10-41
10 in the CAD from 9/30. Is that correct?

11 A. I --

12 Q. Because if he checked 10-41, he would've had --

13 A. Right. I -- there's a --

14 Q. -- to have checked 10-41 --

15 A. -- extended period of time, almost two days in
16 there. I --

17 Q. Yes, sir.

18 A. I see that. I -- I don't know. Sergeant DeValle
19 may have called on the radio --

20 Q. Yes, sir.

21 A. -- and checked 10-42 --

22 Q. Yes, sir.

23 A. -- by radio and the comm center -- telecommuter
24 [verbatim] 7487 signed him off. Or she might've just --
25 he's been on two days --

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 195

1 Q. Right.

2 A. -- looked at his schedule: "He's supposed to be
3 off; I'm going to clear him off the CAD."

4 Q. Yes, sir.

5 A. I'm out -- I -- I don't know the reason why,
6 but --

7 Q. Yes, sir. But --

8 A. -- he was checked off at that time, though.

9 Q. -- if he had, say, checked 10-41 on 9/30 and
10 failed to check 10-42 --

11 A. He would still be 10-41.

12 Q. -- he would still be 10-41 on into October 1st.
13 So if he came out and tried to check on and he was still
14 checked on from a previous day, it wouldn't have let him
15 check on, would it?

16 A. If he was showing 10-41 in the CAD and he
17 attempted to sign on 10-41 again, it would send him a
18 message saying that "unit is not 10-42."

19 Q. Okay.

20 A. It give him a -- like, a error message.

21 Q. Correct.

22 A. You can't check 10-41 or --

23 Q. If you're already --

24 A. Because you already are 10-41.

25 Q. Yes, sir. Yes, sir.

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 196

1 A. It would -- he would get --

2 Q. Yes, sir.

3 A. It would tell him that.

4 Q. Okay. All right. And earlier you were testifying
5 to the HP-740 that Trooper -- or Sergeant DeValle had filed.
6 Wasn't it --

7 A. Yes, sir.

8 Q. -- kind of a common practice that Patrol employees
9 would have a 740 on file and it may or may not be an
10 accurate reflection of where they lived?

11 A. All members residing outside their duty station
12 were required to have a HP-740 filed.

13 Q. Yes, sir.

14 A. And that 740 -- it would be the responsibility of
15 the supervisor to confirm that the residence listed on the
16 740 was in compliance with policy.

17 Q. Yes, sir. But isn't that a common practice,
18 though, that does occur where members of the patrol have
19 filed one --

20 A. I can't speak to --

21 Q. -- just to comply with policy?

22 A. -- common practice. I -- every one I've been
23 involved in was been assured to be correct. That would be
24 based on the thoroughness of a supervisor.

25 Q. Right. But you -- were you ever made privilege to

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 197

1 the state auditor's report?

2 A. Which one?

3 Q. The one they did -- I was -- I believe it was
4 right after Colonel McNeill was appointed to the colonel's
5 position?

6 A. Yes, sir, I'm familiar with the auditor's report.

7 Q. Okay. And wasn't it found within the auditor's
8 report that there were members of the command staff who were
9 not living where they stated they were living; their 740s
10 were not accurate?

11 A. That was one of the items in the auditor's report.

12 Q. Yes, sir.

13 A. Yes, sir.

14 Q. And if you could refer back to 8C. This is -- the
15 document you were testifying to shows Trooper DeValle's
16 stated address at that point in time, correct?

17 A. Yes, sir.

18 Q. Okay. And the document under 8D shows -- you
19 testified that it showed that the member's residing outside
20 the county and it had an "N" as a designation to indicate he
21 did not live in it and that he actually lived in Johnston
22 County?

23 A. Correct. That's what that would indicate --

24 Q. Yes, sir. And this --

25 A. -- in the CAD.

1 Q. This -- these two printouts would be on the same,
2 I guess, screen or the same -- they're tied together? Would
3 that be a correct way to put that, that they're all part of
4 the same --

5 A. The first -- the 8C would be the initial employee
6 inquiry screen.

7 Q. Yes, sir.

8 A. To get to the second page, you would have to key
9 in the function to look at the personal history statement --

10 Q. Yes, sir.

11 A. -- and which this would be found in -- within
12 that.

13 Q. Okay.

14 A. Personal history statement comprised about eight
15 pages, eight to nine --

16 Q. Yes, sir.

17 A. -- pages.

18 Q. Yes, sir.

19 A. And this is page 4 or 5 --

20 Q. Yes, sir.

21 A. -- maybe of that, five or six of --

22 Q. Yes, sir.

23 A. -- of that eight-page report.

24 Q. Yes, sir. The person who enters this information,
25 does it leave a signature of the registry number of who

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 199

1 entered it?

2 A. It leaves a signature of the last to update it,
3 last --

4 Q. Last person to update it.

5 A. -- member who went in to update it.

6 Q. Correct. And where would that registry number be
7 located at?

8 A. That would be, I believe, on the bottom of the
9 first page.

10 Q. Okay. Bottom right? Is that correct?

11 A. Mine is very faded.

12 Q. And I'm looking at 8 -- I'm sorry; I'm looking at
13 8C.

14 A. I'm looking at 8C, but the -- I -- it's on that
15 front page somewhere, be in -- entered -- last entered,
16 updated by -- it'd be a registry number.

17 Q. Okay. And does this one show 1576 in that bottom
18 right?

19 A. I see the 1576, but I can't see what's -- what's
20 before it on my copy.

21 Q. Yes, sir.

22 A. You might have a better copy than I do.

23 Q. I think I probably do.

24 A. Okay. I see the 1576. And I would --

25 Q. Yes, sir.

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 200

1 A. I'd agree that's where -- my recollection is it's
2 located there somewhere.

3 Q. Yes, sir.

4 A. Last entered by.

5 Q. And Sergeant DeValle's registry number's at the
6 very top, in the middle, 1966?

7 A. Yes, sir.

8 Q. Oh, so this information is updated by another
9 member of the Patrol?

10 A. Some part of this was updated.

11 Q. Yes, sir. Okay.

12 A. It doesn't really necessarily tell you what
13 information was updated.

14 Q. Correct. Yes. It just indicates there's --
15 update's been made --

16 A. Made.

17 Q. -- other than by Sergeant DeValle to that account?

18 A. Correct.

19 Q. Yes, sir. Okay.

20 (Pause in proceedings.)

21 MR. HENLINE: And it's -- sorry, Your Honor. I'm
22 having to read back through my notes to try to find my
23 questions in here.

24 (Pause in proceedings.)

25 BY MR. HENLINE:

Rodney W. Sawyer

Cross/Henline

Vol. 1, P. 201

1 Q. Okay. And First Sergeant Sawyer, going back to
2 the downloads that were attempted to be made of Sergeant
3 DeValle's camera, that was -- did you testify it was
4 November 28th when that was attempted?

5 (Pause in proceedings.)

6 A. Yes, it was November 28th.

7 Q. Okay. And so this was 17 days following the
8 allegations that were made against him and Lieutenant Morton
9 came to his home? Is that correct? Which was --

10 A. Seven --

11 Q. -- November 11th?

12 A. Yes, sir, 17.

13 Q. Okay. And the dates in question had already been
14 overwritten. Is that right?

15 A. That -- that's one presumption on our part.
16 Our --

17 Q. Okay.

18 A. They were not found to be on the hard drive.

19 Q. Right.

20 A. And knowing how the camera operates, it's logical
21 to think that the camera overwrote itself -- over --

22 Q. Does it time-stamp the screen to give you a date
23 of when --

24 A. A triggered event is.

25 Q. A triggered event does?

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 202

1 A. A -- a triggered event -- if you turn -- activate
2 the blue lights and it activates the camera, that's
3 considered a triggered event.

4 Q. Yes, sir.

5 A. You're doing something that's causing the camera
6 to activate. And that is time-stamped. It's got the
7 member's name, call number, date, whether there's lights,
8 siren on, whatever it is. Non-triggered events, that
9 continuous recording, is not necessarily time-stamped on the
10 screen.

11 Q. Yes, sir.

12 A. However, if it's in the download, you can go back
13 and look at the download and look at those dates. We
14 attempted to look at the hard drive for those dates, but
15 none of those dates existed on the hard drive, so there was
16 nothing to look at for those dates.

17 Q. Yes, sir.

18 A. Everything was past --

19 Q. Well -- and one of the questions that comes to my
20 mind just in -- in trying to understand it is, if it's not
21 time-stamped, how would anybody know the dates of a non-
22 triggered event? Is there a --

23 A. Well, it --

24 Q. -- a way to know that?

25 A. -- it is time-stamped in -- in the hard drive.

Rodney W. Sawyer

Cross/Henline

Vol. 1, P. 203

1 Q. In the hard drive? Okay.

2 A. In a hard -- if you --

3 Q. Okay.

4 A. If you pulled it off the hard drive --

5 Q. Yes, sir.

6 A. -- then it would be time-stamped. You have to set
7 parameters in there for it to look at.

8 Q. Okay.

9 A. And you would enter into the camera system "I want
10 to look at" -- "I want to clip out video from this date and
11 time to this date and time." And if the camera has that
12 footage, it will clip that out for you.

13 Q. Yes, sir.

14 A. When we attempted to do that, there was no video
15 for the dates that we set.

16 Q. Okay. Were the dates that you were able to
17 obtain, were they after November 11th? Because he did work,
18 what, three days after that before he was put on leave?

19 (Pause in proceedings.)

20 A. Utilizing the dates from the document we received
21 anonymously.

22 Q. Yes, sir.

23 A. The last date on that was October 6th, from what I
24 see here.

25 Q. Yes, sir. But --

1 A. So we looked on his camera from the earliest date,
2 which was 9/28, to October 6th.

3 Q. Yes, sir.

4 A. And there was no video found for those dates and
5 those times, on those dates, between those dates, before
6 those dates, indicating that all that video had been
7 overwritten by itself. I cannot recall what -- the earliest
8 video footage we had --

9 Q. Right.

10 A. -- on his camera.

11 Q. Okay.

12 A. But it was after -- it would have been after the
13 date of October 6th.

14 Q. Okay. And -- and that was kind of where my
15 question --

16 A. The complaint --

17 Q. -- was going.

18 A. -- didn't come in till 11/11. We knew there was
19 no video from 11/11 because --

20 Q. Yes, sir.

21 A. -- Sergeant DeValle admitted he did not --

22 Q. Yes, sir.

23 A. -- go anywhere that day, so --

24 Q. Yes, sir.

25 A. -- there was -- we didn't look at 11/11.

Rodney W. Sawyer

Cross/Henline

Vol. 1, P. 205

1 Q. Right.

2 A. But going back from September and October,
3 Sergeant DeValle worked and operated his patrol vehicle --

4 Q. Yes, sir.

5 A. -- for a month and a half almost.

6 Q. Yes, sir.

7 A. And during that time, we feel like the video was
8 just overwritten, so there was nothing there to pull off the
9 hard drive for these specific dates, which is what we were
10 looking at.

11 Q. Yes, sir. So to get there, he would've had to
12 start the car up, move the car, to get that --

13 A. Every time --

14 Q. -- overwrite --

15 A. -- he started the car up, the camera starts
16 recording.

17 Q. Yes, sir.

18 A. And when he cuts the car off, it continues to
19 record for whatever the setting is --

20 Q. Yes, sir.

21 A. -- programmed in there by the manufacturer.

22 Q. Yes, sir.

23 A. I can't recall what it is, but --

24 Q. Okay. Is that footage -- is it downloaded
25 anywhere else, on a server, any -- anything like that?

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 206

1 A. The camera?

2 Q. Yes, sir.

3 A. The camera -- it -- it downloads to a server
4 system.

5 Q. Yes, sir.

6 A. Each district office has a server. The camera is
7 programmed to download to that specific server.

8 Q. Yes, sir.

9 A. And then that server can be accessed at different
10 points. I'm -- like, at my office, I'm restricted. I can
11 only see --

12 Q. Yes, sir.

13 A. -- video downloaded to my server, which is my
14 people. Each district -- I can't pull up video footage of a
15 trooper in the mountains --

16 Q. Yes, sir.

17 A. -- at my server. However, in Raleigh, certain
18 people have those capabilities.

19 Q. Yes, sir.

20 A. So that video footage could be viewed if it was
21 downloaded to the server.

22 Q. Yes, sir. And would that server show the download
23 -- or -- and let me back up on the question here. If
24 Sergeant DeValle drives to Wayne County, pulls into the
25 office, does it automatically download it, or does he have

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 207

1 to download it?

2 A. If everything's working like it's supposed to, it
3 should automatically download.

4 Q. Okay.

5 A. When he pulls up to the office within so many feet
6 of the -- the server --

7 Q. Yes, sir.

8 A. -- the antenna that's mounted --

9 Q. Yes, sir.

10 A. -- on the side of the office, I believe it is in
11 most districts -- there's an antenna mounted to the side of
12 the office.

13 Q. Yes, sir.

14 A. Once he gets close enough proximity, it will
15 connect and it will download automatically.

16 Q. Yes, sir. Would First Sergeant Burton have access
17 to that system?

18 A. The district first sergeant in each district
19 should have access to his server at his office.

20 Q. Do you know if anybody ever inquired with First
21 Sergeant Burton to see the downloads which would've shown
22 the times his car arrived at the office?

23 A. I -- I don't recall.

24 Q. And you'd testified earlier that when the new
25 command staff came in it was their request that this case be

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 208

1 -- and I think your words were "revisited"?

2 A. Yes. Once Lieutenant Colonel Ward was appointed
3 as the acting commander --

4 Q. Yes, sir.

5 A. -- he gave instruction through Captain Wingo -- or
6 through Major Regan to Captain Wingo, and ultimately to us,
7 to revisit a few issues.

8 Q. Yes, sir. And that was specifically with the
9 truthfulness as --

10 A. They --

11 Q. Correct?

12 A. -- wanted us to look at truthfulness issues --

13 Q. Yes, sir.

14 A. -- and tie up loose ends with residency.

15 Q. And from the first time that you interviewed
16 Sergeant DeValle to when it was revisited, did he stay
17 consistent with what he had said as far as his memory and
18 what he could recall as far as dates, times, locations, as
19 far as whether he went to the office or not?

20 A. Yes, sir. As far as I recall, his initial
21 interview concerning his dates was consistent with his
22 subsequent interviews regarding those dates.

23 Q. And I know -- I know earlier you had testified
24 that Sergeant DeValle was not able to provide e-mail -- or,
25 I guess, any e-mails when he was reinterviewed. Was this

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 209

1 after the command staff had asked that be -- I guess,
2 revisited as far as the truthfulness issue? Was that when
3 you were talking about he was not able to provide the
4 e-mails to IA?

5 A. Yes. At some point during -- when we revisited --
6 -- did the supplemental investigations when --

7 Q. Yes, sir.

8 A. -- Sergeant DeValle provided those --

9 Q. Yes, sir. And we're going --

10 A. -- e-mails.

11 Q. -- at this point from November of 2016 to about
12 March of 2017. Is that correct?

13 A. I'm -- I'm sorry?

14 Q. I'm sorry. We're looking at when they -- this was
15 revisited and he was able -- unable to provide any
16 documentation --

17 A. Uh-huh.

18 Q. -- to Internal Affairs about the e-mails. This is
19 March of 2017, so we're, what, four months past when this --

20 A. Yes.

21 Q. -- initial --

22 A. We included the initial investigation sometime
23 early December --

24 Q. Yes, sir.

25 A. -- prior to Christmas.

Rodney W. Sawyer

Cross/Henline

Vol. 1, P. 210

1 Q. Yes, sir.

2 A. And then this was revisited after the
3 inauguration, sometime in --

4 Q. Okay.

5 A. -- February, into March --

6 Q. Okay.

7 A. -- best I can recollect.

8 Q. Yes, sir.

9 (Pause in proceedings.)

10 Q. And, First Sergeant, did your opinion change at
11 any point in time as far as what you felt like you saw in
12 the first interviews to the last interviews as far as
13 Mr. DeValle's candor with Internal Affairs?

14 A. What do you mean by "candor"?

15 Q. I mean his -- his openness to answer the questions
16 to what he expressed to his best ability.

17 A. Sergeant DeValle consistently said that he could
18 not recall specifically what he did on specific dates.

19 Q. Yes, sir.

20 A. However, he did repeatedly generalize that there
21 were times and dates that he checked on for duty and did not
22 report.

23 Q. Yes, sir. So he --

24 A. That remained consistent --

25 Q. Yes, sir.

Rodney W. Sawyer

Cross/Henline

Vol. I, P. 211

1 A. -- if that's your question.

2 Q. Yes, sir, it was.

3 A. He was.

4 (Pause in proceedings from 3:46:40 p.m. until
5 3:47:10 p.m.)

6 Q. And, First Sergeant, one last question: The --
7 the facts you documented in the first part of your
8 investigation, did those facts ever change at any point in
9 time as far as what you had documented to the second
10 investigation --

11 A. No --

12 Q. -- after --

13 A. -- not that I'm aware of. I never saw the --
14 until today the finished product.

15 Q. Yes, sir.

16 A. Because it was completed after I left. So I
17 don't --

18 Q. Yes, sir.

19 A. -- I don't know what was done after I left IA.

20 Q. Yes, sir. Yes, sir.

21 MR. HENLINE: That -- that would be all the
22 questions, Your Honor.

23 THE COURT: Redirect?

24 MR. McINNES: Yes, Your Honor, just a few
25 questions.

1 REDIRECT EXAMINATION BY MR. McINNES:

2 Q. First Sergeant Sawyer, let me ask you this: You
3 were asked a few questions by Mr. Henline about the signing
4 on and off, registering 10-41, 10-42, and whether or not you
5 could -- you know, whether or not there might be issues with
6 signing on or off. Do you remember that?

7 A. Yes, sir.

8 Q. And you said, well, it's possible that there --
9 when you're trying to sign on with your MDC, it's possible
10 there might be some connectivity issues.

11 A. Correct.

12 Q. Right? And I believe you also testified that each
13 person who is given an MDC has a MiFi, correct?

14 A. Correct.

15 Q. Explain for us what a MiFi is.

16 A. A MiFi is a small wireless router which is -- it
17 has a security code in it, and we hook -- we connect to it
18 with our computers just like you would any other wireless
19 Wi-Fi, except the passwords are -- are connected to where
20 the public doesn't have access to -- to our Internet
21 connectivity and it runs through a VPN and -- just like a
22 private wireless network would.

23 Q. Okay. Does -- and that uses a cellular signal.
24 Is that correct?

25 A. Yes, sir.

Rodney W. Sawyer

Redirect/McInnes

Vol. 1, P. 213

1 Q. Okay. And so in order to have connectivity
2 problems, you would have to be out of cellular --

3 A. Correct.

4 Q. -- signal.

5 A. It'd work off of cellular towers, much like a cell
6 phone.

7 Q. Okay. Have you ever lived in Raleigh?

8 A. I lived outside of Raleigh. Franklin County.

9 Q. Where?

10 A. Franklin --

11 Q. Okay.

12 A. -- County.

13 Q. Now, let me ask you this: On your MDC, if you
14 were trying to get connectivity through your MiFi, can you
15 see a little signal that shows whether or not you've got
16 good connectivity through the MiFi and -- and onto wherever
17 you're trying to get to?

18 A. Well, the MiFi itself has a screen that will tell
19 you whether or not you're connected, with bars --

20 Q. Okay.

21 A. -- like -- much like a cell phone, your strength
22 of signal.

23 Q. Okay.

24 A. If you -- If you're not connected, I believe it
25 says "not connected," or "disconnected," or "out of" -- no,

Rodney W. Sawyer

Redirect/McInnes

Vol. I, P. 214

1 what -- something there to indicate it's not connected. On
2 your desktop --

3 Q. Uh-huh.

4 A. -- much like any computer, down at the bottom you
5 have those same bars if you're connected, show your strength
6 signal, whether you're connected to a wireless device and
7 the strength signal.

8 Q. Uh-huh.

9 A. But in the actual specific application that we use
10 to access the CAD, there's a light -- it's an icon down
11 there that turns green or red. And if it's connected to the
12 server, it should show green. If you're not connected, it
13 will be red.

14 And then you have those -- like we talked about
15 earlier -- those audible cues letting you know the message
16 is sent and that the message was received.

17 Q. Right.

18 A. If it was sent and received, it will flash up on
19 the -- on the screen, showing that it's connected.

20 Q. Okay. So let me see if I get this right. To
21 determine -- the ways that you can determine whether or not
22 you're logged in to the system and you're getting good
23 signal, number one, there's bars on the MiFi, correct?

24 A. Correct.

25 Q. Number two, there's bars on your bar of your MDC,

Rodney W. Sawyer

Redirect/McInnes

Vol. 1, P. 215

1 correct?

2 A. Correct.

3 Q. Number three, for the CAD system themselves,
4 there's a red or green, and it's -- if you're logged in to
5 the CAD system, it's green; if you're not, it's red.

6 A. Correct.

7 Q. Right? Oh, and by the way, the MiFi also says if
8 you're not connected, right?

9 A. If it's not connected, it will say, you know -- it
10 will say that -- there's a word. I can't think of the word
11 that pops up that indicates it's not connected.

12 Q. Okay. Number four, you should get the audible
13 tones, depending on how you have it set, for successfully
14 sending the message to the CAD, correct?

15 A. Much like alert tones on your phone for a --

16 Q. Uh-huh.

17 A. -- text, yes, sir.

18 Q. Right. And do you get -- then get a visual on
19 your MDC saying "Message successfully sent"?

20 A. Yes.

21 Q. And then you get an audible back from the
22 computer --

23 A. When it come -- when that message comes back that
24 it successfully changed your duty status or whatever it --
25 that audible is consistent -- is simultaneous with that.

1 Q. Okay. And then you get a message that goes to
2 your MDC saying "Successfully received," and "Your status is
3 now" --
4 A. Changed.
5 Q. -- "10-41"?
6 A. Correct.
7 Q. Or do -- you know, if you're signing on 10-41?
8 A. Correct.
9 Q. Okay.
10 A. That can -- then you can conduct a query as
11 well --
12 Q. Okay.
13 A. -- to confirm that it went through.
14 Q. Okay. Now, if you go through all those steps and
15 you figure out you still can't get through to the CAD
16 system, you can still go out to your patrol car, assuming
17 you're at home -- go out to your control car and -- your
18 patrol car and call in to the communications center,
19 correct?
20 A. Correct.
21 Q. I mean, not assuming you're --
22 A. If you don't have connectivity, MDT [verbatim] is
23 not working, then --
24 Q. Right.
25 A. -- you pick up your radio mike and check 10-41 --

Rodney W. Sawyer

Redirect/McInnes

Vol. I, P. 217

1 Q. Okay.

2 A. -- through the comm center.

3 Q. Okay. Mr. Henline asked you some questions about
4 Respondent's Exhibit Number 9 and specifically the camera.
5 And if you refer to Respondent's Exhibit Number 9 and page 5
6 out of 6, the -- oh, I'm sorry. It's -- it was the initial
7 report. I'm sorry.

8 So that would be Exhibit 8. Exhibit 8, 7 out of
9 8, supplementary information, correct?

10 A. Yes, sir.

11 Q. Okay. And let me just understand. The camera
12 turns on and begins recording the moment the engine is
13 ignited. Is that correct?

14 A. Once you engage the ignition in the patrol vehicle
15 and the patrol vehicle power -- the vehicle powers up, it --
16 the camera powers up with the vehicle.

17 Q. Okay. And then it continues recording even after
18 the vehicle powers off for a certain amount of time,
19 depending on what the setting is, correct?

20 A. Yes. Correct.

21 Q. Okay. If the patrol car does not power up at all
22 on a given day, the camera would not record, correct?

23 A. Correct.

24 Q. Okay. Mr. Henline asked you about some of the
25 e-mails, and he asked you -- you know, right around the time

Rodney W. Sawyer

Redirect/McInnes

Vol. 1, P. 218

1 he was asking you about e-mails, he said, you know, the
2 beginning of the investigation was early November 2016, and
3 you guys did follow-up in March 2017. Is that correct?

4 A. That's correct.

5 Q. Now, if I can ask you to refer to Exhibit Number 9
6 and ask you to refer to the last two pages, which appear to
7 demonstrate e-mails, one the Fantasy Football, one to the
8 troop. Do you see the date that appears to be indicated on
9 the Fantasy e-mail regarding the -- the -- on the e-mail
10 regarding the Fantasy Football? You see the -- a date up at
11 the top?

12 A. 10/14/2016.

13 Q. October 14, 2016, correct?

14 A. Yes, sir.

15 Q. All right. And then the second one is -- do you
16 -- do you see a date there?

17 A. I see September 26th, 2016.

18 Q. Okay. And that's before November, correct?

19 A. Yes, sir.

20 Q. Okay.

21 MR. McINNES: That's all the questions I have at
22 this time, Your Honor.

23 THE COURT: Recross?

24 MR. HENLINE: No further on cross, Your Honor --
25 recross, Your Honor.

Rodney W. Sawyer

Examination by the Court

Vol. I, P. 219

1 EXAMINATION BY THE COURT:

2 Q. I have a couple for you. Just to make sure I'm
3 not oversimplifying things, but the whole deal with the
4 camera is, the long and short of it is, there's nothing that
5 you can discern one way or the other about that camera. It
6 -- you can't look at what y'all found or saw and make --
7 come to any conclusion that Sergeant DeValle did anything to
8 tamper with that camera or was any way responsible for there
9 -- not showing anything. Is that -- is that fair to say?

10 A. No, sir. It's no evidence or no --

11 Q. Just got recorded over.

12 A. -- thing that the camera was tampered with in any
13 way, no, sir.

14 Q. It just simply recorded over itself. Right?

15 A. On the hard -- the hard drive, yes, sir. The hard
16 drive will re-loop and record over itself inside the car,
17 which is what we looked at --

18 Q. Right.

19 A. -- in the car.

20 Q. So, again, with -- with what y'all saw, there's
21 nothing to imply one way or the other whether he was working
22 on --

23 A. Correct.

24 Q. -- specific dates, the dates in question, or not.

25 A. Correct.

Rodney W. Sawyer

Examination by the Court

Vol. I, P. 220

1 Q. Okay. And Giglio -- is it fair to say that that's
2 rare for a district attorney or --

3 A. It's --

4 Q. -- judge at any level to declare someone Giglio-
5 impaired?

6 A. I will say it happens more often than what I ever
7 thought it did. I'm familiar with several cases in which
8 members of Patrol and other members of law enforcement being
9 declared Giglio-impaired.

10 Q. Have already been declared Giglio --

11 A. Yes, sir.

12 Q. Can you give me a rough estimate of -- just of the
13 circumstances?

14 A. I know one specific case that we worked while
15 Internal Affairs --

16 Q. I know of one myself.

17 A. I know of one active case right now where it
18 hasn't been declared yet, but we're anticipating that very,
19 very shortly.

20 Q. Any other ones that have actually been declared
21 that you know of?

22 A. Not from firsthand experience. Those two.

23 Q. And it's not something that's done lightly, is it?

24 A. No, sir. I wouldn't think so.

25 Q. And is it fair to say that troopers are sometimes

Rodney W. Sawyer

Examination by the Court

Vol. I, P. 221

1 sanctioned any number of times for being less than truthful?

2 A. Be fair to say they're sanctioned?

3 Q. Yeah. Like a written warning or a -- some less
4 sanction than being terminated.

5 A. I don't know that I'm qualified to speak to
6 that --

7 Q. To your --

8 A. -- 'cause I wouldn't --

9 Q. To your knowledge.

10 A. To my knowledge? To my knowledge and from my
11 Internal Affairs experience, members who were investigated
12 for -- for one thing or another and truthfulness was the
13 issue and truthfulness was substantiated -- untruthfulness
14 was substantiated, the member was dismissed --

15 Q. Yeah.

16 A. -- for truthfulness.

17 Q. But how many of those were Giglio-impaired?

18 A. Oh, I -- no, I wouldn't say many of those were.

19 Q. Yeah, but they --

20 A. I think the --

21 Q. -- they kind of --

22 A. What -- the cases we have Giglio-impaired arise
23 out of the court system, generally --

24 Q. Right.

25 A. -- from some case --

Rodney W. Sawyer

Examination by the Court

Vol. 1, P. 222

1 Q. It's generally --

2 A. -- either by a prosecutor --

3 Q. -- when you have got --

4 A. -- or a judge.

5 Q. -- on the witness stand, put your hand on the
6 Bible, and sworn to tell the truth and then didn't.

7 A. Correct.

8 Q. That's usually where that comes from, correct?

9 A. I would say correct. The case I'm familiar with
10 dealt with affidavits, pleadings --

11 Q. Still --

12 A. -- swearing to affidavits outside the actual court
13 but --

14 Q. But still under oath.

15 A. Still under oath, yes, sir.

16 Q. Yeah. And there's not been anybody looking at
17 Sergeant DeValle to try to have him declared Giglio-
18 impaired, is it?

19 A. Not that I am aware of.

20 Q. Yeah. Looking at -- I guess it starts with
21 Exhibit 5 -- excuse me, Exhibit 3. This is the original
22 notice of the complaint, right?

23 A. Yes, sir.

24 Q. And Sergeant DeValle signed that, dating it
25 11/14/16?

Rodney W. Sawyer

Examination by the Court

Vol. I, P. 223

1 A. Yes, sir.

2 Q. And then he initialed or signed on Exhibits 5
3 through 7, I think, as well, which were all part of that
4 same notice.

5 A. They were attached to that memorandum, yes, sir.

6 Q. Yeah. And so he got all of them and he signed --
7 but each document that was attached, he signed individually.

8 A. Yes, sir, correct.

9 Q. Now, is he signing saying that he is acknowledging
10 that he read all of those and understood all of those, or is
11 he just signing saying he's got the papers in his hand and
12 so he's got notice of what all is being given to him?

13 A. He is given a copy of these with the instruction
14 to -- to review them and understand them --

15 Q. Yeah. He's -- he doesn't stand there and read
16 each of them as he's being handed those -- those --

17 A. Yes, sir.

18 Q. He reads each of them?

19 A. If they're served at Internal Affairs, we would
20 read the service memorandum verbatim, read the personnel
21 complaint verbatim; "Here's your copy of the policy. You
22 need to read these, pay special attention to" -- we always
23 draw out truthfulness, obstruction, and conduct under
24 investigation, and then the actual policy that they're being
25 charged with --

1 Q. Uh-huh.

2 A. -- special attention to that, but they're
3 responsible for reading the whole policy and sign, dating,
4 stating they received it, that they've read it, that they
5 understand it.

6 Q. Okay. So they actually read it in your presence.

7 A. Yes, sir. Well, we'll put them in a room --

8 Q. Okay.

9 A. -- and -- and give that to them. And then on the
10 script, prior to the interview, we confirm that on that
11 checklist. On Exhibit 4 that is confirmed again.

12 Q. On Exhibit 4? Oh, yeah, that's -- that's the
13 script part, right?

14 A. The script. And those documents that are checked
15 as boxes referring to all those attachments with the service
16 memorandum.

17 Q. Okay.

18 (Pause in proceedings.)

19 THE COURT: All right. I think that's all the
20 questions I have. Mr. McInnes, anything based solely on the
21 questions that I've asked?

22 MR. McINNES: No, Your Honor.

23 MR. HENLINE: No, Your Honor.

24 THE COURT: Mr. Henline? All right. Thank you,
25 sir.

James Wingo

Direct/Lusic

Vol. 1, P. 225

1 THE WITNESS: Yes, sir.

2 (The witness left the stand.)

3 MS. LUSIC: Your Honor, I'm just going to get the
4 two other witnesses. They're outside.

5 THE COURT: Pardon me?

6 MS. LUSIC: I'm sorry. I'm just going to get two
7 other witnesses. They're directly outside the courtroom.

8 THE COURT: Oh, okay.

9 MR. HENLINE: Your Honor, could we take a short
10 recess for a bathroom break?

11 THE COURT: We'll be in recess for eight minutes.

12 MR. HENLINE: Yes, sir.

13 (The recording stopped at 4:04:22 p.m.)

14 (The recording restarted at 4:12:11 p.m.)

15 MS. LUSIC: ...Wingo to the stand.

16 THE COURT: All right. Place your left hand on
17 the Bible and raise your right.

18 CAPTAIN WINGO: Yes, sir.

19 JAMES WINGO,

20 having been called as a witness for the Respondent, was duly
21 sworn and testified as follows:

22 THE COURT: Thank you, sir. Have a seat, please.

23 DIRECT EXAMINATION BY MS. LUSIC:

24 Q. Can you please state your name for the record?

25 A. Yes. It's James Wingo.

James Wingo

Direct/Lusic

Vol. I, P. 226

1 Q. And what is your current employment situation?

2 A. I'm retired.

3 Q. Prior to your retirement, where were you employed?

4 A. The Highway Patrol, North Carolina.

5 Q. Okay. When did you start with the Highway Patrol?

6 A. I was a police officer from 1994. I started with
7 the Patrol in November of '94.

8 Q. Okay. Can you give us a overview of the positions
9 you've held with the Patrol?

10 A. I was a trooper in Yancey, a trooper in Buncombe,
11 and then I made line sergeant and went to Richmond and
12 Scotland, transferred back to Henderson, Polk, Transylvania,
13 then a first sergeant in McDowell and Rutherford, and then I
14 was a lieutenant in Troop G, which is 17 western counties,
15 until March of '17, and I got promoted to captain and was
16 over Internal Affairs.

17 Q. When you joined Internal Affairs, how was the
18 Department structured?

19 A. Lieutenant Colonel Ward was over Major Regan,
20 which was over Professional Standards. I was the captain
21 over Internal Affairs. At the -- at that time, there was
22 two lieutenants, two first sergeants, a court reporter, and
23 a secretary. Of course, one of the lieutenants was gone,
24 the court reporter was out sick, and the secretary's
25 position was vacant. So it was very sparse.

James Wingo

Direct/Lusic

Vol. I, P. 227

1 Q. What were your duties in Internal Affairs starting
2 in 2017?

3 A. Well, my duties was to take the case as they come
4 in from the field. I was to classify it, review it, and
5 decide whether it was a case for Internal Affairs to work on
6 or if it was one that was going to be sent back to the
7 field. And then once that was done, once the case in
8 Internal Affairs was completed, I reviewed the case and then
9 forward the case -- make sure all the processes were done,
10 and then forward the case to Major Regan.

11 Q. In your duties, did you ever make recommendations
12 on disciplinary actions?

13 A. No. That's not part of my -- let me take that
14 back. In the internal -- in the cases that was handled in
15 Internal Affairs, that was not part of my process. If the
16 case was handled in the field and then it -- the troop
17 commander in the field will make a recommendation, and then
18 I would make sure that it was in line with everything else,
19 and then I would send it out. But if something was handled
20 in Internal Affairs, the recommendation was made through the
21 major's office.

22 Q. When did you first become involved in an
23 investigation of Sergeant DeValle that started in 2016?

24 A. I was called on the 3rd of March and told to be in
25 Raleigh on the 6th of March, which was a Monday morning.

James Wingo

Direct/Lusic

Vol. I, P. 228

1 So, in looking back at -- I see where some of the follow-up
2 interviews were done on the 23rd and 24th, so it had to be
3 somewhere between the 6th and the 23rd. But this case was
4 given to Major Regan by my predecessor, Captain Evans. And
5 then once I -- once I arrived there, I was told that there
6 needed to be some follow-up. So then that's when it was
7 given back to me. I gave it to Parks and Sawyers [verbatim]
8 to follow up.

9 Q. There is an exhibit binder there. Hold on.
10 Forget that. After the additional investigation was
11 complete, what process did you follow?

12 A. Well, the initial investigation was completed, I
13 -- I guess, and -- and given to Captain Evans, and then it
14 was presented to Major Regan. And then Major Regan handed
15 it back to me because there was some follow-up that needed
16 to be done. So that follow-up was sent out to the first
17 sergeants, and then at that point, once it come back to me,
18 I looked at what they had interviewed and -- and typed up,
19 and then from that point it was hand -- it was delivered
20 back to Major Regan.

21 Q. After -- were you involved in Sergeant DeValle's
22 pre-disciplinary conference?

23 A. No, I was not directly involved in his conference.

24 Q. There is an exhibit notebook up there. It looks
25 like this on the front. Yeah. And if you could turn to Tab

James Wingo

Direct/Lusic

Vol. I, P. 229

1 11 in that exhibit.

2 A. Tab 11. Okay. Yes.

3 Q. What is this document?

4 A. This is the pre-disciplinary conference summary
5 that Major Regan had with Sergeant DeValle. And should be
6 two pages -- yeah, there it is.

7 (Respondent's Exhibit Number 11 was identified
8 for the record.)

9 BY MS. LUSIC:

10 Q. Who authored this document?

11 A. The pre-disciplinary conference is recorded, and
12 then Major Regan come into my office with his notes and the
13 recording. I typed it while he sits there and tells me what
14 -- what to put in it, so --

15 Q. That's the only question I have about that
16 document.

17 A. Okay.

18 Q. Moving on, what role did you play in the EAC
19 hearing on Sergeant DeValle's dismissal?

20 A. I was the Agency representative.

21 Q. And as the Agency representative, what were your
22 duties?

23 A. To explain the case to the administrative -- I
24 mean, to the Employee Advisory Committee.

25 Q. If you could turn to Tab 10 in that exhibit

James Wingo

Direct/Lusic

Vol. I, P. 230

1 binder.

2 A. Okay. Yes.

3 Q. What is this document?

4 A. This is a diagram that myself and Major Regan put
5 together. It basically is a visual summary of information
6 that's in the file, but it was put together so that you can
7 understand it and see it better.

8 (Respondent's Exhibit Number 10 was identified
9 for the record.)

10 BY MS. LUSIC:

11 Q. When you say "in the file," what file are you
12 referring to?

13 A. The Internal Affairs file. This is information in
14 that file.

15 Q. What documents did you look at to put this table
16 together?

17 A. It would have been the 201s, the fuel log that was
18 in the file, I guess the BEACON, and I guess that's about
19 it.

20 Q. Can you talk -- talk to us and tell us about what
21 this table is showing?

22 A. It -- it shows the dates worked over to the left,
23 and of course the hours that were indicated on -- on the
24 HP-201, the hour -- the mileage claimed that was on the
25 HP-201, and from the fuel log, what the mileage of the

James Wingo

Direct/Lusic

Vol. I, P. 231

1 vehicle was on the date that it obtained fuel. Of course,
2 as you can see on the top, it was 61583, and the next time
3 it was obtained was on 10/6 at 61875.

4 Q. Why did you -- why did you put this document
5 together?

6 A. We thought it -- it was a better summary, people
7 could understand this more so than just looking at those
8 fuel logs and trying to put this date with that date. This
9 -- this actually makes it clear as to why the mileage -- I
10 mean, it shows that the mileage is off.

11 Q. The -- you say that this document makes it clear
12 and it shows the mileage is off. What do you mean by "it
13 shows the mileage is off"?

14 A. Oh, okay. Well, if you -- if I direct you to the
15 bottom, here, from Google, it -- it showed that Sergeant
16 DeValle's residence was 43.9 miles one -- one way, 87.8
17 round trip, to the district office. So during this time
18 period above, these 15 days, he would have traveled at least
19 702 miles driving straight to the office.

20 Just from his residence in Wake County to the
21 county line would have been 35 miles one way. So if he just
22 drove to the line each shift, he should have had a minimum
23 of 560 miles. And of course we're showing eight days for
24 292 miles that -- that was entered into the SAP fuel.

25 Q. If you could turn to Tab 80 (eight-oh) in this

James Wingo

Direct/Lusic

Vol. I, P. 232

1 binder.

2 A. Okay.

3 Q. What is this document?

4 A. This is a printout from our logistics -- from the
5 SAP system.

6 Q. And is this -- and this is a printout for whose
7 vehicle?

8 A. Oh, the -- oh, yes. I'm sorry. This is a
9 printout for Sergeant DeValle's vehicle.

10 Q. How -- how is information entered into the SAP
11 system?

12 A. There's a couple of different ways. If you have a
13 Pro Key which -- they're all this way now, my understanding,
14 almost all of them -- that if you have a Pro Key, you enter
15 the key in and it automatically downloads all your data from
16 the vehicle. And then you're just typing in what
17 information from the gas that you get or who the driver is.

18 During this time period, I believe there was still
19 some that you actually wrote down the day -- the date, the
20 hour, your name, the vehicle identification number, how much
21 gas you got, how much oil you got, the license tag number --
22 I think that was it -- and maybe the PIN of the vehicle. So
23 that's -- you wrote it down in a log. And where I was at,
24 usually the secretary would take that information at the end
25 of the day and enter it. Sometimes the sergeant would take

James Wingo

Direct/Lusic

Vol. 1, P. 233

1 it and enter it into the SAP.

2 Q. And just to clarify, the mileage was off, so one
3 of the things that you would hand-write down, the mileage of
4 your car?

5 A. Yes. Uh-huh.

6 Q. Why does the SAP system track mileage?

7 A. I guess if you ask garage personnel, they'd have a
8 different reasoning, but I -- my understanding was so that
9 they could track for maintenance of the vehicle. The
10 vehicle had to be oil-changed and serviced every 6,000
11 miles. And so that was my understanding, to see what the
12 performance of the vehicle is, how much oil it used, how
13 much gas it took, versus the mileage. That -- that's my
14 understanding of it.

15 Q. Who -- who is responsible for taking cars to get
16 serviced every 6,000 miles?

17 A. The -- who -- the member, whoever the member is.

18 Q. If he forgot to bring it in for service, what
19 would happen?

20 A. Well, there's a plus-or-minus 500, and usually
21 what would happen is the garage personnel sees this screen
22 with the mileage, and they will call and say, "Hey, your car
23 is getting close. You need to bring it on in." I
24 personally don't know if anybody's ever missed it. If they
25 have, I have no idea what's happened, other than just say,

James Wingo

Direct/Lusic

Vol. I, P. 234

1 "Hey, bring it on in," you know.

2 Q. Turning back to Exhibit 10 --

3 A. Uh-huh.

4 Q. -- how is this document relevant to the
5 investigation of Sergeant DeValle and his dismissal?

6 A. I feel it was relevant due to the fact -- we had
7 the WRAL stuff. You had Sergeant DeValle saying that there
8 was some times that he stayed at home and some times he
9 wasn't, and he wasn't sure. And then you had some
10 inconsistencies on paperwork. So, to me, this document gave
11 weight to everything else that had been talked about.

12 Q. What weight did it give to those other documents?

13 A. Well, to me, it -- it verified that the other
14 things happened, because there's no way that you could've
15 been at work if your vehicle didn't have the mileage on it.

16 Q. How many days does -- based on the dates presented
17 in this chart and 9/22/16 through 10/6/16, how many days did
18 Sergeant DeValle claim he worked during this time?

19 A. Eight days.

20 Q. And what does the mileage tell us about how many
21 days he -- he drove his car to the Wayne County line?

22 A. Well, the mileage shows 292 miles. I don't know
23 where all he went, but it -- it shows 292 miles during that
24 eight-day period.

25 Q. How many days could he have driven in with that

James Wingo

Cross/Henline

Vol. I, P. 235

1 mileage?

2 A. I don't know. You -- you take eight, divide it
3 292, that's 36.5 miles a day, so really maybe -- I don't
4 know how many times he could have got to the line, but, I
5 mean, obviously, he couldn't have went to the line and back
6 eight times. I mean, it just couldn't have happened.

7 Q. And the mileage that you compared it to, it's the
8 mileage to the county line. You've also compared the
9 mileage to the district office. This doesn't account for
10 any preventative patrol or any patrols --

11 A. Right. That was --

12 Q. -- around the county.

13 A. That was what Major Regan pulled up, and that was
14 a direct -- the quickest route in Google at the time, was
15 the quickest route. We worked on this together.

16 MS. LUSIC: That's all my questions for now.

17 THE COURT: Questions?

18 MR. HENLINE: Yes, sir, Your Honor.

19 CROSS-EXAMINATION BY MR. HENLINE:

20 Q. Good evening, Captain Wingo.

21 A. Hey, sir.

22 Q. The -- the mileage that's entered on the HP-201 in
23 that left column, what is it used for?

24 A. That's a good question. I have no idea.

25 Q. Okay.

James Wingo

Cross/Henline

Vol. I, P. 236

1 A. I -- I know that, you know, at one time when I was
2 there --

3 Q. Yes, sir.

4 A. -- you actually put the mileage down.

5 Q. Yes, sir.

6 A. And then it went away, and now you're just putting
7 the miles that you drive. So I -- I do -- cannot answer
8 that question. I don't know.

9 Q. Okay. But if you put anything in there inaccurate
10 as far as the mileage on there, it's not going to affect,
11 like, the timing for your getting the oil changed to where
12 it would cause --

13 A. No.

14 Q. -- damage to the car --

15 A. No, sir.

16 Q. -- and go over the mileage or anything like that?

17 A. No, sir.

18 Q. Okay. And during this period of time that you and
19 Major Regan had -- had performed -- or prepared these charts
20 with the Google Maps and everything, do you know -- did you
21 guys ever find out from Sergeant DeValle if he drove his own
22 patrol car every day or if he might have had some kind of
23 equipment issue that he might have needed to drive a spare?

24 A. No, sir. This -- this was taken from what was in
25 the case. We -- we didn't have -- I did not have, and I

James Wingo

Cross/Henline

Vol. I, P. 237

1 don't believe Major Regan had, that discussion with Sergeant
2 DeValle.

3 Q. Okay. If he -- if he -- say, like, if he had had
4 a spare car during any portion of that time, how would he --
5 how would he do his mileage for that or --

6 A. It would be assigned to that vehicle --

7 Q. Okay.

8 A. -- to the spare vehicle.

9 Q. But as far as his 201, it -- how would you
10 differentiate between the mileage, say, if he drove his own
11 car Monday and Tuesday, had Wednesday -- Thursday off, the
12 car was put out, and then Friday, Saturday, Sunday he drove
13 a spare? Would he still record the mileage the same and
14 would it differentiate which car it was being driven in?

15 A. No.

16 Q. Okay. And did anybody ever ask him if, during
17 some of that portion of the time, he might had -- whether he
18 was going from his house to the county line during that time
19 or if the car might have been parked at the Smithfield
20 address at some of that time before he was coming back and
21 forth?

22 A. No.

23 Q. Okay. So the -- this estimate would be with a
24 presumption that he's going from Wake County to Wayne County
25 and back and forth, to make --

1 A. Yes, sir.

2 Q. -- the math work out?

3 Okay. And the -- I know you mentioned the WRAL
4 stuff and the inconsistencies on the 201 was kind of why you
5 guys were looking at this. The media had also been kind of
6 on the Patrol about some members of the command staff, and
7 there was some report -- I think it triggered an auditor's
8 report. Are you aware of that auditor's report?

9 A. I'm sorry. Do what now?

10 Q. The state auditor's report? There was a state
11 auditor's --

12 A. Yes, there --

13 Q. -- report done?

14 A. Yes, I remember there was -- I think it was a
15 couple of auditor's reports, yes, sir.

16 Q. Yes, sir. Do you remember any of the details
17 about that, about members of the command staff pretty much
18 doing the same activities, driving back and forth from a
19 duty station that was not what was on their actual 740 and
20 that they were going back and forth?

21 MS. LUSIC: Objection. I'm not sure that
22 characterizes the auditor's report correctly.

23 THE COURT: Overruled. You can tell what you
24 know.

25 A. To be honest with you, I knew that under Colonel

James Wingo

Redirect/Lusic

Vol. I, P. 239

1 Grey there was an investigation, but I -- honestly, I never
2 saw that investigation, didn't know anything about it. It
3 didn't -- it didn't pertain to me.

4 BY MR. HENLINE:

5 Q. Yes, sir. Was there any -- anything that ever
6 came to Internal Affairs' attention that people might have
7 been untruthful to the state auditor?

8 A. No, no, not at all, not in my -- not while I was
9 there. Now, I can't speak, you know, prior to -- to me.
10 But during my time period, nothing about the state auditor's
11 report ever come to my office.

12 Q. Okay. Okay.

13 MR. HENLINE: Nothing further, Your Honor.

14 THE COURT: Redirect?

15 MS. LUSIC: Just a few.

16 REDIRECT EXAMINATION BY MS. LUSIC:

17 Q. When you presented the information about the SAP
18 logs at the EAC hearing, did Sergeant DeValle say that he
19 was in fact driving from Smithfield and that's why it didn't
20 match up?

21 A. I don't -- I don't recall him saying -- I -- I do
22 remember he said something about -- I had in my notes
23 something about him buying gas. And I knew that didn't
24 match up because the mileage would've still had to have been
25 entered. So I knew he said that sometimes he bought his own

James Wingo

Redirect/Lusic

Vol. 1, P. 240

1 gas, but the mileage still would have -- would not have --
2 it just didn't add up.

3 Q. And during the EAC hearing, did -- did he ever
4 mention that the reason the mileage didn't add up was
5 because he had a spare car?

6 A. No. I -- I don't -- I don't recall ever hearing
7 that, no.

8 Q. This information that -- the SAP log and HP-201s,
9 they were included in the investigation -- in the report of
10 investigation that was provided to Sergeant DeValle,
11 correct?

12 A. Yes. This -- this diagram necessarily was not,
13 but the information that all this came from, the data was in
14 that investigation packet, yes, ma'am.

15 Q. Sergeant DeValle has also -- I'll save those
16 questions for -- for Regan.

17 A. Okay.

18 MS. LUSIC: That's all the questions for now.

19 THE COURT: Recross?

20 MR. HENLINE: Nothing, Your Honor.

21 THE COURT: Thank you, Captain.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Any objection to Captain Wingo being
24 released?

25 MR. HENLINE: No objection, Your Honor.

Brian K. Regan

Direct/Lusic

Vol. I, P. 241

1 THE COURT: Thank you, sir. Appreciate you
2 coming.

3 THE WITNESS: Yes, sir. Thank you.

4 THE COURT: Free to go.

5 THE WITNESS: Appreciate it.

6 (The witness left the stand.)

7 MS. LUSIC: The respondent now calls Brian Regan
8 to the stand.

9 BRIAN K. REGAN,
10 having been called as a witness for the Respondent, was duly
11 sworn and testified as follows:

12 THE COURT: Thank you, sir. Have a seat, please.

13 DIRECT EXAMINATION BY MS. LUSIC:

14 Q. Good morning -- or good afternoon. Can you
15 provide your full name for the record?

16 A. Yes. Brian Keith Regan.

17 Q. What is your current employment status?

18 A. I am retired.

19 Q. What was your employment status before retirement?

20 A. I was the major over Professional Standards with
21 the North Carolina State Highway Patrol.

22 Q. Can you provide an overview of your employment
23 with the State Highway Patrol, the positions that you held?

24 A. Yes, ma'am. I was employed in May of 1992 as a
25 trooper. I was promoted to the rank of what we called then

Brian K. Regan

Direct/Lusic

Vol. I, P. 242

1 a "line sergeant" in November of 2000 and assigned to a
2 district. And then I was promoted to the rank of first
3 sergeant February of 2004 and assigned to a district. And
4 then in September of 2008 I was promoted to the rank of
5 lieutenant, assigned to a troop headquarters. And then
6 April of 2012, I was promoted to the rank of captain and
7 assigned to a troop headquarters. And then in no -- March
8 1st of 2017, I was promoted to the rank of major.

9 Q. And can you say it again? As a major, what was
10 your position within the State Highway Patrol?

11 A. I was the director of Professional Standards.

12 Q. What were your duties as the director of
13 Professional Standards?

14 A. Within Professional Standards, we had the Internal
15 Affairs Unit, and then we also had inspections and
16 compliance and policy development, and later accreditation
17 was added.

18 Q. What role did you play in Internal -- in
19 supervising Internal Affairs?

20 A. Of course, Captain Wingo reported to me. And
21 anytime an investigation through Internal Affairs had been
22 conducted and complete, he would pass that investigation off
23 to me for my review.

24 Q. How did you first become involved in the DeValle
25 investigation?

Brian K. Regan

Direct/Lusic

Vol. I, P. 243

1 A. When I was promoted to the rank of major on March
2 1st, 2017, that was the very first thing I got handed, was
3 his completed file.

4 Q. Actually, I'm going to take one step backwards. I
5 should have asked you: Once an internal investigation is
6 handed off to you from -- from Wingo, what was your role at
7 that point?

8 A. I reviewed the file, the investigation. I could
9 recommend whether some follow-up investigation needed to be
10 completed. Once I felt like it was completed, then I made a
11 recommendation to Lieutenant Colonel Ward on the discipline.

12 Q. So, then, let's go back to when you became
13 involved in the DeValle investigation. After you became
14 involved, was an additional investigation made by Internal
15 Affairs?

16 A. When I first received it, then Captain Evans was
17 the unit commander of Internal Affairs. So, again, that was
18 the first file he handed me when I was promoted to the rank
19 of major.

20 So I took the file and -- and of course went
21 through it and read it. And -- and, ultimately, there were
22 some follow-up interviews conducted somewhere toward the end
23 of March, I believe. I don't know the exact date, but
24 (pause) --

25 Q. After the supplemental investigation was completed

Brian K. Regan

Direct/Lusic

Vol. I, P. 244

1 and Wingo handed it back to you, did you make a
2 recommendation?

3 A. I did.

4 Q. Who did you make the recommendation to?

5 A. To Lieutenant Colonel Vic Ward.

6 Q. What was your recommendation?

7 A. For Sergeant DeValle to be dismissed.

8 Q. Why did you make that recommendation?

9 A. Well, looking at the totality of the
10 investigation, you know, going back from Sergeant DeValle's
11 interaction with Captain Holmes and his conversation with
12 him, reviewing Sergeant Burton's interview where he made
13 some comments where, you know, he did not authorize Sergeant
14 DeValle to work from home, he expected him to be in the
15 county when he was working, then the WRAL stories, of course
16 -- we reviewed that and those dates, then the discrepancies
17 in the HP-201s, the weekly activity sheet, and BEACON time
18 -- and it was just the totality of -- of everything in the
19 investigation.

20 Q. What specifically was the recommendation based on?
21 Which violations?

22 A. It was -- it was all of them.

23 Q. Okay.

24 A. It was -- once untruthfulness was brought in,
25 there -- there's not but one recommendation with that. The

Brian K. Regan

Direct/Lusic

Vol. I, P. 245

1 Patrol has a long history of maintaining its integrity and
2 expecting the integrity of our members. And looking back
3 for consistency, anybody that has been charged with
4 untruthfulness, the outcome has been dismissal.

5 Q. When you say all of -- all of the charges were the
6 basis for the recommendation, at the time that the
7 supplemental report was complete, what were the charges that
8 -- that you remember?

9 A. I can't --

10 Q. Or --

11 A. -- remember. I -- I can't remember exactly. I --
12 I know that there were different policy violations listed,
13 so --

14 Q. So untruthfulness -- you do remember --

15 A. Yes.

16 Q. -- untruthfulness.

17 A. Yes, ma'am.

18 Q. Do you remember neglect of duty?

19 A. Yes, ma'am.

20 Q. Do you remember a residency violation?

21 A. Yes, ma'am.

22 Q. And do you remember insubordination?

23 A. Yes, ma'am.

24 Q. So to you was all -- all four of those.

25 A. Yes, ma'am.

Brian K. Regan

Direct/Lusic

Vol. 1, P. 246

1 Q. Would your recommendation have changed if the
2 insubordination and the residency policy violation were not
3 included in the investigation?

4 A. Not with untruthfulness being there, no, ma'am.

5 Q. Why is truthfulness so important to members of the
6 Highway Patrol?

7 A. Well, again, it goes back to integrity of the
8 organization, but also integrity of the member. The
9 organization and the public has a right to expect that all
10 of my members will be truthful in all their communications,
11 especially, you know, preparing for court, testifying for
12 court, how they obtained evidence and so forth, so it's
13 crucial to the integrity of our member and our organization.

14 Q. And here what was the specific untruthfulness that
15 was revealed?

16 A. If I remember right, it goes back to what he was
17 entering in BEACON and what he was putting on his HP-201, if
18 I'm remembering correct. So it went back to that.

19 Q. Yeah. Could it also have been what he was putting
20 in BEACON and what he was doing in his CAD entry?

21 A. Well, that was tied back to that. His time
22 worked, what he was -- I believe -- for instance, I think
23 the very first date that was in question, I believe -- and
24 again, I'm working off memory here -- that he had checked
25 his self on and off using the MDC at, like, six something in

Brian K. Regan

Direct/Lusic

Vol. I, P. 247

1 the morning, checked on and checked off eight hours later.

2 However, on his HP-201, his weekly report, he
3 showed that he'd worked maybe a 1 P. to 11 P. or something
4 around that, and then showed ten hours worked, and then also
5 entered that ten hours worked into the CAD, which -- I mean
6 into the BEACON -- which means he got paid for ten hours
7 worked. However, the CAD showed that he only worked eight
8 hours, if I'm -- if I'm correct.

9 Q. In addition to the discrepancies with the BEACON
10 entries, CAD entries, the HP-201s, did the investigation
11 find that there were just times he was staying at his
12 residence and not going into duty?

13 A. Yes. And Sergeant DeValle admitted that -- that
14 there were times that he -- I think he used the term "worked
15 from home." He -- he never denied that, that he did that
16 himself. And -- and -- and the investigation revealed that,
17 so.

18 Q. How does that go to untruthfulness?

19 A. Well, again, it goes back to the piece of him
20 entering time that he did not work. I mean, you know,
21 that's inaccurate data entry into the system, and he got
22 paid for ten hours versus where he worked eight, according
23 to the -- the CAD, where he checked his self on and off.
24 The mobile data computers, members can do that themselves.
25 And his registry number, if I'm remembering correct, showed

Brian K. Regan

Direct/Lusic

Vol. I, P. 248

1 up on that specific date that he had checked himself on and
2 off.

3 Q. You're aware that there was a WRAL news story
4 about Sergeant DeValle working from home when he was on
5 duty?

6 A. Yes, ma'am.

7 Q. How did that news story factor into your
8 investigation or your oversight of the investigation and
9 recommendation?

10 A. It didn't influence our oversight -- I mean, it's
11 obviously what brought the -- what started the investigation
12 before I ever took the position I was in. But it -- it
13 didn't influence any while I was there, how we proceeded or
14 -- or what we done.

15 Q. Did you ever feel pressure from your commanding
16 officers to -- because of the WRAL story?

17 A. No, ma'am. I mean, they wanted cases, you know,
18 done, and done in a timely manner, but nothing that -- where
19 they -- you know, they brought up anything about the -- the
20 media side of it or -- or anything, not to me.

21 Q. Going back to the recommendation to dismiss him,
22 can you tell me, how serious does the Highway Patrol take
23 neglect of duty?

24 A. Well, it's -- it's pretty serious. I mean, we
25 expect them -- for what the taxpayers' money is paying them

Brian K. Regan

Direct/Lusic

Vol. I, P. 249

1 to do is what we expect them to do. And -- and to be --
2 especially as a supervisor. We expect them to be available
3 to their members, to, you know, be where they're supposed to
4 be working-wise. So, I mean, we -- we expect them to do
5 what they're getting paid to do.

6 Q. If a supervisor is living outside the county he
7 works in, working from his residence instead of reporting to
8 duty, how does -- how does that affect that State Highway
9 Patrol's ability to pursue its mission?

10 A. Well, obviously, when we're -- we're talking about
11 a sergeant, here. You know, again, we -- we would expect --
12 I say "we." I'm no longer associated with the Patrol, but
13 retired, but the expectation is that they would be in the
14 geographical area that they're responsible for and be able
15 to respond as needed if their troopers needed assistance for
16 some reason -- if there was a fatal crash and they needed to
17 respond to it, if there was a critical incident that took
18 place and they needed to respond to it.

19 And they also, of course, you know, being in a
20 leadership role, they have administrative duties that
21 they're also responsible for, so.

22 Q. You talk about leadership role. If someone is
23 working from his residence, not going on a duty -- you know,
24 what does that -- what kind of leadership does that provide
25 to the troopers that he supervises?

Brian K. Regan

Direct/Lusic

Vol. I, P. 250

1 A. That's poor leadership. I mean, they need to be
2 -- you know, they're -- they're -- in my opinion, they owe
3 their members that they're -- that they lead to be there and
4 available to them, and they should lead by example.

5 Q. Turning now, were you involved in the pre-
6 disciplinary conference for Sergeant DeValle?

7 A. Yes, ma'am.

8 Q. How were you involved in that?

9 A. I handled the pre-disciplinary conference for the
10 organization.

11 Q. Okay. Did Sergeant DeValle receive notice of that
12 conference?

13 A. Yes, ma'am.

14 Q. If you turn to -- in -- in the binders, there --
15 Tab 11, which is Respondent's Exhibit 11.

16 A. Yes, ma'am.

17 Q. What is this?

18 A. This is a summary of pre-disciplinary conference
19 with Sergeant Maurice A. DeValle.

20 Q. Okay. Who -- who typed up this memorandum?

21 A. Captain Wingo.

22 Q. Did you review and approve it?

23 A. Yes, ma'am.

24 Q. What -- can you sort of just give a general
25 overview of what was discussed at the pre-disciplinary

Brian K. Regan

Direct/Lusic

Vol. 1, P. 251

1 conference?

2 A. Well, you know, we start out, we have a script
3 that we read with the member. It's not a -- an interaction-
4 type conference; it's where, you know, we start out, we have
5 a script we read, and then the member does all the talking
6 from then on. I can't -- I couldn't interact with him. I
7 couldn't ask him questions. He couldn't ask me questions.
8 It's really just his opportunity to -- to refute the charges
9 and to give any additional evidence or anything that he
10 wants that -- for Lieutenant Colonel Ward to take into
11 consideration before he made that final decision.

12 Q. Do you recall during the pre-disciplinary
13 conference whether Sergeant DeValle made any admissions
14 about whether or not he was staying at his residence while
15 on duty?

16 A. Just a second, here, to look over this, please.

17 Q. Of course.

18 (Pause in proceedings.)

19 A. Looks like the bottom of the second page he talks
20 about that -- that, you know, he did stay at home, that he
21 did prepare some biannual inspections on October the 6th,
22 2016. And going on to the last page, he did not dispute the
23 fact that his vehicle does -- was at his residence that day,
24 that he had stopped to pick something up.

25 And then let's see. Again, on the next bullet, he

Brian K. Regan

Direct/Lusic

Vol. 1, P. 252

1 -- he said -- he claimed he was working on some biannual
2 inspections, and he gave two troopers' names, also was
3 maintaining some wrecker files. Claimed that, even though
4 he was at home, he was working.

5 Let's see. There's another bullet. I think it's
6 about the fifth one down. Says that, you know, he stated
7 that the policy required him to be in Wayne County but when
8 he was at his residence he was working and executing his
9 duties. So he -- he never denied that -- that, you know,
10 there was times that he did stay at home while he was
11 checked on.

12 Q. And -- and who did this memorandum go to? I know
13 you didn't type it up, but who did it go to?

14 A. To Lieutenant Colonel Vic Ward.

15 Q. What was his role in the dismissal of Sergeant
16 DeValle?

17 A. He's the one that made the final decision as to
18 what action took place. And then -- you know, all I did was
19 make a recommendation. We took no action based on my
20 recommendation. It wasn't until Colonel Ward made a final
21 decision that Internal Affairs would move forward with any
22 action.

23 Q. When you say "final decision," I just want to
24 clarify, that's a final decision for dismissal before an
25 internal grievance process occurs.

Brian K. Regan

Direct/Lusic

Vol. I, P. 253

1 A. Yes, that -- but when he makes that decision,
2 again, that was -- that was the date that -- that the member
3 would be dismissed, would be when his final decision was
4 made, so.

5 Q. In this memorandum -- exactly where it is --
6 sorry. I believe Sergeant DeValle had said that he felt
7 like on days that he couldn't remember something it was
8 turned around to make it seem like he was not denying it and
9 -- or -- or that he was admitting it; if he couldn't deny
10 it, this -- the investigation made it sound like he -- he
11 was admitting it.

12 How do you view Sergeant DeValle's failure to deny
13 that he was on residence for specific dates? What was your
14 take on -- on that?

15 A. Well, I just -- I took it that it -- if it's --
16 you know, most of us have kind of a routine. We know that
17 -- that when we go to work we put a uniform on, we check on
18 when we leave the residence. You know, he didn't -- he
19 never admitted nor denied -- I mean, matter of fact, he
20 admitted that there was times that he stayed at home.

21 It just seemed like this was probably a
22 reoccurrence for him that he probably did on a regular basis
23 instead of being able to ask -- answer the questions that
24 the Internal Affairs investigators were asking related to
25 that. Instead of saying, "Well, this is my normal routine.

Brian K. Regan

Cross/Henline

Vol. 1, P. 254

1 You know, I -- I put my uniform on, I check on, I leave my
2 residence, and I go to Wayne County."

3 You know, it -- I -- I understood it would be hard
4 for him to remember specific dates, you know, when you're a
5 month, two months into something and going back. But I just
6 felt like that through the way he answered the questions,
7 this was a reoccurring thing for him, instead of being able
8 to tell us that, "Hey, every day that I go to work, I put my
9 uniform on, I check on, I go straight to Wayne County
10 unless" -- you know -- you know, he had to go to troop
11 headquarters or something along those lines.

12 MS. LUSIC: Those are all my questions.

13 THE COURT: Cross-examination.

14 MR. HENLINE: Yes, Your Honor.

15 CROSS-EXAMINATION BY MR. HENLINE:

16 Q. Good evening, Mr. Regan.

17 A. Good evening, sir.

18 Q. In the earlier testimony, you were talking about
19 the truth -- untruthfulness allegations?

20 A. Yes, sir.

21 Q. And that was a big one for you, correct?

22 A. Yes, sir.

23 Q. Okay. Do you feel like you -- with the
24 allegations of untruthfulness, that you had no other choice
25 but to recommend dismissal?

Brian K. Regan

Cross/Henline

Vol. 1, P. 255

1 A. Yes, sir.

2 Q. Do you think Lieutenant Colonel Ward concurred
3 with that decision?

4 A. Yes, sir.

5 Q. Okay. And there were some times, I think you
6 said, you felt like Sergeant DeValle was not working. Is
7 there any specific acts that came up in the investigation
8 that he was required to perform as part of his job duties
9 that IA became aware of that were not being performed?

10 A. No, sir, I can't remember any specific job duties
11 that -- that came up that he didn't perform, no, sir.

12 Q. Okay. Did -- as far as him -- his being at home,
13 do you know what his motivating factors were for being at
14 home?

15 A. No, sir, I do not.

16 Q. Did any -- do you know if anybody ever asked him
17 why he was at home, what was motivating this conduct?

18 A. I don't remember anything of that coming up, no,
19 sir.

20 Q. Okay. So, I guess, in your decision process,
21 then, you wouldn't have considered anything in mitigation as
22 far as a motivator, then, correct?

23 A. I -- I don't know. I -- you know, I guess -- you
24 know, we took everything into consideration, so --

25 Q. Yes, sir.

Brian K. Regan

Cross/Henline

Vol. I, P. 256

1 A. -- you know, it all -- I guess it depends on what
2 it was and -- and what was said, so I -- I -- you know, it's
3 kind of hard to answer that without knowing what it -- what
4 could've or would've been stated, so.

5 Q. Okay. And the -- and going back, was -- was there
6 a point in time during your tenure with Internal Affairs
7 that a state auditor's report was brought to the attention
8 of the Highway Patrol by the media?

9 A. Yes, sir, I do remember that.

10 Q. Do you remember the details of that?

11 A. Again, there was a couple of different times that
12 a state auditor's report came up. I do remember the earlier
13 one being -- I think it was when the prior administration
14 was in, and it was dealing with the residency issues and --
15 and -- and members driving kind of all over the state or --
16 or long locations to and from work.

17 Q. Were there reports that some people had 740s, the
18 request to live outside their county that were not factual,
19 not where they actually lived --

20 A. Yes, sir.

21 Q. -- filed?

22 A. I believe so, yes, sir.

23 Q. Okay. Did the state auditor issue anything in the
24 report that felt like people were being untruthful about
25 what they were doing as far as their conduct in going back

Brian K. Regan

Cross/Henline

Vol. 1, P. 257

1 and forth to their stations?

2 A. I don't -- I don't remember if that exact term was
3 used.

4 Q. Yes, sir.

5 A. I don't remember if that exact term,
6 "untruthfulness," was used.

7 Q. Yes, sir.

8 A. I do know that it was something in -- I think in a
9 story or something maybe one of the news outlets put out
10 that brought some things into question, but I can't remember
11 if "truthfulness" was exactly used, but --

12 Q. Yes, sir.

13 A. -- there were some things that were brought into
14 question, yes, sir.

15 Q. Okay.

16 MR. HENLINE: Just a moment -- just a moment, Your
17 Honor.

18 (Pause in proceedings.)

19 BY MR. HENLINE:

20 Q. Were there ever any allegations brought forward to
21 Internal Affairs that were triggered by the state auditor's
22 report?

23 A. No, sir, not -- not while I was there, no, sir.

24 Q. Yes, sir. Was -- Is there anything that Sergeant
25 DeValle, during the pre-dismissal conference -- Is there

Brian K. Regan

Redirect/Lusic

Vol. I, P. 258

1 anything that in your opinion would have changed your mind
2 as far as your recommendation?

3 A. No, sir. I mean, he -- he was -- he was thorough
4 in -- in what he presented --

5 Q. Yes, sir.

6 A. -- and, you know, was respectful and all that.
7 But, you know, my -- part of my job wasn't to review what
8 was presented and then change -- you know, 'cause I -- the
9 recommendation that I make's prior to his pre-
10 disciplinary --

11 Q. Yes, sir.

12 A. -- conference, so, you know, I wouldn't have been
13 able to make a decision on that. And -- and I didn't go
14 back and consider it because it wasn't part of my job.

15 Q. Yes, sir.

16 MR. HENLINE: I have nothing further, Your Honor.

17 THE COURT: Anything else?

18 MS. LUSIC: Yeah, very briefly.

19 REDIRECT EXAMINATION BY MS. LUSIC:

20 Q. Information that Sergeant DeValle provided you in
21 the pre-disciplinary conference, that was included in this
22 memorandum to Lieutenant Colonel Ward?

23 A. Yes, ma'am, that's --

24 Q. And in this memorandum did -- well, in the pre-
25 disciplinary conference or at any time in the investigation,

Brian K. Regan

Recross/Henline

Vol. 1, P. 259

1 did Sergeant DeValle explain why he was working from his
2 residence?

3 A. I don't remember him giving a -- again, a specific
4 reason why he was doing it. I mean, he just -- he said that
5 the days that he stayed at home he was working --

6 Q. Uh-huh.

7 A. -- is what he said. But I don't remember him
8 saying that "I had to do this because" of a specific reason
9 or -- no, ma'am.

10 MS. LUSIC: At this time, Your Honor, I have no
11 other questions. I would just ask to move Exhibits 10 and
12 11 into the record --

13 THE COURT: All right.

14 MS. LUSIC: -- as evidence.

15 (Respondent's Exhibit Numbers 10 and 11 were
16 received into evidence.)

17 THE COURT: Anything else?

18 MR. HENLINE: Just one quick question, Your Honor.

19 THE COURT: All right.

20 RECROSS-EXAMINATION BY MR. HENLINE:

21 Q. Major Regan, the -- during the pre-dismissal
22 conference, did Sergeant DeValle give you some e-mails that
23 I believe you might have made copies of?

24 A. Yes, sir, I believe he did. And I think it may
25 have been listed somewhere on here. But it -- it seemed

1 like he did, yes, sir, but I --

2 (Pause in proceedings.)

3 A. Yes, sir, if -- if you look at the fourth bullet
4 down on the last page, he also provided six e-mails he
5 received and indicated he was working on during the days of
6 question.

7 Q. Okay. Okay. Those were e-mails that he had
8 either received or generated --

9 A. Yes, sir.

10 Q. -- during that time he was working --

11 A. Yes, sir.

12 Q. -- during the times in question?

13 A. Yes, sir.

14 Q. Okay.

15 A. And I believe we made copies of it and --

16 Q. Yes, sir.

17 A. -- and so --

18 Q. Do you have any recollection whether those e-mails
19 would have required immediate action on his part or what
20 they were about?

21 A. I -- I don't remember what they were about, sir.

22 Q. Yes, sir. Okay.

23 MR. HENLINE: Nothing further, Your Honor.

24 MS. LUSIC: I have one follow-up question on that.

25 THE COURT: You do or do not?

Brian K. Regan

Further Redirect/Lusic

Vol. I, P. 261

1 MS. LUSIC: I do.

2 THE COURT: All right.

3 FURTHER REDIRECT EXAMINATION BY MS. LUSIC:

4 Q. For the e-mails that he provided, did Sergeant
5 DeValle have remote e-mail access from his residence?

6 A. Every member from sergeant, I think even now first
7 sergeant and -- and below, are issued a mobile data computer
8 -- computer. So as long as they've got Wi-Fi or -- or, you
9 know, they're all issued a MiFi, which (unintelligible)
10 card, or his home Wi-Fi, he's got access to his e-mail.

11 Q. So the fact that he had -- how many was it? -- I
12 guess it was six e-mails for those -- that he provided, that
13 doesn't show that he was in fact working in Wayne County on
14 those days, correct?

15 A. I -- I would have no idea where those e-mails were
16 sent from. I mean --

17 MS. LUSIC: That's it.

18 A. -- it just -- it just shows they were sent from
19 him and who they would've went to, but I have no idea where
20 they were sent from.

21 THE COURT: Anything else?

22 MR. HENLINE: Nothing, Your Honor.

23 MS. LUSIC: In addition to Exhibit 10 and 11, Your
24 Honor, I'm not sure we've moved Exhibit 9 in, and I would
25 move Exhibit 9 in at this time.

1 THE COURT: Okay. It had not been previously
2 moved in. It'd been identified but not moved in, so it's
3 admitted as well.

4 (Respondent's Exhibit Number 9 was received
5 into evidence.)

6 EXAMINATION BY THE COURT:

7 Q. Major Regan, Mr. Henline asked you if you felt
8 that because of the truthfulness allegations that you didn't
9 have any other alternative but to dismiss.

10 A. Yes, sir. Once -- once the untruthfulness is --
11 is brought in, yes, sir, it's looking back consistency-wise.
12 And -- and again, for the integrity of the organization,
13 that's how we --

14 Q. But you know you have to consider alternatives.
15 Do you --

16 A. Yes, sir.

17 Q. -- know that? Or did you -- did you in fact
18 consider alternatives?

19 A. Yes, I mean, we look -- we look at -- always look
20 at lesser discipline, but however -- again, when you get
21 into truthfulness and the integrity, and then you also have
22 Giglio issues and whatnot that -- that come into effect when
23 you have a truthfulness issue that comes up with a member.

24 Q. There was no genuine issue regarding Giglio
25 concerning Sergeant DeValle, was there?

Brian K. Regan

Examination by the Court

Vol. I, P. 263

1 A. No -- no, sir.

2 Q. I mean, it -- It might have been bounced around,
3 but it was no real issue, not for him.

4 A. He -- no, sir, he had not had an issue or had a --
5 anybody or a district attorney request any information
6 related to it, so.

7 Q. Are you familiar with the Wetherington case?

8 A. No, sir. I don't --

9 Q. The infamous lost hat --

10 A. I do remember hearing --

11 Q. -- campaign hat?

12 A. -- things about that, yes, sir.

13 Q. There were some specific requirements placed into
14 how people can be disciplined when that decision came back
15 down from the Supreme Court. Has anyone made -- or did
16 anyone make you aware of those things as specific items to
17 consider in disciplining him?

18 A. No, sir. I mean, what we took into consideration,
19 you know, again, was prior disciplinary history --

20 Q. Which he had basically none.

21 A. No, sir, he did have prior disciplinary --

22 Q. Yeah, but none of them were active disciplines at
23 that --

24 A. Yes, sir, he had one that was still active, if I'm
25 -- if I'm remembering correctly.

Brian K. Regan

Further Redirect/Lusic

Vol. I, P. 264

1 Q. Okay.

2 A. I think he did have one that was still active.

3 Q. Okay. Anything else that you consider in a
4 19-year history?

5 A. Yes, sir. I mean, you consider their tenure with
6 the organization. And -- and we looked back at -- at his
7 performance records. And -- and all that was also, you
8 know, part of the file in -- in looking at those.

9 Q. Okay. Did you consider anything else in
10 mitigation?

11 A. Not that's coming to mind right now, no, sir.

12 Q. Okay.

13 A. I think those were --

14 Q. Thank you, sir.

15 A. Yes, sir.

16 THE COURT: Questions based solely on the
17 questions I asked? Ms. Lusic?

18 MS. LUSIC: Actually, if you don't mind.

19 FURTHER REDIRECT EXAMINATION BY MS. LUSIC:

20 Q. I'm trying to frame it, so pardon one moment. I
21 know that sergeant -- we've established that Sergeant
22 DeValle -- no district attorney at this time has tried to --
23 or asked for information about being Giglio-impaired, but
24 does the Department wait until that becomes an issue, or are
25 they proactive in trying to ensure that Giglio impairment is

1 not an issue for their troopers?

2 A. Well, my understanding -- and again, I hadn't
3 dealt with any of that till I took that role. And -- and
4 actually, Captain Wingo dealt with the letters when they
5 came in. But we would get letters from district attorneys
6 asking about specific members. And then Captain Wingo would
7 review the file to see if there was any cases of
8 untruthfulness or anything that would -- could possibly be
9 -- bring into question that would cause them to be Giglio-
10 impaired. But I don't know of any other steps the
11 organization took that -- that I'm aware of.

12 Q. So in Sergeant DeValle's record, there is now a
13 substantiated allegation of untruthfulness. Is that
14 correct?

15 A. Yes, sir, it'd be part -- yes, ma'am, be part of
16 his file.

17 Q. If a district attorney came to the Department at
18 this time and asked for information on that, would they be
19 required to turn it over?

20 A. As the file is right now, yes. Yes, ma'am.

21 MR. HENLINE: Just briefly, Your Honor.

22 THE COURT: Yes, sir.

23 FURTHER RECROSS-EXAMINATION BY MR. HENLINE:

24 Q. And are you aware that Sergeant DeValle's working
25 in law enforcement right now?

1 A. Yes, sir, I -- I'd heard that, yes, sir.

2 Q. Has anybody provided anything to a district
3 attorney from the Patrol about that to your knowledge?

4 A. Not while I was there that I'm aware of, no, sir.

5 MR. HENLINE: Nothing further, Your Honor.

6 THE COURT: All right. Thank you, sir.

7 THE WITNESS: All right.

8 THE COURT: You can step down. I'll see y'all
9 tomorrow morning at 9:00.

10 THE WITNESS: May I be relieved, sir?

11 THE COURT: Unless you want to spend the night.

12 (Proceedings ended at 5:03:24 p.m.)

13

14 (CONTINUED IN VOLUME II, PAGE 267.)

15

16

17

18

19

20

21

22

23

24

25

STATE OF NORTH CAROLINA

COUNTY OF COLUMBUS

MAURICE A. DEVALLE,
Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,
Respondent

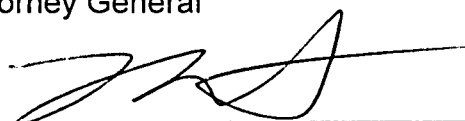
IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

RESPONDENTS' VERIFIED
EXHIBITS

COMES NOW Respondent, North Carolina Sheriffs' Education and Training Standards Commission, by and through the undersigned counsel, and hereby verifies and certifies that **Exhibits 1-11, 13, 15-17, 20-22, 32-36, and 38** filed in the Office of Administrative Hearings this date are true and accurate copies of the exhibits introduced at the hearing of this matter and moved into evidence. The undersigned further verifies and certifies that Petitioner was provided with copies of the same documents.

This is the 17th day of December, 2019.

JOSHUA H. STEIN
Attorney General



Ryan Haigh
Special Deputy Attorney General
N.C. Department Justice
9001 Mail Service Center
Raleigh, North Carolina 27699
Telephone: (919) 716-6572
State Bar No: 43456
Email: rhaigh@ncdoj.gov
COUNSEL TO THE COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

MAURICE A. DeVALLE,)	COUNTY of COLUMBUS
)	
Petitioner,)	18 OSP 07196
)	
vs.)	
)	
NORTH CAROLINA DEPARTMENT)	
OF PUBLIC SAFETY, NORTH)	
CAROLINA STATE HIGHWAY)	
PATROL,)	
)	
Respondent.)	

TRANSCRIPT, VOLUME II OF II

(Pages 267 - 469)

April 9, 2019

The Honorable Donald W. Overby
Administrative Law Judge Presiding
ADMINISTRATIVE HEARING

Transcriptionist: Wanda B. Constantino, CVR-CM-M
President
WordServices, Inc.
1102 Driftwood Drive
Siler City, North Carolina 27344
919.548.4914
wanda@mywordservices.com

APPEARANCES

For the Petitioner:

Barry Keith Henline, Esq.
The Law Offices of Barry K. Henline, PLLC
Post Office Box 15862
Wilmington, North Carolina 28408
919.523.6831
barrykhenline@outlook.com

For the Respondent:

Alan D. McInnes, Esq.
Corrine Lenore Lusic
Assistant Attorneys General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
919.716.6761
amcinnnes@ncdoj.gov
clusic@ncdoj.gov

<u>TABLE OF CONTENTS</u>	
	<u>PAGE</u>
Preliminary Matters	272
<u>RESPONDENT'S WITNESS</u>	
Erik A. Hooks	
Direct examination by Ms. Lusic	273
Cross-examination by Mr. Henline	290
Examination by the Court	301
Colloquy	304
<u>PETITIONER'S WITNESSES</u>	
Ahmad El-Amin	
Direct examination by Mr. Henline	306
Cross-examination by Mr. McInnes	314
Redirect examination by Mr. Henline	320
Examination by the Court	321
Colloquy	323
<u>PETITIONER'S WITNESSES (Cont'd.)</u>	
Maurice A. DeValle	
Direct examination by Mr. Henline	328
Cross-examination by Mr. McInnes	353
Redirect examination by Mr. Henline	415
Recross-examination by Mr. McInnes	418
Examination by the Court	423
Further recross-examination by Mr. McInnes	430
Kenneth McCray	
Direct examination by Mr. Henline	435
Cross-examination by Mr. McInnes	440
Redirect examination by Mr. Henline	442
Michael Baker	
Direct examination by Mr. Henline	443

<u>TABLE OF CONTENTS (Cont'd)</u>		<u>PAGE</u>
<u>RESPONDENT'S REBUTTAL EVIDENCE</u>		
Paul T. Clark		
Direct examination by Ms. Lusic		450
Cross-examination by Mr. Henline		454
Petitioner Rests		455
<u>CLOSING ARGUMENTS</u>		
By Ms. Lusic		456, 467
By Mr. Henline		460
Comments by the Court		468
Certification of Transcript		469
<hr/>		
<u>EXHIBITS</u>		
<u>RESPONDENT'S</u>		
<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENT. OFFERED REC'D.</u>
12	Final agency decision	277 277 278
13	Personnel charge sheets	277 277 278
14	Personnel charge sheet; Written warning, 12/7/2015	287 288 288
15	Transcript of Sergeant DeValle's Interview, Part One	358 --- ---
<u>PETITIONER'S</u>		
3	(Unidentified)	--- 450 450
4	(Unidentified)	--- 450 450
5	(Unidentified)	--- 450 450

TABLE OF CONTENTS (Cont'd)

EXHIBITS (Cont'd.)

PETITIONER'S (Continued)

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENT.</u>	<u>OFFERED</u>	<u>REC'D.</u>
9	E-mail, Sawyer to Morton	76	272 450	450
13	Internal Affairs transcript of Burton interview	272	272 450	450
15	E-mails	445	450	450
16	Letter from WRAL	350	450	450
18	Performance evaluation	351	450	450
19	Commendation letters	352	450	450
23	(Unidentified)	---	450	450
24	(Unidentified)	---	450	450

1 PROCEEDINGS OF TUESDAY, APRIL 9, 2019:

2 (Proceedings began at 9:05:25 a.m.)

3 MR. HENLINE: ...returns that I didn't -- I forgot
4 to ask yesterday --

5 (The recording stopped at 9:05:30 a.m.)

6 (The recording restarted at 9:06:08 a.m.)

7 MR. HENLINE: Yesterday I had two exhibits, 9,
8 which is the --

9 THE COURT: Oh, yeah.

10 MR. HENLINE: -- e-mail from First Sergeant Rodney
11 Sawyer to Lieutenant Morton --

12 THE COURT: Right.

13 MR. HENLINE: -- in regards to the download of the
14 in-car cameras, and Exhibit 13, which is a Internal Affairs
15 transcript of First Sergeant --

16 THE COURT: Right.

17 MR. HENLINE: -- Burton's interview.

18 (Petitioner's Exhibit Number 13 was identified
19 for the record.)

20 MR. HENLINE: I'd like those moved into evidence.

21 THE COURT: Well, again, let's wait until you're
22 actually putting on your evidence until we admit those.

23 MR. HENLINE: Yes, sir.

24 THE COURT: Just hold on to them and we'll --

25 MR. HENLINE: Yes, sir.

Sec. Erik A. Hooks

Direct/Lusic

Vol. II, P. 273

1 THE COURT: -- do it.

2 MR. HENLINE: Yes, sir.

3 THE COURT: All right. Ready to proceed?

4 MS. LUSIC: We are. The Respondent calls
5 Secretary Erik Hooks to the stand.

6 THE COURT: Come around, Mr. Secretary. Good
7 morning.

8 SECRETARY HOOKS: Good morning.

9 THE COURT: Left hand on the Bible, raise your
10 right, please, sir.

11 ERIK A. HOOKS,
12 having been called as a witness for the Respondent, was duly
13 sworn and testified as follows:

14 THE COURT: Thank you, sir. Have a seat, please.

15 DIRECT EXAMINATION BY MS. LUSIC:

16 Q. Good morning. Can you please state your full name
17 for the record?

18 A. Erik Adrian Hooks.

19 Q. And how are you currently employed?

20 A. I'm the Secretary for the Department of Public
21 Safety.

22 Q. How long have you been Secretary?

23 A. I've been in that current position since January
24 2017.

25 Q. Prior to becoming the secretary, how were you

1 employed?

2 A. I was -- I was -- prior to -- to that assignment
3 as the secretary, I have spent my adult career in state law
4 enforcement with the State Bureau of Investigation, since
5 1989.

6 Q. Can you give an overview of your positions within
7 the State Bureau of Investigation?

8 A. Yes. As I previously stated, I began my career
9 with the State Bureau of Investigation in 1989. I was
10 initially assigned as a general criminal agent and drug
11 agent in northeastern North Carolina; worked a variety of
12 cases: Homicide cases, sexual-assault cases, and the like,
13 as well as officer-involved shooting and other type cases.

14 After my initial assignment in eastern North
15 Carolina, I went to Fayetteville and was a resident agent in
16 Fayetteville, and many similar duties, and also worked on
17 the FBI task force there. In approximately -- in 1998, I
18 transferred to Raleigh, and at that time worked out of --
19 out of the Chief Investigator's Office, where we focused on
20 public corruption, internal affairs, and -- and special
21 investigations at the request of the DAs' and Attorney
22 General's Office.

23 Subsequent to that, I was promoted to supervisory
24 role as a criminal specialist and assistant special agent in
25 charge, where I oversaw public corruption cases, all

1 officer-involved shootings in the State of North Carolina
2 that the SBI investigated, internal affairs, and the like.

3 I stayed in that role until 2001 and was promoted
4 to the special agent in charge of that newly created section
5 at that time for professional standards, and served in very
6 much the same capacity as the supervisor in that role,
7 handling internal affairs, public corruption cases, and the
8 like, until I was promoted to the assistant director of
9 Professional Standards in 2005, which was a -- which
10 positioned me as a senior staff member as an assistant
11 director with oversight of many of those same
12 investigations, but also oversaw our Financial Crimes Unit,
13 Medicaid Fraud Investigations Unit, and our Case Records
14 Management Section.

15 Q. Okay. Can you provide a high-level overview of
16 your duties as the Secretary of the Department of Public
17 Safety?

18 A. Yes, ma'am. I am the governor's sole
19 representative for law enforcement and homeland security on
20 the governor's cabinet. In the role as secretary, I also
21 serve as the homeland security advisor for the State of
22 North Carolina and with leadership and oversight of a number
23 of divisions and departments within the Department of Public
24 Safety. Some of those flagship agencies are the Highway
25 Patrol, Emergency Management, National Guard, the Division

1 of Adult Corrections and Juvenile Justice, and a number of
2 collateral sections that are tied to those, such as the
3 Governor's Crime Commission and other entities.

4 Q. Can you give a little bit more specifics about
5 your oversight of the State Highway Patrol?

6 A. Yes. I am the direct supervisor, the commander of
7 the State Highway Patrol, and my role is to provide
8 leadership and guidance to all of the divisions. And the
9 Patrol is a very vibrant organization, and so I do not
10 manage the day-to-day operations, but for matters such as
11 this, my responsibility falls to -- and sometimes to address
12 matters of personnel that come to my attention. It's also
13 to provide leadership and give administrative and financial
14 support to the agency.

15 Q. What is the mission of the State Highway Patrol?

16 A. To safeguard and preserve lives and properties for
17 people in North Carolina, particularly --

18 Q. Turning --

19 A. -- on the highways.

20 Q. Turning now to this case, what role did you play
21 in the dismissal of the Petitioner, Sergeant DeValle, from
22 the State Highway Patrol?

23 A. I was responsible for issuing the final agency
24 decision.

25 Q. There -- there should be two binders up there.

Sec. Erik A. Hooks

Direct/Lusic

Vol. II, P. 277

1 And I'm going to ask you to look at the one that says "State
2 of North Carolina" on the front.

3 A. Yes, ma'am.

4 Q. If you could turn to Tab 12 in that binder. What
5 is this document?

6 A. Yes, ma'am. The document that I see behind Tab 12
7 is the final agency decision that I issued, essentially a
8 letter to Mr. DeValle that was issued on August the 7th,
9 2017.

10 (Respondent's Exhibit Number 12 was identified
11 for the record.)

12 BY MS. LUSIC:

13 Q. And if you could turn to Tab 13 in the same
14 binder.

15 A. Yes, ma'am. I have it.

16 Q. What document is this?

17 A. Behind Tab 13 I see the personnel charge sheets
18 that were generated by the State Highway Patrol, and as I
19 flip through those, they refresh my recollection as some of
20 the charge sheet -- as the charge sheets that I reviewed in
21 making the final agency decision.

22 (Respondent's Exhibit Number 13 was identified
23 for the record.)

24 MS. LUSIC: Your Honor, we'd ask that these be
25 admitted into evidence, Respondent's Exhibit 12 and Exhibit

1 13.

2 THE COURT: They are admitted.

3 MR. HENLINE: No objection, Your Honor.

4 (Respondent's Exhibit Numbers 12 and 13 were
5 received into evidence.)

6 BY MS. LUSIC:

7 Q. Let's turn back to Respondent's Exhibit 12.

8 A. Yes, ma'am.

9 Q. Now, you understand that Sergeant DeValle was
10 initially charged with insubordination, residency violation,
11 neglect of duty, and untruthfulness. What conduct formed
12 the basis of your decision to dismiss Sergeant DeValle?

13 A. The items that were at issue for me to decide were
14 the issues of neglect of duty and the untruthfulness issue.

15 Q. Did you decide to dismiss Sergeant DeValle based
16 on the residency violation?

17 A. No, ma'am.

18 Q. Did you decide to dismiss Sergeant DeValle based
19 on the insubordination violation?

20 A. No, ma'am.

21 Q. How important is truthfulness to a member of the
22 State Highway Patrol?

23 A. Untruthfulness is a -- is a matter of great
24 importance. Integrity in our law enforcement officers is a
25 required job function, so that they will have rightfully the

1 respect and trust of the public, the organization, and the
2 courts.

3 Q. How does untruthfulness affect a member of the
4 State Highway Patrol's ability to perform their duties?

5 A. Well, one of the essential job functions of the
6 Highway Patrol other than having the trust of the public is
7 to -- to -- is to be able to testify as a credible witness
8 in court and be -- and the courts have to have a -- a high
9 degree of comfort in what is being presented to them.
10 Defendants deserve that.

11 Prosecutors are required to report incidences of
12 untruth and the -- and the court must take that into account
13 as well, particularly with troopers, because troopers often
14 work alone in environments where it may be a "he said/she
15 said" one-on-one encounter. And so when a -- either a jury
16 or a judge has to weigh the credibility of a witness, that
17 we want to ensure that we offer individuals who have no
18 integrity issues.

19 Q. We've discussed a little bit in this trial already
20 something called Giglio impairment. Are you familiar with
21 that term?

22 A. Yes, ma'am.

23 Q. Has Sergeant DeValle been declared Giglio-
24 impaired?

25 A. I am not aware of a specific letter being issued

1 by a district attorney, but it is -- it is -- but it is
2 incumbent upon the agencies to report to prosecutors
3 affirmatively that they may have an individual in their
4 organization that has a history of untruthfulness.

5 Q. Does the Department wait until they get a Giglio
6 inquiry to act on truthfulness or untruthfulness of a
7 trooper?

8 A. No. The Department should, and does, evaluate the
9 behavior of the individual, not the decisions made by others
10 in that regard.

11 Q. How are law enforcement officers typically
12 disciplined when untruthfulness is found?

13 A. It has been my experience through my tenure of
14 Professional Standards both working with Internal Affairs,
15 teaching internal affairs, and being a part of state boards
16 and -- and other symposiums where we've discussed this issue
17 of truthfulness, and -- and departments -- professional
18 departments typically dismiss employees that have instances
19 of untruthfulness, for all those reasons that I just spelled
20 out before.

21 Q. What untruthfulness did you find that Sergeant
22 DeValle engaged in?

23 A. There were a number of instances where there --
24 Sergeant DeValle falsely reported his time that he worked
25 and that he had also been reportedly checking on duty in

1 a -- in Wayne County when he was in fact not on duty in
2 Wayne County.

3 Q. How serious do you consider this type of
4 untruthfulness to be?

5 A. I think it is very serious, because it goes to
6 the -- the heart of -- of -- of what he says he was doing
7 and where he says he was at. And -- and to further add some
8 context to it, this was all done in the line of duty. This
9 was not some, you know, guys sitting around and -- and
10 telling a tall tale of a fish story. This was directly
11 related to the responsibilities of his job.

12 Q. How does this kind of untruthfulness impact the
13 relationship between the State Highway Patrol and the
14 public?

15 A. It undermines the trust that the public has in the
16 Highway Patrol and tends to bring the agency into disrepute.

17 Q. How does that affect the agency's ability to
18 perform its duties?

19 A. When the public and the -- and the courts lack
20 confidence in our officers, then that erodes the -- the
21 trust that is -- that is imbued in those officers.

22 Officers take an oath to uphold the law and to
23 faithfully execute their duties. Those are the -- the oath
24 that they take today is essentially the same oath that I
25 took in 1989. And when they tarnish the badge by engaging

1 in such behaviors that undermine their credibility, the
2 public loses confidence in that, and courts rightfully lose
3 confidence in that as well.

4 Q. In the final agency decision letter -- and I will
5 direct you, starting on page 2 through page 3 -- you list a
6 number of dates that Sergeant DeValle did not go into Wayne
7 County to work as required. And you noted that for these
8 days he did not deny that he never left his residence in his
9 Internal Affairs interview.

10 What weight did you give to his failure to deny he
11 never left the residence on these dates?

12 A. That was given significant weight to -- to me.
13 Whereas I can certainly understand an individual not
14 remembering specific dates, that was an opportunity for him
15 to disclaim the allegations that were presented to him. And
16 in fact, he admitted that there had been times where he had
17 not reported as -- for duty as he had checked on. He just
18 did not specify these particular dates.

19 Q. In that final agency decision, the -- these dates,
20 do you know where the dates originated from?

21 A. It's my understanding that they came from WRAL,
22 the television station.

23 Q. What weight did you give to the observations that
24 WRAL reported?

25 A. Well, the -- the report of information was

1 certainly concerning in and of themselves, but the -- the
2 cooperation really added to that through the interviews,
3 through the observation when he was actually visited on an
4 occasion by -- you know, I think his rank at that time
5 was lieutenant -- Morton. Those corroborated the behavior.

6 Q. The final agency decision lists -- and I will
7 direct you to page 4. The final agency decision, on page 4,
8 the third full paragraph, it talks about Sergeant DeValle's
9 gas logs. What weight did this evidence have in your
10 decision to dismiss him?

11 A. They were significant because of -- the Patrol,
12 through its investigative analysis of the allegations and
13 subsequent corroboration that they -- that they found in
14 there, they examined the gas logs. And -- and during this
15 time frame, it would not have been possible for him to have
16 driven from his residence to his assigned duty station the
17 number of times that he had claimed, because he would have
18 had to have driven some 700 miles, and in fact, his gas logs
19 had indicated through the -- through our accounting system
20 that he had only driven less than 300 miles.

21 Q. Do you have personal experience with gas logs?

22 A. Yes. I -- being a state law enforcement officer,
23 we also use the -- what we typically call the "Pro Key
24 system," where you would go and, at the time of getting your
25 gas, you would insert your key into the gas pump, and it

1 would require you to enter your mileage in real time. So
2 you enter your actual mileage while you're getting the gas
3 and -- and then proceed to get the gas from the pump.

4 Q. Now, in the final agency decision, you also talk
5 about the weekly activity report and -- and the mileage that
6 is entered on those. Why did you give more weight to
7 Sergeant DeValle's gas logs as opposed to the mileage
8 entered in the staff gas logs? Let me rephrase that. I'm
9 sorry.

10 Why did you give more weight to the mileage in the
11 gas logs as opposed to the mileage recorded in Sergeant
12 DeValle's weekly activity reports?

13 A. Because the mileage given in the gas logs through
14 the system, as I described, are entered in real time, at the
15 time of travel and commute to those -- to the -- to those
16 destinations, day to day, for his work.

17 Q. Turning now to the second charge, what specific
18 neglect of duty did you find that Sergeant DeValle had
19 engaged in?

20 A. Specifically, failing to report to his duty
21 station as he had been proclaiming to do and therefore
22 neglecting the mandated oversight and supervision that he
23 should have for his troopers that were under his charge,
24 providing supervisory support, providing safety and backup
25 support for them out there on the -- on the highways and

1 byways in Wayne County, and particularly during a declared
2 state of emergency where -- where troopers were out in
3 harm's way after a hurricane Matt -- after Hurricane
4 Matthew, his failure to be with them, to provide them
5 guidance and supervision.

6 Q. How serious do you consider this type of neglect
7 of duty?

8 A. I consider it very seriously, because as -- not
9 only as a trooper but as a supervisor, he holds a position
10 of trust. And those troopers look to him for guidance,
11 direction, and they also look to him as well as the other
12 local law enforcement look to him to be in the area that he
13 says he's going to be, because as we have seen in most
14 recent time and through the years, that being in a patrol
15 vehicle and patrolling the roads can be very dangerous.

16 And so if a -- if a trooper is out patrolling the
17 road, it is a certain comfort of knowing that there are
18 other troopers in the area that can respond and assist
19 should they face a -- face a life-threatening situation, and
20 he was not there for it -- for that as well as the day-to-
21 day supervision.

22 Q. Do you think that Sergeant DeValle could
23 appropriately supervise his troopers from his residence in
24 Wake County?

25 A. I do not believe he can officially supervise his

1 subordinates in Wake County.

2 Q. You said "officially."

3 A. Appropriately, excuse me, should be the -- should
4 be the term that I meant to say, appropriately supervise
5 his --

6 Q. Why do you think that?

7 A. Because oftentimes those questions come up and
8 there needs to be some interaction. Sometimes there could
9 be disputes with individuals by the side of the road. There
10 could be complaints from citizens that need that immediate
11 engagement with -- with an individual. And because there
12 are incidents that happen that -- that troopers may need
13 that face-to-face interaction with their supervisor.

14 Q. I'd like to talk about some other things that you
15 considered in your decision. What role did Sergeant
16 DeValle's prior discipline play in your decision to dismiss
17 him?

18 A. I was aware that he had prior disciplinary actions
19 that were inactive, and so I looked at his entire work
20 record. I did not specifically make a decision because he
21 had prior disciplinary actions. There was only one, and it
22 was a written warning that was -- I believe that was still
23 active at the time, if my recollection serves.

24 So that -- that -- and that was for abuse of
25 power, I believe, as -- as I sit here right now without

1 having the benefit of it before me. But his prior
2 disciplinary actions were part of his work record, just as
3 his prior evaluations, his 19-year history, so that --
4 because I don't personally know Sergeant DeValle, and so I
5 wanted to have a full look at his career, as would be
6 appropriate to that.

7 But the -- the -- the -- the final agency decision
8 was based on the untruthfulness and the neglect of duty,
9 which I deemed as very significant and serious.

10 Q. If you could turn to Tab 14 in that binder. What
11 is this document?

12 A. This the personnel charge sheet, and this is for
13 the action that was described as a abuse of power for --
14 that resulted in a written warning.

15 (Respondent's Exhibit Number 14 was identified
16 for the record.)

17 BY MS. LUSIC:

18 Q. And if you -- if you would turn to page -- third
19 page of that document. It's actually a separate document.
20 What is this third page?

21 A. Yes, ma'am, I have it.

22 Q. What is this?

23 A. This is the written warning that was issued to, at
24 that time, Sergeant DeValle, dated December 7th, 2015, from
25 Captain Evans.

1 Q. And it was -- what was it for?

2 A. Abuse of position.

3 Q. Do you remember how Sergeant DeValle was found to
4 previously abuse his position?

5 A. I have reviewed the information, but as I sit
6 here, I do not recall the specifics of the --

7 Q. I'm going to direct you to the first page of that
8 Exhibit 14 and give you a chance to just review the specific
9 "Acts or Omissions" section.

10 (Pause in proceedings.)

11 A. In reviewing the Respondent's Exhibit Number 14,
12 the -- the information contained on the charge sheet, it
13 does refresh my recollection as to what the issue was about.

14 Q. What was the issue about?

15 A. Essentially, Sergeant DeValle admitted accessing
16 the Division of Criminal Information database to obtain
17 information on Wake County District Attorney Colleen
18 Janssen. And he also admitted that he did access the DCI
19 system to make an inquiry on Ms. Janssen for personal
20 reasons, and it was not in the scope of his official duties.

21 MS. LUSIC: Your Honor, at this time, we'd like to
22 move to admit Exhibit 14 into the record.

23 THE COURT: All right. It's admitted.

24 (Respondent's Exhibit Number 14 was received
25 into evidence.)

1 BY MS. LUSIC:

2 Q. So we've talked about at this point the
3 seriousness of the untruthfulness and the neglect of duty,
4 and you've also said that you considered his prior
5 discipline but also you looked at his personnel records and
6 his years of service.

7 Are there any other factors that you looked at
8 when you were considering whether -- how to discipline
9 Sergeant DeValle?

10 A. Well, the -- the documents themselves, which
11 would've been included in the investigative reports, charge
12 sheets, and the information that was provided to me by the
13 advisory hearing committee.

14 Q. Did you consider other forms of discipline besides
15 dismissal when you were reviewing this information?

16 A. Yes, ma'am. As the person rendering the final
17 agency decision, it's incumbent upon me to consider the
18 range of options that are -- that could be lesser, to
19 include the -- the termination. And I certainly did that as
20 well.

21 So that was a -- was a consideration as to whether
22 this could fall somewhat short of dismissal, such as a
23 demotion, suspension, or a written warning. I ultimately
24 decided that based on the nature of the misconduct, the
25 neglect of duty, and the untruthfulness, that the

1 appropriate action had indeed taken place with the
2 dismissal.

3 MS. LUSIC: Those are all my questions at this
4 time, Your Honor.

5 THE COURT: All right. Questions?

6 MR. HENLINE: Yes, sir, Your Honor.

7 CROSS-EXAMINATION BY MR. HENLINE:

8 Q. Good morning, Secretary Hooks.

9 A. Good morning, sir.

10 Q. And if you'd turn back to Tab 12 of that book
11 you --

12 A. Yes, sir, I have it.

13 Q. And, again, this is the final agency decision
14 we're discussing, the letter. And on the first page, again,
15 it was untruthfulness was one of the reasons for the
16 dismissal of Sergeant DeValle?

17 A. Yes, sir.

18 Q. Okay. Was that allegation based more so on any
19 one thing, such as the time reported into BEACON, or was
20 there any other acts that weighed more heavily than the
21 other?

22 A. It was based on the time entry for -- for claim of
23 time worked entered into BEACON. It was also based on
24 multiple times where he checked on to service entering to
25 Wayne County, which he should -- is the timing in which he

1 should check on to service, and he was indeed at home --

2 Q. Yes, sir.

3 A. -- as well.

4 Q. Okay. And the time entries, are we talking about
5 BEACON versus the computer-assisted dispatch logs?

6 A. The -- the -- he is -- comes on duty as he enters
7 the county to report for duty, and that's where his time
8 should start.

9 Q. Yes, sir.

10 A. He was reporting time when he was not in Wayne
11 County at -- at his duty station, the supervising and
12 carrying out his other normal law enforcement duties.

13 Q. Okay. Was there any consideration on your part
14 about the interaction he had with Lieutenant Morton as far
15 as that interaction?

16 A. Not -- not as far as the ultimate -- but I was
17 certainly aware of the interaction and had already received
18 an advisory, for lack of a better term, opinion from the
19 advisory committee that they did not substantiate that, and
20 so I, appropriately, did not double down on that, and so
21 that was not a consideration, but it was part of the reading
22 of the file.

23 Q. Yes, sir. And the final agency decision, I -- I
24 noted you had mentioned you considered he had 19 years prior
25 service. You looked at the prior levels of discipline that

1 had been imposed in his performance evaluations. Was there
2 anything else that you considered?

3 A. As far his -- as far as his work history, I
4 believe that I captured the -- the essence of his work
5 history by knowing that he was a 19-year veteran and -- and
6 his work performance reviews and those issues that we
7 covered.

8 Q. Was there anything you found to be mitigating?

9 A. Generally, taking into account of the -- it was
10 not mitigating to the degree that it deterred me from the
11 decision. What was -- what I did take into consideration
12 was the fact that he had served 19 years with the patrol and
13 that his performance reviews had -- had -- had met standard
14 levels.

15 Q. Yes, sir. Did you ever consider what his
16 motivations were for being in Wake County versus Wayne
17 County?

18 A. Consider what his motivations would be? To the
19 degree that I was able to read from the report some
20 indication of -- of -- at least on one occasion about a
21 health concern on a particular day, but not -- not beyond
22 that that I can think of, if I understand your question
23 correctly.

24 Q. Yes, sir. You --

25 Did -- did -- as part of your decision, did you

Sec. Erik A. Hooks

Cross/Henline

Vol. II, P. 293

1 ever come back to the Highway Patrol and ask them to -- to
2 determine why he was at home on these other dates that WRAL
3 had reported?

4 A. No, I did not. Based on -- at the time, I was not
5 involved in the initial investigatory process --

6 Q. Yes, sir.

7 A. -- for Internal Affairs. That is all vested
8 within the Division of the Highway Patrol. I, for lack of a
9 better term, stay in my lane until it was appropriately
10 brought --

11 Q. Yes, sir.

12 A. -- before me.

13 Q. Yes, sir. Would it -- would it be fair to say,
14 then, that your decision was rendered without knowledge of
15 what the motivation was for him being home on the other
16 dates other than the day he was home, allegedly sick?

17 A. I cannot -- I cannot readily recall any
18 independent findings that I would've had or a thought
19 process that I would've -- would have had toward his
20 motivations. My concern was that he adhered to his oath,
21 which is to faithfully execute his duties and that he be
22 truthful in all his communications, written and -- and
23 verbal.

24 Q. Yes, sir. And shortly after you were placed in
25 the position you were in, was there a auditor's report

1 generated concerning allegations against members of the
2 Highway Patrol?

3 A. Yes, there was an audit that was -- that was --
4 audit report generated by the State Auditor's Office
5 concerning residency issues.

6 Q. Okay.

7 MR. HENLINE: Your Honor, may I -- may I approach
8 the witness? I'd like to add --

9 THE COURT: Yes, sir.

10 MR. HENLINE: -- one tab to my exhibits.

11 (Pause in proceedings.)

12 BY MR. HENLINE:

13 Q. And, Mr. Hooks, can you identify the document that
14 is in front of you?

15 A. Yes, sir. It appears to be a copy of a North
16 Carolina State Auditor's report for -- concerning the State
17 Highway Patrol, and it certainly appears to be the audit
18 that we were just discussing, yes, sir.

19 Q. Yes, sir. And you -- you ended up, at some point
20 in time, providing a response to the auditor's report?

21 A. Yes, sir.

22 Q. Okay. So that would indicate, then, that you
23 fully read the report?

24 A. Yes, sir.

25 Q. Okay. On -- what is page 2 of this document?

1 Could you -- could you read the last paragraph in the key
2 recommendations of the audit -- auditor's report?

3 A. Yes, sir.

4 "Key Recommendations: Management should
5 consider increasing monitoring efforts to ensure
6 compliance with the residency policy. Management
7 should consider rewriting the policy to include
8 exceptions for certain administrative positions.
9 Management should consider disciplinary action
10 against troopers for knowingly violating, and
11 supervisors for not adequately enforcing, policy.
12 Management should ensure an appropriate tone at
13 the top relative to the residency policy. In
14 other words, the commander, major, and captains
15 should ensure they are compliant with the
16 residency policy before expecting compliance from
17 subordinate personnel."

18 Q. So it'd indicate, I guess, in the auditor's
19 report, then, that some members of the command staff had
20 kind of created an environment where it would appear that it
21 was acceptable, the conduct that was going on?

22 A. From my recollection, that there was some
23 perceived inconsistencies and some policy development that
24 needed to go on, and that had been existing for a number of
25 years.

1 Q. Yes, sir. And if you would turn to -- it would be
2 the eighth page of this document, but the number at the
3 bottom is 2.

4 A. Okay.

5 (Pause in proceedings.)

6 A. Yes, sir, I believe I have it, if it's the --

7 Q. Yes, sir.

8 A. -- with the page number "2" at the bottom, and it
9 has a chart in the middle?

10 Q. Yes, sir, that's -- that's the correct page.

11 A. Yes, sir.

12 Q. Underneath the chart, there's a -- a little one-
13 sentence line. What I'm interested in is the paragraph
14 directly below that little line that starts out with
15 "Knowledge is approximate," that paragraph below. Could you
16 read that for the Court?

17 A. I -- the major -- excuse me.

18 "The majority of troopers initially indicated
19 they were not commuting to and from their primary
20 residences. The troopers indicated they
21 maintained secondary residences closer to their
22 duty stations. These secondary residence
23 [verbatim] included apartments, relatives' homes,
24 rescue squads, fire stations, and National Guard
25 stations near the troopers' duty stations.

1 However, our investigation found that troopers
2 were commuting to and from their primary
3 residences."

4 Q. Would this indicate that some members of the
5 Highway Patrol command staff were -- gave false and
6 misleading information to the state auditor?

7 A. Not this in and of itself. What that indicates to
8 me is just as I said, that there were some -- you know, some
9 policy development that needed to clarify what -- what
10 established residencies were. There were -- there were a
11 number of instances, as I recall, where people had dual
12 residencies, and so whether or not they were terming driving
13 to that second residency that established some residency
14 closer to the county or their home, that -- that that was an
15 area that needed to be evaluated.

16 Q. Okay. Did it concern you in -- in any way that
17 some of them had initially told the auditor that they were
18 not commuting to their primary residence and they found --
19 had a finding that they were commuting to these primary
20 residences?

21 A. I do recall that there was some concern about the
22 wording of the audit report but that -- and forgive me,
23 because I don't have the -- a full recollection of it, but
24 it was at least clarified for me that the state auditor in
25 no way said that -- that she felt that they were lying to

1 her staff.

2 Q. Okay.

3 (Pause in proceedings.)

4 Q. And, Secretary Hooks, if you -- if you would turn
5 now to -- I believe it's three pages past. It would be
6 numbered 5 at the bottom.

7 (Pause in proceedings.)

8 A. Yes, sir, I have it.

9 Q. Okay. Could you read just that first paragraph
10 under -- directly underneath "Tone at the Top"?

11 A. Tone at the -- underneath "Tone at the Top"?

12 Q. Yes, sir.

13 A. Yes, sir.

14 Q. Just that first --

15 A. Yes.

16 Q. I think it's a one-sentence paragraph.

17 A. Okay.

18 "By not enforcing the residency policy,
19 management created an environment where
20 subordinate troopers were able to rationalize
21 noncompliance or completely disregard the policy."

22 Q. And the next paragraph directly underneath that,
23 would you read that as well?

24 A. Yes.

25 "For example, one Captain stated, 'I don't

1 know that anyone here has ever paid attention' --
2 parentheses -- '...that rule.' That statement
3 reflected an environment in which the residency
4 policy was not taken seriously."

5 Q. And if you'd turn to the -- to the next page,
6 numbered 6 at the bottom. Underneath where it says
7 "Information and Communication," the second paragraph down,
8 it's just a one-sentence paragraph. Could you read that for
9 the Court?

10 A. Yes, sir.

11 "For example, a Lieutenant stated, 'I never
12 got one of those' -- parentheses, 'forms,' close
13 parentheses. This response indicated the
14 Lieutenant was not aware it was necessary for him
15 to complete the form."

16 Q. Okay. And it was a lieutenant for the Highway
17 Patrol that's unaware of the form?

18 A. Yes, sir.

19 Q. Okay.

20 (Pause in proceedings.)

21 Q. And then if you'd turn -- I believe it's two more
22 pages. It'll be page 7 at the bottom, and this would be a
23 -- a letter to the state auditor.

24 A. Yes, sir. This is the letter that I sent back to
25 the state auditor.

1 Q. Yes, sir. And in that letter, would you read just
2 the first sentence of the first paragraph of the letter?

3 A. "I am in receipt of your letter dated April [sic]
4 22nd, 2017, and the [sic] accompanying investigative report.
5 In that" -- just the first sentence?

6 Q. I'm sorry.

7 A. Okay. Next sentence --

8 Q. And the next sentence. I --

9 A. Okay.

10 Q. I missed the -- the period --

11 A. Well --

12 Q. -- there. I'm sorry.

13 A. "In that report, you have substantiated an
14 allegation that certain...Highway Patrol Troopers
15 were violating agency policy by driving excessive
16 distances from their primary residences to their
17 duty stations."

18 Q. And if you'd read just the first sentence of the
19 second paragraph.

20 A. Yes, sir. "I do not dispute any of the findings
21 as set out in your report."

22 Q. Yes, sir. And in dealing with this auditor's
23 report, was there any direction given to the Highway Patrol
24 for Internal Affairs to investigate any of this matter?

25 A. They were already reviewing the policy

1 implications because during the audits these were things
2 that were being brought up to the newer administration of --
3 and newer supervisors in the Highway Patrol. And so they
4 had issued some policy guidance and -- and as I sit here
5 today, I can't remember if they came out prior to -- I think
6 they came out prior to the auditor's report, but it may have
7 been afterwards, so forgive me if I don't know the exact
8 time.

9 Q. To your -- to your knowledge, was any member of
10 the Highway Patrol ever investigated in an individual basis
11 and disciplined for any of this conduct?

12 A. I'm not aware of investigations emanating from --
13 from this audit report. However, I would add a disclaimer
14 that they would not have necessarily come to my desk at that
15 time.

16 Q. It would've only come on appeal?

17 A. Right. Yes, sir.

18 Q. Yes, sir.

19 MR. HENLINE: I have no further questions, Your
20 Honor.

21 THE COURT: Redirect?

22 MS. LUSIC: One second, Your Honor.

23 (Pause in proceedings.)

24 MS. LUSIC: No further questions.

25 EXAMINATION BY THE COURT:

1 Q. Mr. Secretary, you were asked by counsel for
2 Sergeant DeValle if the State Highway Patrol to your
3 knowledge ever went back and looked to see why he was in
4 Wake County on the particular days?

5 A. I do not specifically recall directing -- because
6 as I understood his question, did I ask him to go back --

7 Q. Right.

8 A. -- if I interpreted correctly. I do not
9 specifically recall asking them to go back or to my
10 knowledge going back to talk with them about that. My --
11 most all of my conversations concerning this matter were
12 with our general counsel's office and not with the patrol,
13 as I was reviewing and trying to stay in the framework of
14 reviewing the record and making that final agency decision.

15 Q. To your knowledge, had Sergeant DeValle ever
16 offered any excuses or reasons why he was in Wake County on
17 those particular days?

18 A. Beyond the one instance where I believe he related
19 to, again, Lieutenant Morton, I think, at the time, that --
20 that he had had some stomach issue I'm not aware of.

21 Q. And he would've had opportunity to have offered
22 excuses and -- and rationalizations as to why he was in Wake
23 County, would he not?

24 A. Every opportunity during the time frame in which
25 he was interviewed, that's an opportunity for an employee to

1 answer those allegations and, for lack of a better term, an
2 opportunity for them to clear their name during the
3 investigative stage.

4 Q. All right. Thank you, sir.

5 THE COURT: Questions based solely on the
6 questions that I've asked?

7 MS. LUSIC: None, Your Honor.

8 THE COURT: Mr. Henline?

9 MR. HENLINE: No, Your Honor.

10 THE COURT: All right. Thank you, Mr. Secretary.
11 You can step down.

12 THE WITNESS: Thank you, sir.

13 (The witness left the stand.)

14 THE COURT: Further evidence?

15 MS. LUSIC: (unintelligible)

16 THE WITNESS: Mr. Henline?

17 MR. HENLINE: Yes, sir. Secretary, if you would,
18 you can just lay it up there with that.

19 THE WITNESS: Thank you, sir.

20 (Pause in proceedings.)

21 MS. LUSIC: Your Honor, at this point we -- we
22 understand that Sergeant DeValle will be testifying in his
23 case. If -- if he's not going to, we would call him now,
24 but if he does testify in his own case, we'll just wait to
25 do our cross-examination at that time.

1 THE COURT: All right.

2 MS. LUSIC: And then we also wanted to confirm
3 that all of our exhibits that we've discussed have been
4 admitted. And my recollection is that we have offered and
5 it has been admitted for Number 1 through 7, and then
6 Numbers 8 and then Numbers 8A through 8O (eight-oh), that 8M
7 was not admitted but that 8N and O were admitted and that 9
8 through 14 were also admitted.

9 (Pause in proceedings.)

10 THE COURT: Did you say that M was not admitted?

11 MS. LUSIC: Correct. That -- the --

12 THE COURT: I had that M was admitted and N was
13 not.

14 MR. HENLINE: Your Honor, my request was for M.
15 It was the media report for WRAL on the --

16 THE COURT: Right.

17 MR. HENLINE: -- on the matter.

18 THE COURT: Oh, yeah. Okay. I had sustained that
19 objection. All right. All right. Then, everything else
20 has been admitted.

21 MS. LUSIC: Okay. Then, we are done at this
22 moment.

23 THE COURT: Is Sergeant DeValle going to testify?

24 (Pause in proceedings.)

25 MR. HENLINE: Your Honor, we -- if they do not

Colloquy

Vol. II, P. 305

1 call him as a witness, we plan to.

2 THE COURT: Okay. Anything further on behalf of
3 the State?

4 MS. LUSIC: No, just we -- if we need to offer
5 rebuttal, but nothing on our primary.

6 THE COURT: All right. Evidence for the
7 Petitioner?

8 MR. HENLINE: Your Honor, we'd call Maurice
9 DeValle, the Petitioner, to the stand.

10 THE COURT: All right. Is -- I understood that
11 the sergeant that drove the Secretary was going to testify
12 today. Is --

13 MR. HENLINE: And, Your Honor, we -- that was the
14 gentleman we were going to try to do on --

15 THE COURT: Oh, okay.

16 MR. HENLINE: -- the telephone. But for some
17 reason, they pulled him out of his training and he is here.
18 If --

19 THE COURT: So do you want --

20 MR. HENLINE: -- the Secretary --

21 THE COURT: -- to call him? If he -- if he --

22 MR. HENLINE: I --

23 THE COURT: -- was your witness --

24 MR. HENLINE: I can call him so we could get --

25 THE COURT: All right.

1 MR. HENLINE: -- the Secretary back --

2 THE COURT: Mr. Secretary, if you could have your
3 driver come in for us, please. I think we need him.

4 SECRETARY HOOKS: Yes, sir.

5 THE COURT: Thank you, sir.

6 (Pause in proceedings.)

7 THE COURT: Come on up, please, young man. Left
8 hand on the Bible and raise your right, please.

9 AHMAD EL-AMIN,
10 having been called as a witness for the Petitioner, was duly
11 sworn and testified as follows:

12 THE COURT: Thank you, sir. Have a seat, please.

13 DIRECT EXAMINATION BY MR. HENLINE:

14 Q. Good morning, sir.

15 A. Good morning.

16 Q. Could you state your name for the Court?

17 A. It's Ahmad El-Amin.

18 Q. And how are you employed, Trooper El-Amin?

19 A. As a trooper at North Carolina State Highway
20 Patrol.

21 Q. Yes, sir. How long have you been employed with
22 the Highway Patrol?

23 A. 14 years.

24 Q. Okay. What year did you start?

25 A. 2005.

Ahmad El-Amin

Direct/Henline

Vol. II, P. 307

1 Q. And when you started with the Highway Patrol in
2 2005, did you start out as a cadet?

3 A. Yes, sir.

4 Q. Okay. And following the cadet program, where did
5 you go?

6 A. I was stationed in Wake County.

7 Q. Okay. And did you go through a field training
8 portion?

9 A. Yes, sir.

10 Q. Who was your field training officers?

11 A. I had two. My primary field training officer was
12 Maurice DeValle, and my secondary was Trueblood --

13 Q. And --

14 A. -- Fred Trueblood.

15 Q. So you've known Mr. DeValle, the Petitioner, since
16 that field training period that you went through?

17 A. Yes, sir.

18 Q. Have you had a lot of interaction with him since
19 that time?

20 A. Up until he left C3 or Wake County.

21 Q. Yes, sir. And when -- do you know when that was,
22 by chance?

23 A. Not right offhand, no, sir.

24 Q. Okay. So from 2005, going forward, how -- how
25 many years do you think you were around him?

1 A. Well, throughout my career, I've been around him
2 off and on. I think there was a moment when he was
3 stationed still in Wake County but maybe at the training
4 center, I believe.

5 Q. Yes, sir.

6 A. So I've had contact with there, because I think he
7 helped with the collision program we use on our computers --

8 Q. Yes, sir.

9 A. -- as well as when he was stationed in Durham, I
10 would see him every once in a while. And so throughout --
11 throughout the -- my career --

12 Q. Okay.

13 A. -- I'd see him.

14 Q. And can you describe your field training
15 experience with -- with Mr. DeValle?

16 A. I guess it's nothing out of the ordinary, because
17 that's all I know, I suppose. We arrested drunks. We wrote
18 tickets. And a lot of the techniques that he taught me
19 then, I continue to use those today.

20 Q. How would you describe the work ethic as far as
21 what he exemplified to you during your field training?

22 A. I mean, he had a great work -- work ethic, nothing
23 that I would say that -- we didn't -- we didn't sit still,
24 you know. If he -- if I had to pull over to the shoulder of
25 the road for anything, it would be more so to explain why

1 you would charge this or how you would investigate this
2 collision, those type things, but we -- we constantly moved.

3 Q. Okay. And how -- how long of a period of time
4 were you assigned to him?

5 A. I think the training -- field training was 12
6 weeks at that time, so I think I had five weeks and then
7 another two weeks at the end with him.

8 Q. Okay. Did you work side by side with him in Troop
9 C, District 3, after that?

10 A. Yes, sir.

11 Q. Okay. And did you work on the same shift or on --

12 A. There was a time we worked on the same shift.

13 Q. Okay.

14 A. I think he was on another squad at the time, but
15 there was a time we were on the same squad.

16 Q. Yes, sir. What would be your opinion of the work
17 ethic you saw displayed by Petitioner at that time?

18 MR. McINNES: Objection.

19 THE COURT: Overruled. Go ahead.

20 A. I think he was just like any other trooper. He
21 took his calls. He -- he arrested his people he needed to
22 arrest, and wrote the tickets that he needed to write --

23 BY MR. HENLINE:

24 Q. Okay.

25 A. -- or needed to be written.

1 Q. And was he ever a supervisor for you?

2 A. No, sir.

3 Q. Okay.

4 A. Unless you want to call field training officer
5 your supervisor, because you direct -- you report directly
6 to him if something -- if you had questions about things,
7 you would report directly to him, so if you want to call
8 that a supervisor, that's probably the only thing that I
9 would say.

10 Q. Right.

11 A. But --

12 Q. And I -- I -- my question was more centered around
13 was -- I knew he was a sergeant for a period of time. I
14 didn't know if he was ever your sergeant or not.

15 A. No, sir, I never worked under him.

16 Q. And as his prior -- his -- with him being a field
17 training officer for you, did you ever look up to him for
18 guidance and -- and ask questions later on as you were
19 trying to learn your job?

20 A. Yes, sir. If I had questions about any of the
21 collisions that I was involved with or a ticket, to issue a
22 citation and I had questions about it, I would call him or
23 either call Trueblood --

24 Q. Okay.

25 A. -- because they were my field training officers.

1 Q. Was he ever reluctant to -- to aid you or to
2 assist you in --

3 A. No, he always --

4 Q. -- the information in --

5 A. -- helped out.

6 Q. Okay. And at some point in time, have you ever
7 had any experience with him off duty?

8 A. Yes. His wife and I played on the same volleyball
9 team --

10 Q. Okay.

11 A. -- for I think it was -- it was a Highway Patrol
12 team, and it was for employees and their spouses or family
13 members. And so we played on the same -- so when he was
14 there with his kids, I'd sometimes sit in the bleachers and
15 talk with him.

16 Q. Okay. And did you ever need any kind of
17 assistance from him in anything off duty?

18 A. I don't recall.

19 Q. Okay. And was there a period of time that you
20 were assigned to work at the training academy in Raleigh?

21 A. Yes, sir.

22 Q. Okay. Can you explain what your duties and
23 responsibilities were at that time?

24 A. I was the Troop C recruiter.

25 Q. Okay. And what would your responsibilities have

1 been then?

2 A. Basically, we were to go out and assist with
3 employee -- excuse me -- potential employees who were
4 applying for the Highway Patrol, try to give them some
5 information as far as what they need to do, getting
6 paperwork, assist them with that, look over their paperwork,
7 and submit it, submit forms.

8 Q. Okay. During -- how long were you at the training
9 academy?

10 A. Approximately around three years.

11 Q. Three years? Okay.

12 A. Yes, sir.

13 Q. And during that period of time, were you ever
14 allowed to work from your residence?

15 A. Well, we were told that "you may have to do some
16 work at your residence," because we had a phone -- state
17 cell phone that they gave us, so we may receive phone calls
18 after hours, after your, quote, unquote, assigned hours. So
19 you may receive some phone calls after that. You may have
20 to assist people in the afternoons, when you may be off
21 work, so --

22 Q. Okay. Your duty station was in Wake County?

23 A. I'm sorry?

24 Q. Your duty station remained in Wake County at that
25 time --

1 A. Yes, sir.

2 Q. -- right? Okay. Did you reside in Wake County,
3 or did you reside in --

4 A. I resided in Wake County.

5 Q. Wake County? Okay.

6 (Pause in proceedings.)

7 Q. And one last question: At the time you were
8 there, who -- who was, I guess, the major in charge of the
9 training academy from the time you came --

10 A. When I --

11 Q. -- there till the time you left?

12 A. When I first was in a position as a recruiter,
13 Major Butler, and then Major McNeill -- correction --
14 Colonel McNeill was a major at the time --

15 Q. Yes, sir.

16 A. -- and he eventually took over --

17 Q. Okay.

18 A. -- that position.

19 Q. And Colonel -- I guess now Colonel McNeill, was he
20 aware that people were working from home?

21 MS. LUSIC: Objection.

22 THE COURT: Overruled. To your knowledge.

23 BY MR. McINNES:

24 Q. To your knowledge, do you know if he was aware?

25 A. Like I said, I don't -- I'm not going to say he

1 said we could work from home. It was more like "You may
2 have to work from home."

3 Q. Yes, sir.

4 A. But I'm -- I -- I couldn't tell you. I mean, I'm
5 pretty sure it may be that we would do that, have to do
6 that.

7 Q. Yes, sir.

8 A. I couldn't say.

9 MR. HENLINE: No further questions, Your Honor.

10 THE COURT: All right. Questions?

11 MR. McINNES: Yes, Your Honor.

12 CROSS-EXAMINATION BY MR. McINNES:

13 Q. Trooper El-Amin, during the time that you -- that
14 both you and Sergeant DeValle were in C3, would you have
15 considered Mr. DeValle a friend?

16 A. Yes, sir.

17 Q. Okay. And when he was your field instructor, what
18 did he tell you about when you were supposed to sign on and
19 off duty?

20 A. Usually, he tells us to sign on about five minutes
21 before, just in case your watch doesn't match up with the
22 CAD's time --

23 Q. Uh-huh.

24 A. -- so sign on five minutes before and five minutes
25 after. Sign off five minutes after.

1 Q. Okay. And at that time, are you aware of what his
2 -- his residence was in Wake County at that time --

3 A. Yes, sir.

4 Q. -- correct?

5 A. Yes, sir.

6 Q. Did he talk to you about being in uniform prior to
7 signing on?

8 A. That never came up.

9 Q. Okay. Was it understood that you would be in
10 uniform prior to signing on?

11 A. Yes, sir.

12 Q. Okay. And he didn't talk to you about being in
13 county prior to signing on, did he?

14 A. We -- that wasn't a -- something we had talked
15 about, because I -- I lived in Wake County.

16 Q. Okay. After your initial training, you were asked
17 whether you worked side by side with Mr. DeValle, correct?

18 A. Yes, sir.

19 Q. How long were y'all on the same squad?

20 A. Maybe about a year, two years, or something like
21 that.

22 Q. Okay.

23 A. I'm not quite sure.

24 Q. How long were you in District C3 and you were not
25 on the same squad?

- 1 A. Probably just maybe a year or two after that. I
2 can't -- I can't say right offhand.
- 3 Q. All right. And when somebody -- let's take when
4 they're on the same squad as you.
- 5 A. Uh-huh.
- 6 Q. I mean, you don't have access to what they report
7 for BEACON, correct?
- 8 A. No, sir. We didn't have BEACON at that time.
- 9 Q. Okay. How -- how was the time reported?
- 10 A. If we had BEACON, I --
- 11 Q. For pay purposes.
- 12 A. If we had BEACON, I didn't know anything of it,
13 because I never went to the computer and put my time in. My
14 -- I called to check in on my 800 radio at that time. We
15 recorded on our HP-201, which is our time sheet. We submit
16 that at the end of the week.
- 17 Q. Okay. So the -- the two things that you would do
18 is call in to --
- 19 A. Dispatch.
- 20 Q. -- the CAD --
- 21 A. Correct.
- 22 Q. -- but -- and then you would report on the HP-201,
23 the weekly report of daily activity, correct?
- 24 A. Yes, sir.
- 25 Q. All right. And presumably, those -- the CAD would

1 match up with the HP-201, correct?

2 A. Yes, sir.

3 Q. All right. And who would check to make sure that
4 they matched up?

5 A. I guess the sergeant that was working that evening
6 would kind of mainly do his squad, but -- because we usually
7 turn it in to our -- our sergeant.

8 Q. Okay. And you wouldn't have access to the HP-201s
9 submitted by other troopers, would you?

10 A. Unless you were the type person that would look at
11 the box, because we'd put them in a box.

12 Q. Uh-huh.

13 A. Unless you're a person that looked into the box to
14 look at them, but other than that, no, sir.

15 Q. Was that -- was that something you were allowed to
16 do?

17 A. I don't think it was anything anybody said you
18 could or could not do.

19 Q. Okay.

20 A. But I've seen troopers look at it, but myself, no,
21 I didn't go looking through boxes.

22 Q. Okay. And did you-all have access to the CAD
23 reports for other troopers?

24 A. No, sir, I did not.

25 Q. Okay. And that's even when you're in the same

1 squad, correct?

2 A. Correct.

3 Q. Okay. So is it safe to say that you don't know
4 exactly what Mr. DeValle reported when you were working
5 alongside --

6 A. No, sir.

7 Q. -- Mr. DeValle in --

8 A. I did not.

9 Q. -- in terms of time and -- and for pay purposes,
10 correct?

11 A. I do not know, no, sir.

12 Q. Okay. Now, at some point Mr. DeValle was promoted
13 to sergeant, correct?

14 A. Yes, sir.

15 Q. And I believe you testified that you never worked
16 under him, correct?

17 A. Correct.

18 Q. Okay. And at some point he was transferred to
19 Wayne County, correct?

20 A. Yes, sir.

21 Q. Okay. Do you know whether he ever changed his
22 primary residence to somewhere other than his Wake County
23 residence?

24 A. If he had a place down there, I do not know.

25 Q. Okay. And you don't know anything about his work

1 habits when he was a sergeant in Wayne County, correct?

2 A. No, sir.

3 Q. One of the things that you testified to
4 Mr. Henline about is that during your time at the academy
5 you were told that you may be expected to work at -- from
6 your home. Is that correct?

7 A. Yes, sir.

8 Q. And that would be in addition to your assigned
9 hours, correct?

10 A. Correct.

11 Q. Okay. And what were you told about whether you
12 would be compensated for that time?

13 A. I don't recall anything right offhand, what we
14 would -- if we'd be compensated for it, because sometimes it
15 could be a one-minute phone call or it could be an hour
16 phone call, but I don't think there was anything --

17 Q. All right.

18 A. -- was said that you'd be compensated for it.

19 Q. Okay. If -- if -- if it were a one-hour phone
20 call, would you report that time for pay purposes?

21 A. No, sir, I didn't.

22 Q. And if it were a one-minute --

23 A. No, sir.

24 Q. -- phone call, you wouldn't report that for pay
25 purposes, correct?

1 A. No, sir. I just feel like it was understood.

2 Q. Right. As a matter of professionalism.

3 A. Yes, sir.

4 MR. McINNES: That's all the questions I have,
5 Your Honor.

6 THE COURT: Redirect?

7 MR. HENLINE: Just briefly, Your Honor.

8 REDIRECT EXAMINATION BY MR. HENLINE:

9 Q. Trooper, when -- during your tenure, have you ever
10 held a rank higher than Master Trooper?

11 A. No, sir.

12 Q. Okay. Have you had any training or access to the
13 CAD system?

14 A. No, sir.

15 Q. Okay. As a trooper, the 201s that are in a box,
16 if you'd seen others looking at it, do you know what they
17 were looking at?

18 A. Probably looking to see how many sheets we wrote
19 that week.

20 Q. Talking about citations?

21 A. Yes, sir.

22 Q. Okay. I guess -- well, do you know why they were
23 looking at that?

24 A. I don't know.

25 MR. HENLINE: Nothing further, Your Honor.

1 MR. McINNES: Nothing else, Your Honor.

2 EXAMINATION BY THE COURT:

3 Q. Other than your time at the training center, was
4 -- was it ever communicated to you that you were expected to
5 work from home?

6 A. No, sir. I -- well, I take that back. Sometimes
7 you might have to catch up on wreck -- wrecks at home,
8 because I know, when I was in field training, I got behind
9 on some wrecks sometimes and it was suggested that I get
10 them caught up.

11 Q. Now, would you take time during your regular
12 assigned duty hours to do that from home, or was that extra?

13 A. That -- doing at home was extra.

14 Q. All right.

15 A. I did not get compensated for any of that.

16 Q. So you would -- during your normal shift, even if
17 you had some paperwork left over, you would -- you would do
18 your duty shift, then if necessary, catch your paperwork
19 after you got home?

20 A. Yes, sir.

21 Q. Were you ever aware of a written policy or an
22 understood policy, even, about working from home?

23 A. No, sir. I just -- it's kind of one of those
24 things you get caught up from wreck reports -- It basically
25 was like the portion I got behind on.

1 Q. They can bog you down, can't they?

2 A. They can, yes, sir.

3 Q. Yeah.

4 A. Especially if you got a lot on you to draw on
5 there.

6 Q. Right.

7 A. Or if you're confused about what -- especially
8 early on -- confused on what to write up on there. But --
9 and so I got behind, and those days when you're field
10 training -- you're field training, you may go from one wreck
11 to the next wreck, just kind of getting experience, so you
12 may get behind. And of course, you had to hand-write
13 everything, because we couldn't use the computer at that
14 time.

15 Q. You were still drawing diagrams by hand, too?

16 A. Yes, sir.

17 Q. Yeah. All right. Thank you, sir.

18 THE COURT: Any questions based solely on the
19 questions I've asked?

20 MR. McINNES: No, Your Honor.

21 MR. HENLINE: No, Your Honor.

22 THE COURT: All right. Thank you, sir. You can
23 step down.

24 MR. HENLINE: And, Your Honor, I'd ask the witness
25 be released so --

1 THE COURT: All right.

2 MR. HENLINE: -- he and the Secretary can return.

3 THE COURT: Yes, sir. You're free go, and you and

4 Mr. Secretary have a good trip home.

5 THE WITNESS: All right. Thank you, sir.

6 MR. McINNES: Safe travels.

7 (The witness left the stand.)

8 MR. HENLINE: Your Honor, could my client have a

9 restroom break prior to testifying?

10 THE COURT: All right. We'll be at ease for ten

11 minutes.

12 MR. HENLINE: Yes, sir. Thank you.

13 (The recording stopped at 10:10:43 a.m.)

14 (The recording restarted at 10:23:20 a.m.)

15 MR. HENLINE: If I could be heard briefly just a

16 moment before I call Mr. DeValle.

17 THE COURT: Yes, sir.

18 MR. HENLINE: There's a -- a couple of potential

19 witnesses that I've learned of. They are not on -- two of

20 the three are not on the pre-hearing statement. There's one

21 that would be a -- it was a wrecker driver who has some

22 knowledge of acts and things that went on November 11th,

23 which is the day in question. He is not on the pre-hearing

24 statement, but he could be available by phone. Just wanted

25 to -- I know the opposing counsel would object to that

1 request to do him by telephone interview, but I just wanted
2 to put that in front of the Court about him --

3 THE COURT: Objection is sustained.

4 MR. HENLINE: Yes, sir. The other gentleman is a
5 Raleigh attorney. He is on the pre-hearing statement.
6 Initially, I was not going to call him, but my client has
7 spoke with him, and he would be willing to testify, more as
8 a character reference, by telephone if we would -- if the
9 Court would entertain that. He has a trial that starts at
10 2. If the Court would entertain it, we could probably do it
11 before lunch.

12 THE COURT: Who is it?

13 MR. HENLINE: Rusty DeMent.

14 THE COURT: I'd have to let everybody in the
15 courtroom know he is a very close friend and a former law
16 partner.

17 MR. HENLINE: Yes, sir.

18 MS. LUSIC: Well, initially, until we heard that
19 information, we were not going to object to his --

20 THE COURT: I --

21 MS. LUSIC: -- telephonic --

22 THE COURT: I gave the eulogy at his father's
23 funeral. That's how close family --

24 MS. LUSIC: Yeah.

25 THE COURT: -- members we are.

Colloquy

Vol. II, P. 325

1 MS. LUSIC: So, yeah, initially, we were not going
2 to object, because he was on the pre-hearing statement and
3 the Court has been understanding about our telephonic
4 witness. But understanding the close relationship with the
5 judge and the witness, we would object and feel that that's
6 not an appropriate character reference.

7 (Pause in proceedings.)

8 MR. McINNES: Your Honor, if I may, obviously, you
9 are the fact-finder in this case, and Mr. DeMent is being
10 offered for character evidence. And obviously, we believe
11 that you'll probably put a lot of weight into his testimony,
12 regardless of the fact that it turns only a couple of
13 instances or a few instances that he may have had contact
14 with Mr. DeValle. But given your close relationship, that
15 you're the fact-finder, that this is character evidence that
16 is being proposed, I just feel like it's --

17 THE COURT: Well, let me tell you something.
18 Y'all can have a seat.

19 MR. McINNES: Yes.

20 THE COURT: I held District Court in Wake County
21 eight years as an elected judge, and I held another six
22 years as an Emergency District Court Judge going all over
23 the state, and a huge portion of that was in Raleigh, North
24 Carolina. I lived about almost 60 years of my life in
25 Raleigh. And when I went on the bench, in those days -- I

1 don't think they do it anymore, but you had to have six
2 months interim between, if you had worked for a law firm,
3 and those lawyers and that law firm coming in and your
4 adjudicating their cases. I think if Rusty DeMent's father
5 was still here, he would tell you I was probably harder on
6 him than any other lawyer in the area because I wanted to
7 make sure that what I was doing was fair and not because of
8 the relationship of my good friends. Many of the lawyers in
9 Wake County had been my very close friends for -- some of
10 them, for almost the entire 60 years that I lived there.

11 And while y'all were talking and I was mulling,
12 what I was thinking about -- and I am going to now put on
13 the record is I remember Sergeant DeValle from his service
14 in Wake County as a highway patrolman, and I can take
15 official notice, to a degree, that his reputation among the
16 criminal defense bar was a good one. And I think that would
17 be the essence of what Rusty DeMent would offer.

18 MR. HENLINE: It would be, Your Honor.

19 THE COURT: That's not saying I'm giving Sergeant
20 DeValle anything. I'm just acknowledging that his
21 reputation as a highway patrolman in those days was a good
22 reputation.

23 Another one of my good friends who is a lawyer in
24 Raleigh, North Carolina, is a man named Robert McMillan, who
25 still goes to his law office every day and he's in his 90s.

Colloquy

Vol. II, P. 327

1 And his son Duncan is also very well-respected and a very
2 skilled lawyer. Mr. McMillan used to tell me that he liked
3 the way I handled District Court because I kept my mouth
4 shut, and the less you say, from this position, the better
5 off you are. And I totally agree with it. And the only
6 reason I preface my next remark is, sometimes you ought to
7 keep your mouth shut, and sometimes I'll say I'll eat the
8 heck out of that rule and say things I ought not to.

9 These cases are different from what I did as a
10 District Court Judge, and because of that, I'm looking at a
11 totally different angle of people's character. And as y'all
12 may know, I have rendered decisions a number of times
13 considering highway patrolmen. And if -- if I ever get to a
14 point when I'm giving credence to something other than the
15 facts and the law, then I'm going to quit doing this job.
16 That's what I'm supposed to do. I don't -- if Rusty wants
17 to testify, I don't seriously object to it. I'm just
18 throwing it out as a preference, and I would give it the
19 appropriate weight. I don't really think it's necessary,
20 given that I have articulated my thoughts on Sergeant
21 DeValle's tenure in Wake County.

22 MR. HENLINE: Yes, sir.

23 MR. McINNES: And, Your Honor, I did not mean to
24 impugn before --

25 THE COURT: Don't worry. If I thought you had

1 impugned my integrity, you would be very well aware of that.

2 MR. HENLINE: And, Your Honor, given that, we
3 would withdraw the request to -- to --

4 THE COURT: All right.

5 MR. HENLINE: -- to have Mr. DeMent testify.

6 THE COURT: Okay.

7 MR. HENLINE: Thank you, Your Honor. Thank you,
8 opposing counsel.

9 THE COURT: Further evidence?

10 MR. HENLINE: Okay. Your Honor, we'd call
11 Mr. DeValle.

12 THE COURT: All right. Come up, please. Left
13 hand on the Bible and raise your right.

14 MAURICE A. DeValle,
15 having been called as a witness for the Petitioner, was duly
16 sworn and testified as follows:

17 THE COURT: Thank you, sir.

18 DIRECT EXAMINATION BY MR. HENLINE:

19 Q. Good morning, sir. Would you state your name for
20 the record?

21 A. Maurice DeValle.

22 Q. Okay. And, Mr. DeValle, were you previously
23 employed with the Highway Patrol?

24 A. Yes, sir.

25 Q. Okay. When did you begin working for the Highway

Maurice A. DeValle

Direct/Henline

Vol. II, P. 329

1 Patrol?

2 A. May 1998.

3 Q. Okay. And could you go through kind of your
4 career as far as from the beginning to where you were at the
5 point in time you were terminated?

6 A. Yes. I started in May of 1998, graduated, I
7 believe -- or November of patrol school. My first
8 assignment was C3, Wake County. Worked there for
9 approximately two and a half, three years.

10 They sent me to the training academy. I was in
11 charge of a Spanish immersion course that I would teach all
12 troopers across the state some -- some Spanish and along
13 with our basic school members. I did that for approximately
14 two years. Went back to C3. Worked there until, I think,
15 2006. Transferred down to Brunswick County. My -- my wife
16 had a promotion opportunity, so we went to B6, Brunswick
17 County, stayed there for about a year and a half.

18 Transferred back to Wake County. Worked there for
19 another two years, three years. They -- and then I was
20 requested to go to the training academy for a second time
21 but to take over another program, which was an eCitation
22 program where we taught and I was in charge of teaching
23 every trooper in the state and every law enforcement agency
24 in the state eCitation.

25 Along with that, they gave me the TraCS program,

1 which was something by DMV. So then I was in charge of
2 teaching that to every member -- or coordinating members to
3 teach that, and then to any local agency across the state as
4 well.

5 From there I was promoted -- I believe it was
6 2010, 2011 -- promoted to sergeant. And the duty station I
7 was assigned was C7, which is Granville and Durham County.
8 Worked there for approximately three years as a sergeant,
9 and by choice, transferred to Wayne County, C2, and worked
10 there for approximately three years, until I was terminated
11 by the Highway Patrol.

12 Q. And do you recall the date of November 11th, 2016?

13 A. I do.

14 Q. Okay. Can you go back through that day and -- and
15 tell the Court what happened that day?

16 A. I think it's important to start, actually, on the
17 10th.

18 Q. Okay.

19 A. Because the 10th, we were at the movies with my
20 family.

21 Q. Yes, sir.

22 A. And my -- my daughter actually started to -- to
23 vomit at the theater. So we went home at that point, didn't
24 think nothing more of it, just my girl -- my little girl was
25 sick. The next day, of course, I developed the same

1 virus -- stomach virus that she did, and had -- apologies --
2 lack of better terms, a -- diarrhea. Checked on at 3,
3 showered, was ready to go on that day, just going to the
4 restroom back and forth. I was not able to make it that
5 day.

6 I had an appointment that day to do a wrecker
7 inspection. I believe it was A+ Towing. Not only was the
8 inspection -- and -- and what stands out -- because that
9 individual's a very unique individual. But I called him
10 that day and -- and told him that I was sick, that I was not
11 going to be able to do his inspection on that day, but when
12 I got back to work --

13 Q. Do you remember what time you told him?

14 A. It was before the end of business that day, so it
15 was before 5:00. I don't know the exact time. But I knew I
16 had to do that in order to reach him, to make sure that --
17 he expected me. So I reached out to let him know that I was
18 -- I was sick and I was not --

19 Q. Did y'all have an --

20 A. -- going to be able to --

21 Q. -- appointment time set up?

22 A. I -- I do not recall.

23 Q. Okay.

24 A. Do not recall.

25 Q. Okay. And so at that point in time, what happened

1 next on that day?

2 A. Of course, I was at -- still at my residence due
3 to me being sick. Lieutenant Morton came to my residence
4 around 7:00, 7:30. I'm -- I'm not sure exactly what time on
5 that day.

6 Q. Okay. And when Lieutenant Morton came, how did he
7 announce himself?

8 A. He -- excuse me -- walked to the door. I did; I
9 had my T-shirt and shorts on, 'cause I was -- I was sick.
10 The first thing he asked me, he says, "Are you working?"
11 And I stated, "No, sir, I'm not. I'm sick." He stated,
12 "Well, you're still checked on the CAD." And I said, "Well,
13 I shouldn't be." We had a very brief conversation. And he
14 left. I went back in and immediately checked off on my
15 computer as soon as he -- as soon as I walked back into my
16 residence.

17 Q. And in your estimation, how long do you think your
18 conversation was with Lieutenant Morton?

19 A. A minute. It was -- it was very, very brief.

20 Q. Okay. And you said you checked off the MDT after
21 he had left?

22 A. Yes, sir. And I remember it was very brief
23 because I did ask him, I said, "Well, what's going on? Is
24 everything okay?" And he stated, "Well, I'm not able to
25 talk about it, but I was given duties" -- or something to

Maurice A. DeValle

Direct/Henline

Vol. II, P. 333

1 the fact that "I was told to be here, but I can't tell you
2 anything about it." So he just -- he wouldn't say anything
3 about it, so I -- the conversation was very brief.

4 Q. And earlier, you said you had checked on and you
5 said that you should be checked off. Could you expound on
6 that?

7 A. I shouldn't be checked on the CAD, because I was
8 sick that day. And -- and that was part of it, too, if I'm
9 not mistaken, because I'm sick -- I did state something to
10 the effect that "I'm not claiming any time, due to me being
11 sick," because the CAD did show me on -- on at that time.

12 Q. Yes, sir. What -- why did you check on that day?

13 A. I had all intentions of going to work.

14 Q. And what time did you start feeling sick that day?

15 A. I -- I do not recall.

16 Q. So after Lieutenant Morton left, did you do
17 anything else that day or did you just stay home?

18 A. Absolutely not.

19 Q. Yeah.

20 A. I remained at my residence in the bed, still going
21 back and forth to the bathroom.

22 Q. Did you work the following day?

23 A. I did.

24 Q. Did you work the -- I guess, the rest of that
25 weekend?

1 A. I don't recall the whole weekend. I know I went
2 the next day, simply because that same wrecker driver -- I
3 did go and do his inspection. It took the majority of that
4 day, where I was on site with him for a large period of
5 time. It was a -- he was trying to put a new fence -- he
6 had, like, a trailer and just a fence. I had to inspect a
7 lot of different things that would require me to be outside.
8 And then what -- what refreshes my memory the most is, like
9 I said, he wanted to take a picture of me actually
10 transmitting his company being put in service.

11 Q. And when you do wrecker inspections, what kind of
12 paperwork was required for that process?

13 A. I don't remember everything, due to the time frame
14 that I've been away from it.

15 Q. Yes, sir.

16 A. But it was a very lengthy process for one
17 particular wrecker. It was a lot of different files. On
18 top of me putting him on, we were going through our own
19 inspections in the district, which meant Raleigh was coming
20 down, the inspections unit was going through all of our --
21 our files. And I was in charge of all the wrecker files, so
22 not only did I do his but I'd have files in my car that I
23 would constantly have to review numbers based off of CAD
24 from my computer to -- to what they have on -- on file:
25 price lists, making sure there's dates, correct prices,

1 signatures. The inspections unit is -- is very particular,
2 and -- and due to -- as my buddy Mike Potts would always
3 say, I've got OCD, and so due to that, something that might
4 take you five minutes to do would probably take me 30,
5 because I'm constantly going back and forth over numbers,
6 just to make sure that it's an absolute perfect file.

7 Q. And were there other responsibilities you had with
8 your district other than the wrecker inspections?

9 A. Absolutely.

10 Q. And could you explain to the Court those
11 responsibilities?

12 A. Well, I -- I did the schedules, which were eight-
13 and-a-half-by-fourteen sheets. And when you do a schedule,
14 you would be -- I might do two months at a time. So you've
15 got these spread out all over that would require me to -- to
16 lay them out in front of me to see.

17 I had schedules, fatal files, video evidence,
18 not -- not regular evidence as marijuana or narcotics,
19 but video storage -- I apologize for not remembering all of
20 them. Sergeant Burton would actually put them on a board,
21 and if -- whoever did the -- whoever was primary in evidence
22 pretty much did that. I think I did the Alco-Sensor log.
23 And they would do one of -- CJLEADS, I -- or NCAWARE. I'm
24 sorry. So the primary'd do evidence and NCAWARE, and I
25 pretty much did everything else in the district.

1 And Sergeant Burton allowed me to do more than a
2 typical sergeant. He would give me a lot of his duties to
3 perform, simply to kind of -- to teach me, to give me an
4 opportunity to learn different things. So my day was not
5 normal. It was not a routine. My schedule was not routine,
6 because I was doing a lot of things that were new. So there
7 was no routine to my patterns every day. It was the -- he
8 would give me something, and I would -- and I would perform
9 that task.

10 Q. Were there days or days in a row where you would
11 have no assignments and nothing due to turn in?

12 A. I'm sure there was somewhere along the line that I
13 -- I wouldn't have something to turn in. But in between all
14 those things, with inspections coming, you're constantly
15 comparing numbers, tedious numbers. On top of that, we had
16 biannual inspections going. So there was -- you had radar
17 certifications coming. So I had to coordinate all that. So
18 for me, every single day was pretty busy.

19 Q. Could you have sat at home on multiple days and --
20 and not done any work and remained caught up on your work?

21 A. Absolutely not.

22 Q. And the biannual inspections, what's -- what is
23 involved in that?

24 A. Biannual inspection is -- I can't remember exactly
25 how many sheets it would be for the actual inspection, but

1 it would be to get a trooper's car -- I would have to call
2 -- meet with the trooper -- and some of the troopers would
3 be upset, at times, because I physically wanted to see
4 everything that they had in their cars. So I'd match up a
5 number, so it'd be something as your -- your firearm.

6 I'd have to ask you to remove your firearm. You
7 would -- I would check to see if it was lubed. You would
8 take it apart and put it back together to make sure you
9 could do that. I would verify the serial numbers that you
10 have on your firearm is the same one that's on my biannual
11 inspection. And then I would have to go into a CAD printout
12 to make sure those numbers matched on a CAD printout. And
13 then I would have to go into a PIF file, personal
14 information, and making sure all those numbers matched as
15 well. So I'd have three or four different forms that I'm
16 matching particular numbers to.

17 Q. Okay.

18 A. But that was a -- a lengthy process.

19 Q. How many members of your squad were you
20 responsible for doing this duty?

21 A. I do not recall at this time, sir.

22 Q. Was it the full squad, or was it half the squad?

23 A. Me and -- me and Whitley worked pretty well
24 together with -- if his guys were there, then I would try to
25 help out and do his, if -- if I could.

Maurice A. DeValle

Direct/Henline

Vol. II, P. 338

1 Q. Yes, sir.

2 A. But I don't remember how many.

3 Q. Okay. So y'all just split it down the middle;

4 y'all just kind of helped each other out --

5 A. Well --

6 Q. -- as availability?

7 A. -- he -- he -- again, for me, I'm a little bit
8 weird this way, that I wanted to do my own, because when I
9 saw -- when the work was done, I was the one that was
10 accountable for it, so I did my own. He didn't do any of my
11 inspections, no, sir. He didn't do any of my records. He
12 didn't do any of my work.

13 Q. Okay.

14 A. I -- I made sure I did that myself.

15 Q. Okay. At some point a few days later, you were
16 placed on investigatory placement. Is that correct?

17 A. Yes, sir.

18 Q. And were you interviewed by Internal Affairs
19 shortly after that?

20 A. Yes, sir.

21 Q. Okay. During the Internal Affairs investigation,
22 were you asked about specific dates and what -- where you
23 were and what you were doing?

24 A. Yes, sir.

25 Q. Okay. And can you tell the Court about why you

Maurice A. DeValle

Direct/Henline

Vol. II, P. 339

1 made the comment that you couldn't recall what you were
2 doing on specific dates?

3 A. Well, the Highway Patrol trains you from patrol
4 school, if you lie, they'll fire you. That's what they say.
5 So you believe that, and for me, I wanted to be as honest as
6 possible. I wanted to be as truthful as possible. And I
7 didn't want anything that I -- I said -- if I forgot
8 something or didn't put something in, I -- I didn't know,
9 didn't know what I did on those particular days. Nothing
10 stood out on that particular days that they were asking me.
11 So I wanted to be as truthful as possible. I didn't want to
12 say something that they could interpret, "Oh, well, you're
13 misleading us."

14 Q. Okay. And at the point in time they're asking you
15 about these specific dates, how much time had passed?

16 A. Four to six weeks.

17 Q. And is it your testimony you couldn't recall what
18 you were specifically doing because it was nothing out of
19 the ordinary?

20 A. That's correct. I -- I would say that nothing --
21 nothing that stood out -- when I did reach out to our
22 Technical Services Unit to pull up some old e-mails to try
23 to discover -- try to figure out something, something that
24 would stand out to me, nothing ever did stand out that
25 helped me recollect where I was or was not on that -- on a

1 particular day.

2 Q. Yes, sir. Okay. And -- but you did admit that
3 there were days -- at least one day that you never left your
4 residence and you worked from home.

5 A. Yes, sir.

6 Q. Can you explain to the Court what you were doing
7 at -- what activities you might have been doing --

8 A. I --

9 Q. -- at home?

10 A. I do remember I had -- I know I had at least two
11 wrecker files. And the files are probably -- every one
12 would be different, but typical, a small one would be this
13 thick --

14 Q. Could you explain --

15 A. -- of paperwork --

16 Q. Could you explain what --

17 A. Hundreds. Hundreds of papers in there --

18 Q. Okay.

19 A. -- that I would have to verify dates and times and
20 then, like I just said, go back and forth. And then I would
21 have to -- I would print out new copies of this if it needed
22 to be updated, or applications. I would be contacting them
23 via telephone, wrecker companies, but doing wrecker
24 inspections and biannual inspections. I do believe I
25 offered some evidence of -- during my pre-dismissal hearing

Maurice A. DeValle

Direct/Henline

Vol. II, P. 341

1 -- of doing some biannual inspections.

2 Q. Yes, sir. Okay. And you readily admitted that
3 there was at least one day, and there may have been parts of
4 another day, at least one or two, where you may have checked
5 on, remained on to perform some function?

6 A. Absolutely.

7 Q. What --

8 A. Yes, sir.

9 Q. What were those functions you were performing?

10 A. It would be many different things. If I got a
11 complaint -- if somebody called -- people didn't drive to
12 the office to complain. When people had a complaint on a
13 trooper, you -- I respect Secretary Hooks' knowledge and
14 expertise of what he did with the SBI, but he was -- he's
15 never been a trooper, and he doesn't understand how things
16 really work with the Highway Patrol at a worker-bee
17 position -- maybe administration and budgets, but not a
18 worker bee.

19 Sergeants just don't ride to the scene of somebody
20 complaining on a trooper. A trooper is taught he deals with
21 the person and you leave the scene. They talk very little.
22 You -- you have verbal judo. You just -- you tell them what
23 you're there for, tell them what you're going to do, and you
24 leave. And you'll go do your notes at a different location,
25 or as I did it, I'll do my notes right then, go issue the

1 citation as -- hand it to them, and I'd leave, simply to get
2 out of any kind of confrontation that could -- that you
3 could encounter. So Secretary Hooks was way off with
4 thinking that sergeants ride to the scene where a complaint
5 may be.

6 But how a complaint would come in, they would call
7 the communications center. The communications center would
8 call the sergeant or the supervisor on duty. And at that
9 point I would handle those calls. And those happened on
10 several occasions where when you're -- you're listening to a
11 complaint, I would have to take a notepad out. That's
12 not -- I didn't feel it was safe or appropriate to be
13 driving down the road. And they would give me those calls
14 as soon as you check on. It's not you wait till you get to
15 the county line to do that. It's -- when you check 10-41,
16 they give you the calls, say deal with it.

17 So I would take notes or address any matters that
18 needed to be addressed: E-mails, handling complaints,
19 returning phone calls. Part of the promotional process
20 teaches you how to delegate and prioritize your duties. And
21 I did that the best that I could -- that I -- I thought was
22 the best that I could --

23 Q. Yes, sir.

24 A. -- at the time.

25 Q. Okay. The days that you went directly to your

Maurice A. DeValle

Direct/Henline

Vol. II, P. 343

1 district at your reporting time --

2 A. Yes, sir.

3 Q. -- would you be in the county at your 10-41 time
4 on those dates?

5 A. No, sir. No, sir. And that's just -- that's the
6 truth, that -- I don't know of any members checking 10-86 or
7 10-87. That was -- I was -- like I said, I was promoted in
8 2010, terminated I think 2016 December, if I remember
9 correctly.

10 Q. Yes, sir.

11 A. I've never moved. The colonel himself has been to
12 my house. My captain -- I would dog sit for my captain.
13 He's been to my residence. Major Taylor had been to my
14 residence -- or he knew where my residence was. First
15 Sergeant Burton knew where my residence was. Lieutenant
16 Morton has been to my house. He lived right down the street
17 from me. Captain Holmes lived right down the street from
18 me. They knew where my residence was.

19 Everybody in my chain of command knew where I
20 lived for the six years that I lived in Wake County and
21 never moved. Every single one of them knew it.

22 Q. Have you -- have you ever had members of the
23 command staff ask you about your Wake County residence?

24 A. Absolutely.

25 Q. And can -- and could you expound on that?

1 A. Lieutenant Colonel West, he called me just prior
2 to this anonymous letter coming, and he says, "Hey" -- the
3 first thing --

4 MR. McINNES: Objection to hearsay, Your Honor.

5 THE COURT: Sustained.

6 BY MR. HENLINE:

7 Q. And let's -- let's go back to November the 11th.
8 You were the duty officer that day?

9 A. I'm -- I'm not sure. I was the probably the LOD,
10 late-duty officer.

11 Q. Yes, sir. Anybody ever call you, communications
12 or a trooper, asking any -- anything that would require --

13 A. No, sir. Matter of fact, as -- as I was still on
14 duty per the CAD, so was Sergeant Burton. So he would be
15 superior officer. But, no, sir, I never received any phone
16 call to handle anything, to deal with anything. No troopers
17 called me. No communications called me.

18 Q. And was there a point in time during the time in
19 question where your district was affected by Hurricane
20 Matthew?

21 A. Yes, sir.

22 Q. Okay. Do you remember when that was?

23 A. I don't remember the dates, but I remember it
24 quite well 'cause we had a -- an interesting situation occur
25 with that as well.

Maurice A. DeValle

Direct/Henline

Vol. II, P. 345

1 Q. Can you explain what effect it had on your county?

2 A. Sure. Sure. I believe it's the Neuse River
3 basically cut the county in half. But what's important with
4 that is, prior to that, we did not have gas cards. Back in
5 your time when you were with the patrol, every member was
6 issued a gas card. We put in the -- in the door, in a
7 little sleeve. Troopers are no longer issued gas cards, and
8 sergeants aren't, either. But for that particular
9 situation, the sergeants were given a gas card by
10 communications and logistics.

11 Q. And what was the purpose of -- of that gas card?

12 A. Just in case we lost -- we couldn't get to the --
13 to our district office to get gas, we could get it wherever
14 it would be.

15 So with us -- so part of my assignment with that
16 was, I had to figure out where every trooper lived, because
17 the county was cut in half. We knew the Neuse River was
18 coming and was going to crest and -- and flood where the
19 guys on the southern end couldn't get to the north end and
20 the north end couldn't get to the southern end. We were
21 basically on two islands. So it was up to me to organize
22 who was going to be on the south side, who on the north
23 side, and then changing the schedule of who's working day
24 shift, night shift, to make sure we provided coverage.
25 There was no FEMA money. There was no additional overtime.

1 It was our normal assigned shifts.

2 So the sensational story of Hurricane Matthew
3 really had no bearing on pay or assignment. It just really
4 increased the workload for the supervisor to make sure we
5 had coverage and things were -- were dealt with
6 appropriately.

7 And due to that, the trooper on the south side
8 couldn't get to the gas pumps on the north side, so I gave
9 him -- excuse me -- I gave him my gas card.

10 Q. And what trooper was that?

11 A. Shane Smith. I did not have a gas card. So for
12 me, I would have to pay for fuel out of my pocket, which --
13 I didn't have a problem with that. For 19 years, I'd bleed
14 black and silver, and that was just -- I felt like that was
15 appropriate. So I didn't have a gas card. And it happened
16 where they couldn't get from the south to the north.

17 I remember on another occasion the troopers -- we
18 were all given a standing order by First Sergeant Burton:
19 "Do not drive around. Do not be on preventive patrol. We
20 are only in a response mode. We're not just riding around
21 like we normally would."

22 That stands out even more because two troopers
23 were trying to deal with some sheriff's department issues of
24 a domestic or a fight, and Sergeant Burton was pretty upset
25 about that. And I told the troopers, said, "Hey, First

Maurice A. DeValle

Direct/Henline

Vol. II, P. 347

1 Sergeant done told you guys quit just riding around. Sit
2 still, man. We just don't have a lot of gas. We got to
3 make sure we have enough fuel to handle our calls. If they
4 need us, then we would respond. However, we're just not
5 riding because we want to see people in a domestic." And I
6 paraphrased that very unsightly [verbatim].

7 Q. Okay.

8 A. Another part of that -- I remember another part of
9 that day was I had to coordinate with the National Guard
10 because we did arrest an impaired driver. He actually
11 pulled up where the troopers were. So they had to arrest
12 the impaired driver, and he was on the south side. So I was
13 coordinating with the National Guard, with the troopers.
14 All of this was via telephone of -- we had to get a deuce-
15 and-a-half truck to the troopers, so the troopers had to put
16 the drunk driver and himself in the back of the deuce-and-a-
17 half, and they were riding through the water to bring him to
18 the jail in Wayne County.

19 Q. And this was on the day that --

20 A. This was during Hurricane Matthew stuff. And
21 sitting at the office was not an option at times. The
22 office parking lot actually flooded. Our -- our power and
23 the gas pumps went out for a period of time. I don't know
24 exactly how long. But that parking lot, the Bojangles',
25 even to access the parking lots were flooded. And -- and I

Maurice A. DeValle

Direct/Henline

Vol. II, P. 348

1 have photos showing that if we need. The whole county had
2 issues.

3 Q. And -- and going back through your -- your career,
4 have -- have you dealt with some pretty traumatic
5 situations?

6 A. Yes, sir, I have.

7 Q. Okay. Could you explain to the Court what some of
8 those situations are?

9 MR. McINNES: Objection, Your Honor. I'm not sure
10 the relevance.

11 THE COURT: What's the relevance?

12 MR. HENLINE: Your Honor, I want to -- it's going
13 to build on motivation for why he was home.

14 THE COURT: All right. I'll allow it to a degree.

15 MR. HENLINE: Yes, sir.

16 BY MR. HENLINE:

17 Q. Okay.

18 A. In October of 2000, I was on routine patrol. I
19 was sitting beside of Fred Trueblood, near the Foxy Lady. A
20 chase came out, coming from I believe it was Franklin
21 County, on U.S. 64 coming into Wake County. And so me and
22 Trueblood went to assist with the pursuit --

23 MR. McINNES: Your Honor, I'm going to renew my
24 objection. October 2000?

25 THE COURT: I don't see it.

1 MR. HENLINE: Your Honor, what we'd like to
2 present to the Court is the motivation for it, which is that
3 my client has since this time been diagnosed with PTSD for
4 some of these incidents.

5 THE COURT: If he has documentation that got
6 posttraumatic stress disorder, then I'll entertain that, but
7 I don't think I need all of the events that led up to it.

8 MR. HENLINE: Yeah, I don't have documents..

9 BY MR. HENLINE:

10 Q. Do you have documentation with you?

11 A. It's -- my medical file is clear and present with
12 the Highway Patrol. It's --

13 Q. Okay.

14 A. -- been documented --

15 MR. HENLINE: I don't have that documentation --

16 A. -- many times.

17 MR. HENLINE: -- in the courtroom, Your Honor.

18 THE COURT: All right.

19 MR. HENLINE: I -- I was never afforded that from
20 the discovery request that Mr. McInnes had originally
21 presented that. It was just the Internal Affairs files.
22 There was everything but the medical. I don't have the
23 notes.

24 MR. McINNES: And, Your Honor, the medical records
25 were not in the Internal Affairs office. They've had a

1 opportunity to request the medical records in discovery.
2 They don't have them. This is 2000. And at the end of the
3 day -- and I'm making a little argument here, Your Honor,
4 but it doesn't authorize him to stay at home when he's
5 signed on on duty.

6 THE COURT: Objection's sustained.

7 BY MR. HENLINE:

8 Q. And if you would turn to Tab 16 in the book.

9 A. Yes, sir.

10 Q. Could you explain to the Court what that document
11 is?

12 A. Speaking of a letter?

13 Q. Yes, the letter.

14 A. It's a letter from WRAL.

15 (Petitioner's Exhibit Number 16 was identified
16 for the record.)

17 BY MR. HENLINE:

18 Q. Okay. And how did you -- did you receive that
19 letter?

20 A. It was left at my residence.

21 Q. Okay. And what did you do with the letter after
22 you -- after you became aware of it?

23 A. I -- I gave that to Captain Holmes.

24 Q. Okay. You gave it to --

25 A. Which --

Maurice A. DeValle

Direct/Henline

Vol. II, P. 351

1 Q. -- Captain Holmes?

2 A. Yes, sir. Which I, you know, today know that he
3 presented to Internal Affairs.

4 Q. Okay. All right. And --

5 A. Captain Holmes was my ranking officer at the time.

6 Q. Yes, sir. He was, I guess, the senior command
7 staff for your troop?

8 A. Yes, sir.

9 Q. Okay. And if you would turn to Tab 18.

10 A. Yes, sir.

11 Q. Could you explain what -- what these documents
12 are?

13 A. This is annual evaluations from my supervisors
14 that -- talking about my performance.

15 (Petitioner's Exhibit Number 18 was identified
16 for the record.)

17 BY MR. HENLINE:

18 Q. Okay. And how -- how -- over the course of time
19 for these -- if you'd just kind of look through them
20 briefly.

21 (Pause in proceedings.)

22 A. Yes, sir.

23 Q. These performance appraisals, is there any
24 documentation of anything in those performance evaluations
25 that was anything negative, especially given anything that's

1 before the Court today as far as these allegations?

2 A. What -- what I see is everything pretty much from
3 good to very good.

4 Q. And was this done by two different supervisors?

5 A. It is.

6 Q. And these were done while you were a sergeant, by
7 the ranking first sergeant --

8 A. Yes, sir.

9 Q. -- that you were assigned to at the time?

10 A. Yes, sir.

11 Q. And if you'd turn to Tab 19.

12 A. Yes, sir.

13 Q. Could you explain what these documents are?

14 A. These are commendation letters from exceptional
15 work.

16 (Petitioner's Exhibit Number 19 was identified
17 for the record.)

18 BY MR. HENLINE:

19 Q. And how do these letters -- I guess, how did they
20 come into our possession?

21 A. These would be members of the public or different
22 agency heads would send that to the Highway Patrol
23 commending me on the performance of my duties.

24 Q. And going back to your -- to your 201s, where you
25 indicated your mileage on the 201s --

1 A. Yes, sir.

2 Q. -- why -- why did you put the information in the
3 mileage portion of the 201 that you put in there?

4 A. The two-oh -- the 201 is -- if you did it daily,
5 that would be great; you could remember everything exact.
6 Unfortunately, that wasn't necessarily always everybody's
7 way of doing business. And on Sunday, you'd have to turn in
8 your reports, so on Sunday you'd have to remember back how
9 far you drove or what you drove, on top of everything else
10 that you did that particular week.

11 So that's where that's coming in. You document
12 the mileage to the best of your knowledge. It was
13 absolutely not an exact number. It was just the best of
14 what you remembered.

15 Q. Okay. Was there any intent on your part in
16 putting those numbers down to deceive a supervisor as far as
17 what you were doing?

18 A. No, sir.

19 MR. HENLINE: That'd be all my questions, Your
20 Honor.

21 THE COURT: Cross-examination?

22 MR. McINNES: Yes, Your Honor.

23 CROSS-EXAMINATION BY MR. McINNES:

24 Q. Mr. DeValle, on direct, you didn't discuss the
25 conversation with Captain Holmes, did you?

1 A. I wasn't asked that, sir.

2 Q. Right. You did have a conversation with Captain
3 Holmes in -- where First Sergeant Burton and Lieutenant
4 Finney were present, correct?

5 A. Yes, sir.

6 Q. Okay. And that conversation occurred before
7 November 11th, 2016, correct?

8 A. Yes, sir.

9 Q. Okay. So it was before the events that began the
10 investigation for which you were terminated, correct?

11 A. I'm sorry. Can you repeat that?

12 Q. It -- the -- it occurred before -- before the
13 events that led to the investigation that led to your
14 termination, correct?

15 A. Yes, sir.

16 Q. Okay. And that was before Hurricane Matthew,
17 correct?

18 A. I believe so, yes, sir.

19 Q. Okay. Now, this was after a training event,
20 correct?

21 A. That's correct.

22 Q. All right. You don't remember the exact month or
23 year. Is that correct?

24 A. I do not.

25 Q. Okay.

1 A. It was training or some reason for -- for us to be
2 at troop headquarters --

3 Q. Okay.

4 A. -- doing something at troop headquarters.

5 Q. But it was before September of 2016, correct?

6 A. Yes, sir.

7 Q. Okay. And did he call you into his office?

8 A. We were in his office. I don't remember if he
9 called us in, or Finney, or -- I'm not sure the --

10 Q. Okay.

11 A. -- how we -- but the meeting was held in his
12 office.

13 Q. Okay. Did he ask you to sit down?

14 A. I don't remember, sir.

15 Q. You don't remember whether he asked you to stand
16 at attention?

17 A. That -- that wouldn't -- no, I don't. I don't
18 remember whether he said, "Stand at attention," "Sit down,"
19 or --

20 Q. But he did say that he didn't want to hear from
21 you, correct?

22 A. That's correct.

23 Q. That it would be a one-way conversation, correct?

24 A. That's correct.

25 Q. Okay. And it -- given the fact that he asked your

1 first sergeant and a lieutenant to witness this one-way
2 conversation, didn't that import to you that this was a
3 serious one-way conversation?

4 A. With all due respect to that, sir, I spent my
5 entire career in Raleigh, Wake County, C3, or the majority
6 of my career there. So for me to see a gold badge was not
7 unusual. For me to interact with the colonel of the Highway
8 Patrol was not unusual. So the seriousness of our
9 conversations weren't what it would be for most troopers.
10 It was -- I was very relaxed speaking to command staff.

11 Q. You didn't believe it was a serious conversation.

12 A. Sir, I didn't know what it was at the time.

13 Q. Okay.

14 A. Me and him play golf together.

15 Q. Okay.

16 A. Me and First Sergeant Burton played golf. We both
17 played in a lot of golf tournaments. We -- we'd do a
18 statewide tournament. So I didn't know what it was.

19 Q. So you consider Captain Holmes a friend?

20 A. I consider I was -- I would say that I'm very
21 relaxed around Captain Holmes, that me and him have done
22 many things together outside of work. And it was a very
23 comfortable relationship.

24 MR. McINNES: If I may approach, Your Honor?

25 THE COURT: Yes, sir.

1 BY MR. McINNES:

2 Q. Mr. DeValle, I'm showing you a document that I
3 guess we will mark --

4 MR. McINNES: What's that?

5 (Pause in proceedings.)

6 MR. McINNES: What --

7 THE COURT: The last number was 14.

8 MR. McINNES: Yes. Just go ahead and mark it.

9 MS. LUSIC: Yeah, the next exhibit number is
10 actually 15, Respondent's Exhibit 15. Should be this one.

11 (Respondent's Exhibit Number 15 was marked for
12 identification.)

13 BY MR. McINNES:

14 Q. Mr. DeValle, I'm handing you a document that has
15 been --

16 THE COURT: Mr. McInnes, am I getting one?

17 MR. McINNES: Oh. This is yours.

18 THE COURT: Oh, good. Thank you.

19 BY MR. McINNES:

20 Q. Mr. DeValle, I've handed you a document that I
21 have marked Ex. 15. Do you see that, sir?

22 A. Yes, sir.

23 Q. Okay. And at the top of this page, it says,
24 "Transcript of Sergeant DeValle's Interview, Part One." Do
25 you see that, sir?

1 (Respondent's Exhibit Number 15 was identified
2 for the record.)

3 A. Yes, sir.

4 BY MR. McINNES:

5 Q. Okay. And at the -- at the -- the very first line
6 starts with a notation: "Lieutenant Clark. Today's date is
7 15 November of 2016." Is that what it says?

8 A. Yes, sir.

9 Q. Okay.

10 "Current time is 10:17 a.m. I am Lieutenant
11 P.T. Clark with Internal Affairs Section. Also
12 with me today from Internal Affairs is First
13 Sergeant R.W. Sawyer."

14 Do you see that?

15 A. Yes, sir.

16 Q. Okay. And so this was an interview by Internal
17 Affairs that was conducted after you had been provided
18 notice that there was an investigation being initiated by
19 Internal Affairs, correct?

20 A. Yes, sir.

21 Q. Okay.

22 (Pause in proceedings.)

23 MR. McINNES: I apologize, Your Honor. I think I
24 made a mistake on my --

25 (Pause in proceedings.)

1 MR. McINNES: I -- I apologize, Your Honor. I
2 have lost my cite that I was looking for.

3 BY MR. McINNES:

4 Q. Mr. DeValle, you were told by Captain Holmes that
5 there were rumblings that you had not been on your duty
6 station when you were logged in as on duty, correct?

7 A. No, sir.

8 Q. Okay. What were you told?

9 A. It was very brief with him, the best of my memory,
10 but I was to -- told -- I was told two things, something by
11 him and something by Lieutenant Finney. The best of my
12 memory with that was: "Be where you're supposed to be when
13 you're supposed to be there, doing what you're supposed to
14 be doing."

15 Q. Okay. And you were here when Captain Holmes
16 testified, correct?

17 A. Yes, sir.

18 Q. So you disagree with his statement that there were
19 -- that he heard that there were rumblings that you were not
20 on your duty station at the time you were logged in as on
21 duty, correct?

22 A. I'm not disagreeing with what he stated. That's
23 what he stated. My recollection of this was what he -- he'd
24 said to me, where it was one-sided, and then what Lieutenant
25 Finney said to me.

1 Q. Okay.

2 A. But he clearly did not give me an opportunity
3 to -- to say anything.

4 Q. Right. And you were here when Captain Holmes
5 testified that there were rumblings and -- I -- frankly, I
6 don't remember whether he communicated that to you -- that
7 you were seen mowing lawns at -- during your duty hours,
8 correct?

9 A. Sir, there's no photos, no videos, nothing, and
10 that was never substantiated. There was -- he did not state
11 that on that day, no --

12 Q. Okay.

13 A. -- he did not.

14 Q. All right. Has there ever been a time that you
15 mowed the lawn during duty hours?

16 A. Absolutely not.

17 Q. Okay. What did Lieutenant Finney tell you?

18 A. He stated that this whole meeting came from Major
19 Taylor.

20 Q. Okay. And what -- what was the origin of Major
21 Taylor's --

22 A. That's what I asked.

23 Q. -- question? Okay.

24 A. He says, "Well, I'm just telling you, man, the
25 captain" -- something to this effect: "The captain told you

1 just be where you're supposed to be when you're supposed to
2 be there, doing what you're supposed to be doing."

3 Q. Okay.

4 A. And I said, "What do you -- what is this -- what
5 are you talking about?" He didn't elaborate on it.

6 Q. What did you understand that to be?

7 A. Sir, I took that as -- I was very confused from
8 what Captain Holmes stated, now what Lieutenant Finney
9 stated. I did run out of gas in my car at one point, but me
10 and Major Taylor ate lunch with Captain Holmes and
11 Lieutenant Finney after that incident, and Captain Holmes
12 mentioned something about it and -- and Major Taylor stated,
13 "I've already taken care of it." So I was confused when
14 Finney said that again, because at that point I -- I thought
15 Finney was lying to me.

16 Q. You thought --

17 A. But he --

18 Q. -- Finney was lying to you?

19 A. Yeah, I did.

20 Q. About what?

21 A. About Major Taylor saying something about this,
22 that Major Taylor had anything to do with it. And so I was
23 very confused with it --

24 Q. Okay.

25 A. -- because I was getting two different angles from

1 that.

2 Q. Okay. And you -- you say you had lunch with
3 Lieutenant Finney, Captain Holmes, and Major Taylor after
4 this meeting?

5 A. No. This was before. I had lunch before. But it
6 stemmed from -- going back to the "being where you're
7 supposed to be, doing what you're supposed to be doing,
8 where you're supposed to be doing it."

9 Q. Okay.

10 A. Because Finney was the one that mentioned Major
11 Taylor's name, and I'm like, "What -- what's this" -- and I
12 was confused with it.

13 Q. Okay. When did this conversation with Lieutenant
14 Finney occur where --

15 A. Immediately --

16 Q. -- he mentioned --

17 A. -- after I walked out of the office with Captain
18 Holmes.

19 Q. Okay. Did you ask him any other questions?

20 A. They wouldn't elaborate on any of it. They
21 just -- we --

22 Q. Okay.

23 A. -- we left. Me and First Sergeant Burton left.

24 Q. Yeah. So First Sergeant Burton was there at the
25 meeting, correct?

Maurice A. DeValle

Cross/McInnes

Vol. II, P. 363

1 A. Yes, sir.

2 Q. And you had a chance to talk with him about this
3 conversation, correct?

4 A. That's correct.

5 Q. All right. And you had a chance to ask First
6 Sergeant Burton what it was about, correct?

7 A. We -- we talked about it, absolutely. I don't
8 remember exactly what we said, the dialogue, but absolutely,
9 we talked about it.

10 Q. Okay. After this, did you have a chance to call
11 Lieutenant Finney and ask him more questions?

12 A. Sir, that's not the proper chain of command with
13 the Highway Patrol. He told me that I -- that was one way,
14 and that's what it was, one way.

15 Q. Okay. And did you have an understanding after
16 talking with First Sergeant Burton what "be where you be
17 when you're supposed to be there" meant?

18 A. The understanding what Captain Holmes was saying
19 and what Finney said created some confusion in my mind.

20 Q. What -- why didn't you ask through your chain of
21 command, First Sergeant Burton, to clarify that and clear up
22 your confusion?

23 A. Sir, again, all due respect for what you do, but
24 the Highway Patrol is different. And he told me how it was
25 going to be, and that's how it was going to be.

1 Q. Sir, just for the record, I've been in the army.
2 I know chain of command.

3 THE COURT: Ask questions.

4 MR. McINNES: Yes, Your Honor.

5 BY MR. McINNES:

6 Q. Now, you heard First Sergeant Burton say that you
7 were not authorized to work at your home, correct?

8 A. He -- he never -- First Sergeant Burton never --
9 never gave me permission to work at home. That's what he
10 stated, yes, sir.

11 Q. Okay. Do you disagree with that?

12 A. What I would say is First Sergeant Cain has given
13 me authorization to work at home.

14 Q. First Sergeant who?

15 A. Cain.

16 Q. Who is First Sergeant Cain?

17 A. He was my first sergeant in Durham and Granville
18 County.

19 Q. Okay. At the time you were assigned to Wayne
20 County, he was not in your chain of command, correct?

21 A. That's correct.

22 Q. Okay. And you never cleared with First Sergeant
23 Burton, who was in your chain of command, that you were able
24 to work at home while you were signed on as 10-41, correct?

25 A. That's correct.

1 Q. Okay. Yet you admitted that there were days that
2 you signed on as 10-41 and never left your house, correct?

3 A. What I did was perform the duties of a sergeant.
4 And some of those days would require me to handle that
5 immediately. And that's exactly what I did.

6 Q. Did you have prior authorization from First
7 Sergeant Burton to perform those -- those duties at home?

8 A. The duties of a sergeant are different than the
9 duties of a trooper --

10 Q. That's not my --

11 A. -- so I followed my job description.

12 Q. That's not my question. You did not have
13 authorization from First Sergeant Burton to do the duties of
14 a sergeant at home in Wake County, did you?

15 A. I think the policy states that with me be --
16 having statewide jurisdiction, that me being 10-41 could be
17 anywhere in the State of North Carolina.

18 Q. What policy states that?

19 A. Sir, it's state law.

20 Q. What's that?

21 A. It's state law that if I'm on -- if I'm a state
22 trooper, I have jurisdiction in the state --

23 Q. Okay.

24 A. -- so --

25 Q. You have jurisdiction.

1 A. -- so to perform the duties of a state trooper is
2 statewide.

3 Q. Okay. Yes, you have jurisdiction throughout the
4 state, correct?

5 A. Yes, sir.

6 Q. If you see somebody speeding and you're out of
7 your duty county, you can arrest that person or give them a
8 citation, correct?

9 A. Yes, sir.

10 Q. And if you see somebody that looks to be driving
11 while impaired, you can pull that person over and either
12 issue a citation, issue -- do a field test for sobriety, and
13 potentially arrest that person, correct?

14 A. Yes, sir.

15 Q. Okay. But that's not the same thing as being on
16 your duty station when you're assigned to be at your duty
17 station, correct?

18 A. My duties required me to do many different things
19 that was not preventive patrol. My duties required me to --
20 to do inspections. It required me to handle complaints.
21 And that was done remotely.

22 Q. Okay. Well, now, wait a second. You testified
23 about the inspections that you do. And one of the
24 inspections was inspecting firearms. Is that correct?

25 A. That's true, yes, sir.

1 Q. And you said that you would actually go to the
2 patrol officer and ask him to -- to view his service arm,
3 correct?

4 A. Yes, sir.

5 Q. Okay. And you would ask him to -- you would
6 inspect it to see whether it was clean, correct?

7 A. Yes, sir.

8 Q. You'd ask him to break it down and reassemble it,
9 correct?

10 A. That's correct.

11 Q. Okay. You can't do that from home, can you?

12 A. No, what you do from home is, you prepare the --
13 the forms, so when you have all the forms prepared, which is
14 the -- that's what the time-consuming part is. So then when
15 you're face-to-face with the trooper, now verifying all the
16 numbers, that what he is saying is correct, because a lot --
17 a lot of times when I'm keying in the information, after I
18 see it, that's when I have to be on site, which is a smaller
19 portion of time to actually key it into the computer at --
20 at the site --

21 Q. But you cannot --

22 A. -- with him.

23 Q. -- inspect a firearm from your home, correct?

24 A. That's correct.

25 Q. Unless your trooper brings it all the way from

1 Wayne County to your home in Wake County, correct?

2 A. That's correct.

3 Q. All right. And once again, you didn't have
4 permission from First Sergeant Burton to do any work at your
5 home, correct?

6 A. That's correct.

7 Q. Okay. Let me -- let's talk about the events of
8 November 11th, 2016. And I believe you talked about those
9 on direct a little bit. November 11th, 2016, was Veterans
10 Day, correct?

11 A. That's what you say, sir.

12 Q. Are you a veteran?

13 A. No, sir, I'm not.

14 Q. Does the date 11/11 mean anything to you?

15 A. Sir, I gave my whole career to the Patrol.

16 Q. Okay.

17 A. So when you start talking about days and
18 schedules, I've sacrificed my family for almost 20 years. I
19 told my family no when I never told the Highway Patrol no.
20 So to elaborate on that, when they would give me a schedule,
21 I would go --

22 MR. McINNES: Objection, Your Honor. I'd -- I'd
23 move to strike as nonresponsive, and I would request that
24 you take judicial notice that November 11th on every year is
25 Veterans Day.

1 THE COURT: I got drafted January of 1968, two
2 weeks before the Tet Offensive. I'm very aware of what's --
3 what November 11th is. But I'm going to allow Sergeant
4 DeValle to give his explanation.

5 BY MR. McINNES:

6 Q. Okay. And on that day, November 11th, were you
7 assigned to work?

8 A. Is that day in question that I'm -- that I was
9 sick? Is that what -- the day you're referring to?

10 Q. You testified to it on direct. Don't you remember
11 that?

12 A. Sir, I'm not trying to be hard to get along with.
13 I'm trying -- if you've got some documents in front of me, I
14 -- I have no problem answering yes to that.

15 Q. Sure. Let me help you.

16 A. And no disrespect to Veterans Day. It's just on
17 Sunday I would see when I'm working Monday.

18 THE COURT: For the record, a huge portion of this
19 country has no clue about Veterans Day, nor care about
20 veterans at all.

21 BY MR. McINNES:

22 Q. All right.

23 THE COURT: Sadly.

24 BY MR. McINNES:

25 Q. Let me refer you to Respondent's Exhibit 8H.

1 A. Which one, sir?

2 Q. In the notebook that has the North Carolina
3 Department of Justice seal.

4 A. Yes, sir.

5 Q. And I'd refer you to Respondent's Exhibit 8H.

6 A. 8H?

7 Q. Yes, sir.

8 A. Yes, sir.

9 Q. Okay. This is an HP-201, correct?

10 A. Yes, sir.

11 Q. Which is a weekly report of daily activity,
12 correct?

13 A. Yes, sir.

14 Q. Okay. And just for the record, this is a -- this
15 is a report. Would you agree?

16 A. Yes, sir.

17 Q. Okay. And this begins the week of 11/7/2016,
18 correct?

19 A. Yes, sir.

20 Q. Okay. It's hard to see, but assuming that's 11/7,
21 Monday would be 11/7 --

22 A. That's --

23 Q. -- correct?

24 A. That's correct.

25 Q. Tuesday would be 11/8 --

1 A. Yes, sir.

2 Q. -- correct? Wednesday would be 11/9, correct?

3 A. Yes, sir.

4 Q. Thursday would be 11/10, correct?

5 A. That's correct.

6 Q. And Friday would be 11/11, correct?

7 A. Yes, sir.

8 Q. Okay. Now, in the top line, it provides what your
9 assigned hours are, correct?

10 A. Yes, sir.

11 Q. Okay. And your assigned hours were 5 p.m. to 4
12 a.m., correct?

13 A. Yes, sir.

14 Q. Okay. Now, looking at this, does this help
15 refresh your recollection about the date that then
16 Lieutenant Morton visited you at your residence?

17 A. Yes, sir. That -- that was very clear when you
18 said Lieutenant Morton visited me at my residence, yes, sir.

19 Q. Okay. And on that date, you -- you were the late-
20 duty supervisor. Is that correct?

21 A. LOD. I -- I don't know. I don't have the
22 schedule in front of me to say that.

23 Q. Okay. Well -- but your hours were to be 5 p.m. to
24 4 a.m., correct?

25 A. That's correct.

1 Q. Okay. And there are only three supervisors in
2 your -- that -- that district, correct?

3 A. Yes, sir.

4 Q. Okay. Do you think either the other sergeant or
5 the first sergeant was assigned to duty that night?

6 A. Sir, I'm not speculating one way or another. It's
7 just I don't have it in front of me to tell you whether I'm
8 the LOD or not.

9 Q. Okay. How -- how are you assigned whether you're
10 the LOD?

11 A. It's just the like the example you just asked me
12 when we were in Lieutenant -- or Captain Holmes' office.

13 Q. Uh-huh.

14 A. You have a EOD, LOD. All three of us were in his
15 office. Who's the EOD?

16 Q. Who's -- what's an EOD?

17 A. Early officer on duty.

18 Q. When you're in --

19 A. There's three of us there. So I don't know who
20 was EOD. I don't know who would be LOD unless you give me a
21 schedule.

22 Q. Okay. Well, it was my understanding from First
23 Sergeant Burton's testimony and Captain Holmes' testimony
24 that there are only three supervisors for Wayne County at
25 that time --

1 A. That's --

2 Q. -- correct?

3 A. That's correct.

4 Q. Okay. And only three -- those are the only three
5 that could be the duty officers for that particular county,
6 not -- not the troop, but that particular county.

7 A. Yes, sir.

8 Q. Okay. And that district.

9 A. Yes, sir.

10 Q. So it would be either you -- correct? --

11 A. Yes, sir.

12 Q. -- First Sergeant Burton -- correct? --

13 A. Yes, sir.

14 Q. -- and the third one -- third sergeant -- or the
15 second sergeant, the third potential supervisor, what was
16 his name?

17 A. Whitley.

18 Q. Okay. And the -- you heard that the ideal from
19 Captain Holmes is that you have at least one supervisor on
20 duty at all times, correct?

21 A. Yes, sir.

22 Q. Okay. And -- but you were understaffed, correct,
23 at that time?

24 A. Sir, I -- I think he made a general statement of
25 the Patrol, so I don't know what the -- the numbers or

1 ratios were for Wayne County.

2 Q. Okay.

3 A. So I didn't even realize it was 7:1 that he
4 stated --

5 Q. Okay.

6 A. -- yesterday.

7 Q. Well, with respect to Wayne County, you had three
8 potential supervisors for being on duty, correct?

9 A. Yes, sir.

10 Q. You were not the early supervisor, correct?

11 A. I was not what?

12 Q. On November 11th, you were not the early
13 supervisor, correct?

14 A. I have no idea, sir. I don't have a schedule in
15 front of me to say that.

16 Q. Well, how could you be the early supervisor if
17 your assigned shift was 5 p.m. to 4 a.m.?

18 A. That's very common. So the very next day could be
19 -- I could be the -- the EOD, but I'm working late shift
20 because there's only one sergeant that might work.

21 Q. Okay.

22 A. So just because you're assigned EOD or LOD doesn't
23 mean you're working.

24 Q. Okay. All right. So you were not the LOD, or at
25 least you don't remember being the LOD, correct?

Maurice A. DeValle

Cross/McInnes

Vol. II, P. 375

1 A. What I'm telling you is I don't have anything to
2 show me one way or another.

3 Q. Okay. Now, the testimony has been that you became
4 sick during November 11th, 2016. Do you recall that?

5 A. Yes, sir.

6 Q. And do you recall when you logged in to the CAD
7 for duty?

8 A. Somewhere around 3:00, I think's what --

9 Q. Okay.

10 A. -- was stated.

11 Q. And that's two hours before 5 p.m. Is that
12 correct?

13 A. That's correct.

14 Q. Okay. When you logged in, you logged in using
15 your MDC, correct?

16 A. I don't have that in front of me, neither, sir. I
17 don't know if it was through the CAD or --

18 Q. Gotcha.

19 A. -- what you got.

20 Q. If you look at the exhibit that is HG,
21 Respondent's Exhibit HG?

22 A. HG?

23 Q. Yes, sir.

24 MS. LUSIC: 8.

25 BY MR. McINNES:

1 Q. I'm sorry. 8G.

2 A. Yes, sir.

3 Q. Okay. And this is a printout from a CAD report,
4 correct?

5 A. Yes, sir.

6 Q. Okay. And if you look to the left, at the very --
7 at the -- at the top line of the -- the entries that have
8 your name in that same row, the very left says "16" --

9 A. I can stipulate to it, sir, that, yes, I was the
10 one that entered it in --

11 Q. Okay. All right.

12 A. -- to eliminate that for you.

13 Q. Yeah, because 1966 is your --

14 A. Yes, sir.

15 Q. -- number. Okay. Thank you. Now, you -- you
16 entered it in using your MDC, correct?

17 A. Yes, sir.

18 Q. Did you have any problems entering the 10-41 on --
19 in?

20 A. It went through. If you're asking me if it went
21 through, it went through, yes, sir.

22 Q. Okay. So as far as you know, there were no
23 problems signing in as 10-41, correct?

24 A. You -- I -- you're asking me to answer something
25 that I have no idea how that day went.

1 Q. You don't have a recollection of what -- let me
2 ask you this: Do you have a recollection of having a hard
3 time signing in?

4 A. It's a very common occurrence in the southern part
5 of Wake County that the coverage is very limited. And it's
6 very common that coverage is limited going up Capital
7 Boulevard in Wake County. It's very common knowledge that
8 coverage is limited on I-540, which is very close to all of
9 these towers. However, this day, it's a common occurrence
10 for something to not go through immediately. It's -- but
11 did it happen that day? I'm not saying it did or didn't.

12 Q. Okay.

13 A. I don't know.

14 Q. Do you -- do you have a recollection of having
15 connectivity problems at 1453 on November 11th?

16 A. I don't have a -- a recollection either way, sir.

17 Q. Okay. Now, why did you sign on two hours before
18 your assigned shift?

19 A. Sir, that's very common as well, to work different
20 shifts than what is assigned on paper. Again, it's
21 depending on the duties that you've got to get done. Even
22 if I'm -- I might work a late shift, but since I had to do
23 wrecker stuff during the week, I would very commonly come
24 out and work during the week during a day shift, because
25 that's when they're in business.

1 So just because it's -- it -- it -- our captain
2 and command staff said, "You've got to have on paper some --
3 somebody assigned these shifts." Now, what you worked was
4 commonly different than what was on paper.

5 Q. Did you have authority from First Sergeant Burton
6 to sign on two hours early on November 11th?

7 A. I don't know if -- I would say yes, because there
8 would be a lot of times during the week that I might be the
9 LOD, but I would work a day shift because I had to do
10 things, and me and him would eat lunch. Me and him would
11 talk about different assignments. He was very aware of the
12 hours that I would work. Clearly, I would still be
13 responsible for calls if something were to happen at night
14 when I was not on duty.

15 Q. Okay. Let me rephrase that. Did you have
16 specific permission from First Sergeant Burton to sign on
17 10-41 two hours prior to your assigned shift on November
18 11th, 2016?

19 A. I would say First Sergeant Burton was aware that
20 we worked different shifts and had no problem with us
21 working different shifts than what we were assigned.

22 Q. Did you tell First Sergeant Burton that you were
23 signing on two hours early on November 11th, 2016?

24 A. Due to the common work habits of how we worked,
25 the answer to that would be no, because it was very common

1 that that's what we would do.

2 Q. Okay. Now, you -- you were here when Trooper
3 El-Amin testified, correct?

4 A. Yes, sir.

5 Q. And he testified that he -- there were times that
6 he was expected to perform tasks while he was not on his
7 assigned duty hours, correct?

8 A. That he's expected?

9 Q. That he -- there were times when he was expected
10 to perform work while he was not on his assigned duty
11 time --

12 A. He's --

13 Q. -- correct?

14 A. He's referring to while you're in training.

15 Q. Okay. Well, was he in training when he was
16 working at the Justice Academy?

17 A. He's never worked at the Justice Academy, sir.

18 Q. Okay. Was he in training when he was working as a
19 recruiter?

20 A. No, sir.

21 Q. Okay. And you heard him testify that he would do
22 work, even up to an hour, and not be compensated for it,
23 correct?

24 A. Yes, sir.

25 Q. And that's administrative work, correct?

1 A. I'm not sure what his work was.

2 Q. Okay.

3 A. It might be meeting troopers. I -- I don't know
4 what he did as a recruiter.

5 Q. Okay. Let me ask you this, while we're -- while
6 we're talking about on call and on duty: There's a
7 difference between on call and on duty, correct?

8 A. Yes, sir.

9 Q. Okay. What's the difference?

10 A. On duty, you're of course checked 10-41.

11 Q. Uh-huh.

12 A. On call, you're not. However, you still have to
13 remain by a phone, you still have to be available, you still
14 have to do -- perform the same duties as you would as on
15 duty.

16 Q. Okay. And in -- if you're --

17 A. With an exception of preventive patrol.

18 Q. Okay. And if you are on call and you get a call
19 that -- where you have to respond and actually go to a site,
20 then you would check on 10-41, correct?

21 A. No, sir.

22 Q. You wouldn't.

23 A. Not necessarily. A lot of times, I'll get calls
24 from troopers actually across the state, but more
25 importantly, my -- the guys that I was responsible for.

1 Whether it was my shift or the other shift, they would call
2 me frequently and ask questions. Say, "Hey, I've got this
3 wreck, but it -- what do you think about this?" And they
4 would ask me different -- ask me advice on how to deal with
5 it or --

6 Q. Right.

7 A. -- since I did the fatal files, they'd ask me the
8 procedures with this and that: "What do I need to get?" I
9 would get on my computer right then, go ahead and send
10 something to the medical examiner, or I'd start the process
11 for fatal files. So --

12 Q. Okay.

13 A. -- no, I wouldn't leave and -- and I wouldn't
14 check 10-41. That would just -- I would eat those -- that
15 time.

16 Q. Okay. Well, that's not exactly what I was asking.
17 I was asking: If you called out on a service request where
18 you're called to be on location, you would then check on 10-
19 41 when you were on -- when you were only the on-call
20 supervisor, correct?

21 A. If -- if something came up that required my
22 presence, then, yes, sir, I would check on and leave my
23 house.

24 Q. Okay. And when there's a fatal accident, the
25 policy is that a supervisor should be on site, correct?

1 A. Read that policy to me, because I don't see it
2 that way.

3 Q. Okay. You don't believe that a -- a supervisor
4 should be on site for a fatal accident?

5 A. Sir, if you want to give me that policy, I'll be
6 glad to recite it for you. However, I see this is -- if
7 you've got a 25-year trooper, you got a single-car wreck
8 where it's very simple that maybe hit a tree, that there's
9 no require -- that I don't see it as a requirement for a
10 sergeant to be on scene. It's very clear-cut. There's
11 nothing to it. He's going to -- he's going to knock it out
12 like a regular wreck. Does not require a sergeant. But if
13 you want to --

14 Q. Okay.

15 A. -- give me that policy, I'll be glad to recite it
16 for you.

17 Q. Okay. But the -- okay. Let me -- let me give you
18 the other hypothetical. What if there's a multi-car
19 accident with multiple fatalities, and you have a six-month
20 trooper?

21 A. Again, sir, policy --

22 THE COURT: I don't happen --

23 A. -- doesn't state --

24 THE COURT: -- to see the relevance of this, with
25 all these hypotheticals. Where are you going?

1 MR. McINNES: Well, Your Honor, what I'm trying to
2 get to is that if he's in Wake County at night and he should
3 be in Wayne County or even he should be able to get to Wayne
4 County quickly and never did, he's not performing his
5 duties.

6 THE COURT: Well, that's a separate, different
7 question from -- I mean, I think it's obvious if he's in
8 Wake County and he needs to be in Wayne, there's a problem.

9 MR. McINNES: Okay.

10 BY MR. McINNES:

11 Q. Okay. Back to November 11th. When Lieutenant
12 Morton came to the door, you told him you were sick,
13 correct?

14 A. Yes, sir.

15 Q. And you were in T-shirts and a short, correct?

16 A. Yes --

17 Q. Shorts.

18 A. -- sir.

19 Q. Correct?

20 A. Yes, sir.

21 Q. On that day, did you inform First Sergeant Burton
22 that you were sick?

23 A. No, sir.

24 Q. And you should have, right?

25 A. Me -- me and him, like I stated with changing the

1 schedule, had that agreement, that if I couldn't handle it
2 -- and that would go right back to your last question. If
3 something occurred that I couldn't handle it, he had that
4 agreement with me and Sergeant Whitley, to call him and he
5 would deal with it.

6 Q. Did you --

7 A. Nothing came --

8 Q. -- arrange for Sergeant Whitley to cover your
9 shift?

10 A. Nothing came up for me to have to respond, even
11 answer a phone. Nothing required my attention.

12 Q. Okay. When Lieutenant Morton showed up, you were
13 10-41, correct?

14 A. When he asked me if I was working, I stated, "No,
15 sir."

16 Q. Okay.

17 A. When he showed up, I was not.

18 Q. But --

19 A. The CAD showed one thing, but I was not.

20 Q. Okay. Isn't it your responsibility to update the
21 CAD?

22 A. It's my responsibility to check on and off.

23 Q. Okay. And you should check off 10-41 -- you
24 should check off duty. You should check 10-42, off duty, if
25 you're not working, correct?

1 A. Yes, sir.

2 Q. And if you are shown as 10-41 and you are not
3 working, that's an untruthful report, correct?

4 A. Absolutely not, sir. I was --

5 Q. Why is that?

6 A. -- not misleading intentionally. I never meant to
7 be untruthful about nothing. I never claimed a minute of
8 that time. And if you will see, that same particular day
9 that you want to look at that, there's -- First Sergeant
10 Burton's actually checked on, but he's not being charged
11 with untruthfulness. And it's not -- I was never being
12 untruthful by not checking off. It was -- it -- but I did
13 not check off. I -- it just --

14 Q. First Sergeant Burton was checked on. Do you know
15 what he was doing at that time?

16 A. I have no idea, sir.

17 Q. Exactly. But you were home, correct?

18 A. I know where I was, yes, sir.

19 Q. Yeah. You were at home, checked on 10-41,
20 correct?

21 A. The CAD showed me checked 10-41.

22 Q. Okay. And you checked on using your personal MDC,
23 correct?

24 A. Yes, sir.

25 Q. Okay. Now, the reason you checked off is because

1 Lieutenant Morton showed up, correct?

2 A. He said that I was still checked on the CAD, so I
3 immediately went back in and checked off the CAD because he
4 brought it to my attention that it was still --

5 Q. Okay.

6 A. -- showing me there.

7 Q. Did you tell him that you had tried to check off
8 at five o'clock?

9 A. I -- I don't remember that conversation. If
10 that's part of my testimony, then, yes.

11 Q. Okay. When you did check off after Lieutenant
12 Morton came to your -- your house, did you have any problems
13 checking 10-42?

14 A. Sir, I -- I don't know, sir.

15 Q. Okay. And assuming that you had stated that you
16 tried to check off at 10-42 -- 10-42 at 5:00, do you recall
17 whether you had any difficulty doing it at -- at five
18 o'clock?

19 A. I don't recall.

20 Q. Okay. And you --

21 A. I don't recall --

22 Q. -- heard the testimony from Sergeant Sawyer that
23 with respect to MiFi, the MiFi itself tells you whether
24 you're connected to the Internet, correct?

25 A. Yes, sir.

1 Q. Okay. It has either bars or some notation that
2 you're not connected to the Internet, correct?

3 A. Sir, I can help you out. I -- I was not issued a
4 MiFi, sir.

5 Q. How did you check on and off?

6 A. Had an internal -- into my computer was an
7 internal, so it didn't have the same readings and all that
8 you're -- you're elaborating on now.

9 Q. Okay. When you say "internal," did you use your
10 home wireless?

11 A. No, sir.

12 Q. Okay. What -- when you say "internal," what is --
13 what is internal?

14 A. It's an internal air card built into the computer.

15 Q. Okay. Well, you heard Sergeant Sawyer testify
16 that once you're logged on to the CAD you get either --
17 well, if you're logged on to the CAD, you get a green -- a
18 green circle, correct?

19 A. Yes, sir.

20 Q. Okay. Does that -- did that circle show up on
21 your MDC?

22 A. What he's not telling you is that circle goes
23 green, red, green, red frequently, and can stay green, can
24 stay red. It's --

25 Q. Okay.

1 A. Again, you're asking me to -- I don't know, sir.

2 Q. Okay.

3 A. I don't know if it was green or red.

4 Q. When you're trying to either log on or log off
5 using your MDC, do you check that green or red circle?

6 A. No, sir. That was not --

7 Q. Why not?

8 A. Just wasn't common practice for me to check to see
9 if it was a green circle.

10 Q. Don't you want to know -- like, when you're
11 signing on, don't you want to know that you're actually
12 going to sign on?

13 A. Sir, if I'd have paid a little more attention to
14 that, then I probably wouldn't be in this predicament today.
15 But unfortunately, I made the mistake, and I -- and clearly,
16 I didn't do that.

17 Q. Okay. And you heard Mr. -- First Sergeant Sawyer
18 testify that when you do successfully -- when you send a
19 message to the CAD, you get an audible sound that it -- the
20 message has gone to the CAD, correct?

21 A. It's a swoosh, yes, sir.

22 Q. Okay. And that was activated on your computer,
23 correct?

24 A. Sir, I don't know. You're -- you're asking me to
25 remember the details of something like that I --

1 Q. Well --

2 A. -- that was -- when you run information, you hear
3 it so often and so many times -- it's literally probably a
4 million times --

5 Q. Okay.

6 A. -- that you become unaware of those common things
7 that's just not -- you just don't think of.

8 Q. Okay. But let me ask you this: You would have to
9 go in and deactivate the sound in order for the audible
10 sound not to -- not to be made, correct?

11 A. You just turn the volume down. It's very simple.
12 You just --

13 Q. Okay.

14 A. -- turn the volume down.

15 Q. All right. Do you know whether the volume was
16 down on that day, then?

17 A. I do not. You get thousands and thousands,
18 constantly, of dings.

19 Q. Okay. You heard First Sergeant Sawyer testify
20 that once the message is successfully received you get
21 another audible sound, correct?

22 A. That's what he said, yes, sir.

23 Q. Okay. And -- well, that's true, isn't it?

24 A. Again, it's been two years since I've used that
25 system. I'm using something completely different now, and

1 -- and your -- and my memory is not as -- as fresh as I wish
2 it was with that.

3 Q. Okay. Did you get a -- a message saying, "Message
4 received"?

5 A. I didn't -- I -- I was -- common practice that I
6 didn't check all that.

7 Q. So -- and so you wouldn't check to verify that
8 you --

9 A. That's correct.

10 Q. -- had logged on correctly.

11 A. Those are some of the mistakes that I've made.

12 Q. On November 11th, you never put on your uniform,
13 correct?

14 A. I don't remember. 'Cause I know I was ready. I
15 don't remember if I took it off almost instantly or if I did
16 not. I don't -- I don't recall, sir.

17 Q. Okay. But when Lieutenant Morton came to the door
18 and you were still 10-41, you had shorts and a T-shirt on,
19 correct?

20 A. That is correct. I'm looking at your exhibit for
21 the 11th on that date, where I put --

22 Q. Okay. Which --

23 A. -- "Approved leave."

24 Q. What's that?

25 A. Where I put "Approved leave."

Maurice A. DeValle

Cross/McInnes

Vol. 11, P. 391

1 Q. Right. And you did that because you got caught,
2 right?

3 A. No, sir. I put it because that's the appropriate
4 response when you're sick.

5 Q. Now, was it approved leave or sick leave?

6 A. It's -- it's approved leave. You had three
7 different buckets.

8 Q. Uh-huh.

9 A. I don't remember the exact buckets, but it was
10 vacation, sick leave, comp time, and it really wouldn't
11 matter. You just put "Approved leave." If you had comp
12 time or vacation leave, then you would put that. You would
13 use that before sick leave.

14 Q. Okay.

15 A. So it -- that was so totally irrelevant, you
16 just -- you would always put "Approved leave."

17 Q. Okay. So you -- but you put "Approved leave,"
18 correct?

19 A. Re -- yes, sir.

20 Q. And your testimony --

21 A. Regardless of --

22 Q. -- earlier was that First Sergeant Burton didn't
23 even know that you were sick on that day, correct?

24 A. On that particular moment, no, sir.

25 Q. November 11th --

1 A. Yes, sir.

2 Q. -- you did not --

3 A. That's correct.

4 Q. -- put that you were sick.

5 A. That's correct.

6 Q. I believe at -- at some point you've testified
7 that you told him the next day, correct?

8 A. I -- I don't recall --

9 Q. Okay.

10 A. -- when I told him.

11 Q. Fair enough. Let me ask you this: Let me turn to
12 Respondent's Exhibit Number 10 in your notebook in front of
13 you.

14 A. Yes, sir.

15 Q. Okay. And directing you towards the text after
16 the table, would you -- would you agree that the distance
17 from your residence to the Troop C, District 2 district
18 office was approximately 44 miles?

19 A. Sir, I'm not going to speculate today.

20 Q. Okay. Now, this investigation was begun in
21 November of 2016, correct?

22 A. I'm not sure when that letter -- or what that
23 letter was from or who it was from or when, so I don't know
24 when anything was started --

25 Q. Okay. But you know the --

1 A. -- because nobody can tell us --

2 Q. -- invest --

3 A. -- who or when.

4 Q. You were interviewed on November 15th --

5 A. You --

6 Q. -- of --

7 A. -- if you ask me --

8 Q. -- 2016 --

9 A. -- when I was interviewed --

10 Q. -- correct?

11 A. -- I can tell you when I was interviewed, yes,
12 sir.

13 THE COURT: One at a time. Don't talk over each
14 other.

15 BY MR. McINNES:

16 Q. And that was the beginning of the investigation as
17 you knew it.

18 A. Correct. Yes, sir.

19 Q. Okay. All right. You were interviewed on
20 November 15th, 2016, correct?

21 A. Yes, sir.

22 Q. You were in -- reinterviewed in the spring of two
23 thousand six -- 2017, correct?

24 A. Yes, sir.

25 Q. Okay. You went through the pre-disciplinary

1 hearing, correct?

2 A. Yes, sir.

3 Q. Okay. And at the pre-disciplinary hearing, was
4 this Respondent's Exhibit Number 10 presented?

5 A. I've never seen this chart until today.

6 Q. Never seen it, huh?

7 A. No, sir. And I think Captain -- or Major Regan
8 and Wingo stated that it was not part of it.

9 Q. Okay. All right. And you attended an EAC
10 hearing, correct?

11 A. Yes, sir.

12 Q. And what does that stand for?

13 A. Sir, I don't know.

14 Q. Okay.

15 A. Can you refresh my memory on that?

16 Q. Would it be Employee Advisory Committee?

17 A. Yes, ma'am [sic].

18 Q. And was this a part of the EAC meeting?

19 A. I don't know.

20 Q. If Major Regan testified that it was, would you
21 disagree?

22 THE COURT: Well, Major Regan has not testified
23 that way.

24 MR. McINNES: Oh.

25 BY MR. McINNES:

1 Q. What if Captain Wingo testified that it was part
2 of the EAC meeting; would you disagree with that?

3 A. Sir, I'm not agreeing or disagreeing with any of
4 it. I'm just telling you my own knowledge. And -- and I
5 don't know.

6 Q. Okay. You do know how long it takes you to get
7 from your house -- it took you to get from your house to the
8 Troop C, District 2 district office, correct?

9 A. Time-wise?

10 Q. Time-wise, yes.

11 A. No, sir. It was never the same.

12 Q. Okay.

13 A. You've got traffic. There's a lot of different
14 variables involved --

15 Q. Okay.

16 A. -- in something --

17 Q. Was it --

18 A. -- like that.

19 Q. -- 12 hours?

20 A. No, sir.

21 Q. Was it 30 minutes?

22 A. Could be.

23 Q. Could be as short as 30 minutes?

24 A. Absolutely.

25 Q. Hmm. Okay. Could it be as long as two hours?

1 A. No, sir.

2 Q. Could it be as long as --

3 A. If you want to do "it could be's," absolutely,
4 that one -- that answer -- I apologize. Let me step back,
5 because there was a bomb threat on 70 at one point that they
6 shut it all down. It could take two days.

7 Q. Okay.

8 A. So it could be anything.

9 Q. How long were you assigned to C2?

10 A. Approximately three years.

11 Q. Okay. Can you give me an approximate average time
12 to get from your home to the C3 -- C2 district office?

13 A. 30 minutes.

14 Q. Okay. And do you know what speed you were
15 driving, approximately?

16 A. Approximately the speed limit, sir. I -- maybe
17 70, 75. I don't know. You've got the bypass through there
18 that's -- I think it's 70 miles per hour. I'm not sure what
19 the speed limit is.

20 Q. Okay. All right. Approximately how long would it
21 take you to get to -- from your residence to the Wayne
22 County line?

23 A. 20 minutes, 25 minutes.

24 Q. Okay. And how long would it take you to get from
25 your house to the farthest Wayne County border?

1 A. I have no idea.

2 Q. More than 20 minutes, correct?

3 A. Yes, sir.

4 Q. Okay.

5 A. I would take different routes. I mean, it
6 wouldn't be --

7 Q. Okay.

8 A. -- the same route.

9 Q. Would you disagree with what is on this
10 Respondent's Exhibit 10 that says that the distance from
11 your residence to Troop C, District 2 is 43.9 miles, one
12 way?

13 A. That seems fair as -- a fair, accurate --

14 Q. Okay.

15 A. -- depiction.

16 Q. And would you agree that the Wayne -- Wayne County
17 line from your residence is approximately 35 miles?

18 A. That seems appropriate, yes, sir.

19 Q. Okay. And you did not wait until you hit the
20 Wayne County line to sign in as 10-41, correct?

21 A. Sir, I had -- I don't know of a single member in
22 my district that did that. Don't know of a single -- it was
23 six years in the process of the colonel down, like I stated,
24 knowing where I live, never having a problem with how I
25 checked on and off --

1 Q. We're not --

2 A. -- until --

3 Q. -- talking about --

4 A. -- until this day.

5 Q. We're not talking about where you lived. We're
6 talking about when you checked on 10-41.

7 A. Are you familiar with Granville County?

8 Q. What's that?

9 A. Are you familiar with Granville County?

10 THE COURT: It doesn't matter if he is or not.

11 THE WITNESS: Yes, sir.

12 THE COURT: You don't ask the questions.

13 THE WITNESS: Yes, sir.

14 BY MR. McINNES:

15 Q. All right. Okay. So this chart shows the -- in
16 the -- the right-hand column, the SAP fuel log D mileage.
17 Do you see that, sir?

18 A. Yes, sir.

19 Q. Okay. And from September 22nd, 2016, there's a
20 fuel log D mileage of six -- 61,583. Do you see that, sir?

21 A. Yes, sir.

22 Q. Is that the mile -- the mileage of the vehicle
23 that you rode at that time?

24 A. I'm not sure what that is. I -- I don't know what
25 -- I -- I don't have access to a SAP fuel log, so I don't

1 know what those numbers represent.

2 Q. How was the SAP fuel log created?

3 A. Sir, I don't know. That was not in -- I've never
4 seen a SAP -- anything with SAP. That wasn't part of the
5 responsibilities of troopers, sergeant -- or a sergeant, so
6 I -- today's the first me seeing anything about SAP. I
7 don't know.

8 Q. Okay. Between 9/22/16 and 10/6/16, this says that
9 according to the SAP you drove -- the mileage difference was
10 292 miles. Do you see that?

11 A. I see -- yes, sir.

12 Q. Okay. Now, the mileage you claimed on the HP-201
13 was 767. Do you see that, sir?

14 A. Yes, sir.

15 Q. Okay. Now, you testified that on the HP-201 you
16 kind of go back and try to re-create what the mileage was,
17 right?

18 A. Yes, sir.

19 Q. But wouldn't you try to re-create mileage that
20 would support you having worked and traveled to your
21 district and around your district in your HP-201?

22 A. What I'm trying to create is the miles that I
23 actually drove. And -- and I don't know. I'm doing the
24 best -- you do the best that you can. There's -- a lot of
25 troopers will leave it blank so they wouldn't have anything

1 at all. It's definitely not going to be accurate.

2 Q. Okay. Is it going to be 460 miles inaccurate?

3 A. I dare to say, sir, my brother's going to be over
4 12,000 miles off with his.

5 Q. Your brother.

6 A. It's not a biological brother, but he is a member
7 of the Highway Patrol, and he'll tell me he -- his own
8 words --

9 MR. McINNES: Objection. Hearsay, Your Honor.

10 THE COURT: Sustained. Let's try to stick to the
11 facts that are relevant, for both sides. Let's just cut out
12 the gymnastics with the language. I'm getting worn slam to
13 a frazzle.

14 MR. McINNES: I -- Your Honor, I understand. I --
15 I just --

16 THE COURT: Well, draw your questions a little
17 tighter and, Sergeant DeValle, answer the questions that
18 you're asked.

19 THE WITNESS: Yes, sir.

20 BY MR. McINNES:

21 Q. Okay. Sergeant DeValle, during the period from
22 9/22 to 10/06, is that when Matthew affected Wayne County?

23 A. The best of my memory, yes, sir. I -- I'm not
24 certain of the exact beginning, but it --

25 Q. And you think that was that period.

1 A. It may be, yes, sir.

2 Q. Okay. During this period, did you utilize a
3 loaner car?

4 A. I'm not sure which vehicles, like I said, because
5 I was having to coordinate so many different things. My
6 patrol car -- you have an intake that -- I don't know, sir.
7 I apologize.

8 Q. Did you at any point, either in an interview or
9 pre-disciplinary hearing, provide the information that you
10 used a loaner car during the period from 9/22 to 10/06?

11 A. I know there was a period that I could not drive
12 my patrol car due to the high level of water at the district
13 office. Did I provide that with them at the time? I -- I
14 don't remember saying anything about it one way or another.

15 Q. And there's been some testimony about the gas and
16 inability of the troopers in the southern part of Wayne
17 County to get to gas, correct?

18 A. Yes, sir.

19 Q. Okay. You lived to the north of the Neuse River,
20 correct?

21 A. Yes, sir.

22 Q. And there may have been a few days, you said --
23 you testified that -- that the gas didn't work even on the
24 north side, correct?

25 A. That's correct.

1 Q. But for the majority of time, the gas worked on
2 the north side of the Neuse, correct?

3 A. The -- the problem that came in -- the -- no, the
4 gas stations ran out of gas, so even the south side didn't
5 have it, so we were having to go into different counties to
6 get fuel. And with where my residence was, I would take 40
7 to I-95 to hit the southern part -- or 40 to the southern
8 part of Wayne County or 70 to go to the northern part.

9 So my location would strategically let me get to
10 wherever I needed to be to assist the members as needed.
11 But with -- with them not having gas -- even though they had
12 a gas card, they couldn't purchase gas. They were out, or
13 the district office was flooded, power was out, so fuel was
14 very limited even for troopers at the time.

15 Q. All right.

16 A. That's -- I do remember filling -- me purchasing
17 gas at Exit 312 in Wake County during that, simply because
18 of those facts.

19 Q. Mr. DeValle, let me ask you to refer to
20 Respondent's Exhibit Number 5.

21 (Pause in proceedings.)

22 A. Yes, sir.

23 Q. And this is Directive H.01, Rules of Professional
24 -- Personal Conduct and Job Performance, correct?

25 A. Yes, sir.

1 Q. And those -- that's your signature at the bottom,
2 correct?

3 A. Yes, sir.

4 Q. And you signed this on November 14th, 2016,
5 correct?

6 A. Yes, sir.

7 Q. That's not the first time you've seen this
8 directive, correct?

9 A. No, sir.

10 Q. Okay. And let me direct your attention to Section
11 7, which is page 3 of this report.

12 A. Yes, sir.

13 Q. Okay. And Section 7 says -- it's titled
14 "Truthfulness." "Members shall be truthful and complete in
15 all written and oral communications, reports, and
16 testimony." Correct?

17 A. Yes, sir.

18 Q. Okay. And I think we've already established that
19 the -- the weekly report of daily activity is a report,
20 correct?

21 A. Yes, sir.

22 Q. Okay. The -- and the BEACON time entries are a
23 report, correct?

24 A. If that's how you want to characterize it, sir,
25 that's fine. I'm not a --

1 Q. Well, is it something that you should be truthful
2 about?

3 A. I think you should put, the best of your ability,
4 your memory in there that's willfully the best of your
5 knowledge, yes, sir.

6 Q. Whoa, whoa, whoa, whoa. The BEACON is what you
7 get paid -- the BEACON is what keeps track of how much you
8 get paid, correct?

9 A. Yes, sir.

10 Q. So it's extremely important that that document be
11 true and accurate, correct?

12 A. Yes, sir.

13 Q. Otherwise, you would be -- you could be paid under
14 what you worked, correct?

15 A. Yes, sir.

16 Q. Or you could be paid over what you worked,
17 correct?

18 A. Yes, sir.

19 Q. Okay. And you were not completely accurate in
20 what you reported on your BEACON, were you?

21 A. What do you mean?

22 Q. You did not completely and truthfully record all
23 of your time in BEACON, did you?

24 A. I absolutely worked every minute that I said --
25 every day that I said I was working, I was working. Sir,

1 just like I stated in my testimony: Did I violate that
2 policy violation of domicile? Absolutely. That was my
3 charge. I said "Yes, sir" immediately.

4 Q. Okay.

5 A. But the days I said I was working, I was working.

6 Q. Now, you admitted that there were days that you
7 did not leave your residence, correct?

8 A. That's correct.

9 Q. All right. And you admit that Sergeant Burton did
10 not give you that authority not to leave your residence,
11 correct?

12 A. That's correct.

13 Q. All right. And when you went back to the IT folks
14 and tried to get some records of what you had done, I think
15 you presented at the pre-disciplinary hearing six e-mails.
16 Is that correct?

17 A. They didn't give me any, sir.

18 Q. How did you present those six e-mails?

19 A. I don't remember -- I don't recall how I got them,
20 but I do remember the response that I got from Paul Nelson
21 was, "Check your" -- I think my deleted files or my --
22 something in the top of your toolbar of how you can re-call
23 all your e-mails. So he didn't give me any. And what
24 Patrol stated that I did was two. So I'm not sure how they
25 found only two and I was able to present six, not having the

1 resources and -- and technology that they -- they do have.

2 Q. Okay. But you were able to search your account
3 and present six e-mails?

4 A. I -- I was given a directive by Paul Nelson --
5 they had that e-mail -- telling me where to go to find it.

6 Q. All right.

7 A. I -- so I don't know where I was able to get the
8 rest of it. Maybe from some different troopers that I had
9 some correspondence with, some sergeants. I know one was
10 from a -- me trying to do some scheduling with another
11 sergeant. And I don't know if it came from him or through
12 mine. I'm not sure.

13 Q. Okay.

14 A. I don't -- I just don't know where it came from.

15 Q. Okay. And referring you to Respondent's Exhibit
16 Number 11, this is the summary of pre-disciplinary
17 conference.

18 A. Which -- which one --

19 Q. Correct?

20 A. -- sir?

21 Q. Respondent's Exhibit Number 11.

22 A. Yes, sir.

23 Q. And this is your opportunity to present --
24 present, for lack of a better word, evidence about the
25 investigation that had been conducted, correct?

Maurice A. DeValle

Cross/McInnes

Vol. II, P. 407

1 A. Yes, sir.

2 Q. Okay. And this occurred on April 20th, 2017,
3 correct?

4 A. Yes, sir.

5 Q. And that's after November of 2016, when the
6 investigation began, correct?

7 A. Yes, sir.

8 Q. Okay. So you had from November to April to come
9 up with evidence of your innocence, correct?

10 A. Sir, my computer was taken from me. I did not
11 have an opportunity.

12 Q. Did you ask to look at your computer?

13 A. Absolutely. I asked the Internal Affairs member,
14 and he stated, "You won't be getting this computer back for
15 a -- for a long time, if ever."

16 Q. Okay.

17 A. So to me, it told me right then that he'd had a
18 predetermined notion of what my decision would be.

19 MR. McINNES: Objection, Your Honor.

20 THE COURT: Sustained.

21 BY MR. McINNES:

22 Q. All right. The -- let me refer you to
23 Respondent's Exhibit Number 9.

24 A. Yes, sir.

25 Q. And the last two pages of that. The first of the

1 last two pages appears to be an e-mail from you to your
2 Fantasy Football League. Is that correct?

3 A. That's correct.

4 Q. All right. And that was October 14th, 2016?

5 A. Yes, sir.

6 Q. And then there's an e-mail to Troop C headquarters
7 from September 26th, correct?

8 A. I don't see that one, but I remember --

9 Q. That's the last page of Respondent's Exhibit
10 Number 9.

11 A. Yes, sir. Yes, sir.

12 Q. Okay. So those are e-mails from you to somebody
13 else, correct?

14 A. Yes, sir.

15 Q. All right. Do you recall whether the e-mails that
16 you presented at your pre-disciplinary hearing were from you
17 or to you?

18 A. I think that there was some of both. So part of
19 the responsibilities are me responding to those e-mails and
20 prioritizing them and checking them, just seeing if it -- if
21 it needed immediate assistance or if I needed to act on it,
22 simply -- like that last one there. I think it asked about
23 mobile field force, the SOP, and I replied back to it.

24 That one was sent to me, so then I replied back to
25 it.

1 MR. McINNES: Your Honor, if we may have a moment.

2 (Pause in proceedings.)

3 BY MR. McINNES:

4 Q. Okay.

5 (Pause in proceedings.)

6 Q. Mr. DeValle, if you can refer to your attorney's
7 notebook, the bigger one.

8 A. Yes, sir.

9 Q. And I'll refer you to Tab Number 18.

10 A. Yes, sir.

11 Q. And that's a tab with your performance evaluation,
12 correct?

13 A. Yes, sir.

14 Q. And you testified -- I believe you testified that
15 there was nothing negative on your performance reports. Is
16 that correct?

17 A. I summarized it to "good," "very good," yes, sir.

18 Q. Okay. Let me direct you to the second page of
19 that exhibit. And let me direct you -- well, I'll just read
20 it. There's a block here that says, "Identify opportunities
21 for improvement." And it says:

22 "Sergeant DeValle need to gain more
23 proficiency with policy, especially as it deals
24 with his duties as a supervisor. Also, his time-
25 management skills should be developed to greater

1 proficiency."

2 Do you see that, sir?

3 A. I do see it, yes, sir.

4 Q. Okay. And this was from -- this rating period was
5 from January 1, 2012, to 31 December 2012. Do you see that,
6 sir?

7 A. Yes, sir.

8 Q. And the supervisor was First Sergeant Cain,
9 correct?

10 A. That's correct.

11 Q. Okay.

12 A. But you're asking me about the rating.

13 Q. Well, no, I wasn't asking about the rating. I was
14 just asking -- pointing out that comment that was made.

15 A. Oh, okay. I thought you wanted me to tell you
16 the --

17 Q. Nope.

18 A. -- values was good --

19 Q. Nope. That was not my question.

20 A. Yes, sir.

21 Q. Mr. DeValle, you would agree that you can't do
22 preventative patrolling from your house, correct?

23 A. Yes, sir.

24 Q. Would you agree that preventative patrol --
25 patrolling is a part of your duties?

1 A. Yes, sir.

2 Q. You testified that during Hurricane Matthew you --
3 First Sergeant Burton told you to be in, what was it,
4 reactive mode?

5 A. Response mode.

6 Q. Response mode. Okay.

7 A. Yes, sir.

8 Q. Could you respond to crises or incidents in Wayne
9 County from your home in Wake County?

10 A. Yes, sir.

11 Q. How's that?

12 A. I'm not sure what you're asking me there. I
13 mean --

14 Q. Well, if -- if you were called upon to -- to come
15 physically to a site in Wayne County, could you have done
16 that from your home?

17 A. Yes. As long as the water wasn't -- well, I'd
18 have to drive to it. Is that what you're asking me?

19 Q. Uh-huh.

20 A. Yes, I would respond to it.

21 Q. Okay. And during the Hurricane Matthew time, were
22 there times when you checked on 10-41 when you were --
23 remained at your home?

24 A. I don't remember what day, sir.

25 Q. Well, Hurricane Matthew, the -- the effect on

1 Wayne County was over a pretty long period of time, correct?

2 A. Yes, sir. A -- well, approximately two weeks, I
3 think.

4 Q. Okay. And were there times during that two-week
5 period when you checked 10-41 and remained at your house?

6 A. Yes, sir.

7 Q. Okay. Would you agree that face-to-face
8 communication is important with your troopers that you're
9 supervising?

10 A. At times, yes, sir.

11 Q. Okay. That -- that's a part of leadership,
12 correct?

13 A. At times, when -- when face-to-face meeting is
14 required and needed, absolutely it's important.

15 Q. And you can gain information from body language,
16 correct?

17 A. I think that's one point of view.

18 Q. Okay. Okay.

19 A. I think --

20 Q. Well --

21 A. I mean, you're referring to a testimony.

22 Q. Okay. Would you disagree with that testimony,
23 that you can gain additional information about what a
24 trooper is telling you --

25 A. I'm not trying to --

1 Q. -- I like looking at their --

2 A. -- play gymnastics with you. Most troopers didn't
3 want to see a sergeant.

4 Q. And why is that?

5 A. It's just sergeants and -- sergeants do
6 administrative things; troopers do the worker bee. And
7 troopers wouldn't necessarily want to eat with the sergeants
8 because they talk about what troopers talk about.

9 Q. Okay.

10 A. Sergeants talk about what sergeants talk about.
11 And it's very different. They're very different dynamics.

12 Q. Okay. They don't want to see a sergeant because
13 the sergeant may tell them something they're doing wrong,
14 correct?

15 A. No. 'Cause they want to talk about their
16 girlfriends or this and that, and they don't want to talk
17 about things in front of -- of me or --

18 Q. Well, they don't want -- they don't want their
19 sergeant correcting them from doing something inappropriate,
20 correct?

21 A. For whatever --

22 Q. Hmm?

23 A. Well, they don't want to talk about anything in
24 front of a sergeant. They don't -- they don't -- for some
25 reason, there's a bad history of sergeants. It's us against

1 them.

2 Q. Okay.

3 A. And I tried to break that mold, but unfortunately,
4 that's just a tradition. It's a history of how they react
5 with each other.

6 Q. All right. Let me refer you to -- well, just let
7 me finish that thought. You cannot be face-to-face with a
8 trooper when you're at home in your residence, correct?

9 A. That's correct.

10 Q. Let me refer you to your attorney's notebook,
11 Exhibit 23, Tab 23.

12 A. Yes, sir.

13 Q. And I'm going to read for you a sentence in the
14 "Primary Purpose of the Position" that states that a part of
15 your duties are to direct and supervise the functional --
16 well, it actually says:

17 "...directs and supervises the functional
18 responsibilities of an assigned number of troopers
19 on a particular shift and in a specific geographic
20 area."

21 Do you see that?

22 A. Where was that at, sir?

23 Q. It's down in the box that says "Primary Purpose of
24 the Position."

25 A. Yes, sir.

1 Q. Okay. And -- and do you see it says "directs and
2 supervises the functional responsibilities of an assigned
3 number of troopers on a particular" --

4 A. Yes, sir.

5 Q. -- "shift and in a specific geographical area"?

6 A. Yes, sir.

7 Q. Okay. And that specific geographical area is
8 Wayne County, correct?

9 A. Yes, sir. That's where I was assigned, yes, sir.

10 Q. Okay.

11 MR. McINNES: If I may have a moment, Your Honor?

12 (Pause in proceedings.)

13 MR. McINNES: That's all the questions I have at
14 this time, Your Honor.

15 THE COURT: Redirect?

16 MR. HENLINE: Briefly, Your Honor.

17 REDIRECT EXAMINATION BY MR. HENLINE:

18 Q. Mr. DeValle, if you are the sergeant working if a
19 sergeant's on vacation and another sergeant's in training,
20 could you be assigned early and late OD calls?

21 A. Yes, sir. That was pretty common.

22 Q. Would you work that 24-hour period, or would you
23 only work a scheduled shift?

24 A. You -- you only work a ten-hour period, but you'd
25 be assigned calls --

Closing Argument by Mr. Henline

Vol. II, P. 465

1 mileage was. It just shows accumulated mileage each day as
2 reported by the individual. And I think there was testimony
3 that some troopers don't even fill it out.

4 And this was all occurring before Lieutenant
5 Morton came to his house, so I don't think there's any part
6 -- anything thing on the Petitioner's part where he would
7 have been doing this trying to -- to be deceitful, to
8 conceal his conduct or anything, because there -- there's
9 nothing he's trying to hide. Nobody's looking at him.
10 Nobody's -- I think he was just -- he's very inaccurate on
11 some of the mileage, but I don't think there was any intent
12 to be deceitful, to hide something, or to conceal his
13 behavior.

14 And -- and lastly -- well, and also, I think when
15 you look at the intense media scrutiny that was placed on
16 this, it was very embarrassing for the Highway Patrol, and
17 it was very embarrassing to Mr. DeValle. He was extremely
18 embarrassed about it, Your Honor. And rightfully so. I
19 mean, it -- it brought a lot of negativity on -- on both
20 parties.

21 The -- but when you look at there was a change in
22 command staff by the new governor coming in, and First
23 Sergeant Sawyer testified -- he said, you know, at the point
24 in time they came in, his own words were "we revisited
25 this." And I think that's the point in time where you see

1 that there's charges added, because initially it was just
2 residency, and then there -- you start seeing the
3 untruthfulness allegations, you see Captain Wingo and Major
4 Regan doing -- Googling some maps, trying to fit things into
5 their puzzle piece to -- to establish and show, you know,
6 the mileage was off. And I think they were picking and
7 parceling pieces to try to support their contention of
8 untruthfulness without really being fair and impartial in
9 the investigation and -- and trying to pull in everything.
10 I think they were only pulling in what fit into their
11 theory.

12 And then I think the -- and the last point I would
13 like to make, Your Honor, is the -- if nothing else, this is
14 arbitrary and capricious, based on Wetherington. Major
15 Regan sat up there and testified, and yet his own words were
16 "there was no other choice to consider." He -- he testified
17 that, you know, he recommended discipline without
18 considering any other alternative, that he recommended that
19 to Lieutenant Colonel Ward, and I believe Lieutenant Colonel
20 Ward made the same decision.

21 That would be our argument, Your Honor.

22 THE COURT: Thank you, sir.

23 MS. LUSIC: May I be heard on a -- just a few of
24 those -- Mr. Henline's points?

25 THE COURT: Two minutes.

1 FINAL CLOSING ARGUMENT BY MS. LUSIC:

2 MS. LUSIC: Okay. With regard to it being
3 incumbent on the Patrol to investigate all these potential
4 other reasons that things could have occurred, it was also
5 incumbent upon Sergeant DeValle to bring those to the
6 Patrol's attention so they could know that they needed to
7 investigate them. They certainly can't think of every
8 single potential thing that might be an excuse. And that's
9 one of the reasons the IA enter report -- the IA process is
10 interactive and -- and Sergeant DeValle had an opportunity
11 to interact with that. There's nothing given that they
12 didn't investigate.

13 The state auditor's report is really focused on
14 residency, and so to the extent there -- it notes that there
15 was a creation of any sort of culture that allows that to
16 occur, it would be with regards to the residency policy, not
17 working from home when -- when you're on duty. It says
18 nothing about that.

19 With regard to sort of the new command staff
20 coming in and trying to make the puzzle pieces fit, I think
21 that that narrative is not consistent with the evidence,
22 particularly if you look at the first report of
23 investigation. There is a discussion in that report about
24 the SAP logs showing that he's not going into work at time
25 -- all the time.

1 I think what the evidence has said -- shows is --
2 I think -- I mean, when there's a gubernatorial election and
3 a Republican governor leaves and a -- and a new Democratic
4 leader comes in, things are moving around. I think everyone
5 knows that agencies are going to kind of pause things for a
6 moment to try to allow that transition to occur.

7 That's what occurred here. It got paused. The
8 new administration came in and they picked it up and they
9 read the report, and they said, "There's some stuff in here
10 that's troubling. Let's look at it again. Let's actually
11 give it thorough investigation." And that's what happened
12 here.

13 That's it, Your Honor.

14 THE COURT: Thank you. I'm assuming y'all are
15 going to want the transcripts, so give me your proposed
16 decisions 30 days from the transcripts.

17 Thank you, folks.

18 MR. HENLINE: Thank you, Your Honor.

19 MS. LUSIC: Thank you.

20 MR. McINNES: Thank you, Your Honor.

21 (Proceedings ended at 2:41:20 p.m.)

22

23 (END OF TRANSCRIPT.)

24

25

NORTH CAROLINA

CHATHAM COUNTY

CERTIFICATION OF TRANSCRIPTIONIST

I, Wanda B. Constantino, do hereby certify that the foregoing transcript was transcribed under my direct supervision from a digital recording provided by the Office of Administrative Hearings; and that the transcript, to the best of my ability, is a true and accurate transcription of the digitally recorded proceeding.

I further certify that I have no financial interest in the outcome of this action, nor am I a relative, employee, attorney, or counsel for any of the parties.

WITNESS my hand on this 30th day of May, 2019.

/s/ WANDA B. CONSTANTINO
Wanda B. Constantino
AOC-Certified Transcriptionist

7:33 arrived Laidlaw
7:35 came to door - with kids dog - Marie later
7:50 departed Laidlaw
7:59 notes in ~~the~~ Laidlaw's book
Arrived Laidlaw - car parked beside house facing out
took photo of car
Key donnell
Wife + kids + dog to door - asked for Marie
7:55 Marie in shorts + t-shirt to door - slipped out
onto porch, closed door
Said he was sick of a stomach bug
said daughter was sick about 1 pm today
I asked if he was on duty - said no - tried to
check off on MDC around 5 but noticed he
was still on
Said he checked on around 3 but not cleaning time
asked if he left the house - said no
- standing on porch - told him I was sent there to
ask these questions - got what I needed - told
him I sincerely hoped he felt better
- from accusing me of setting up on him
- Said I have a reputation of catching people
noting Cameron + Van Buren, not him
- told him I was on orders and couldn't talk about
it - how long I was ordered, filled my orders
intend to leave
- asked if he was on duty what would have happened -
Said I would have told him to wait for
someone + get back to work
- questioned my loyalty + my leadership style
- told him I've been to his house twice now
+ both times were not because I chose to
do so
- Said there was some secret signal stuff going
on and asked why I couldn't tell him what
was going on
- asked him if he was given an order not to say
anything what would he do?
- Said that's why Trooper question loyalty - loyalty
only goes up but doesn't go down
- Said I have a chance to show my leadership style
+ I'm choosing to be a poor leader
- Told him I had orders, filled my orders, +
wasn't here to be falsely accused, told him
I hope he feels better, then left, walked away
- he went back inside.

tabbles
RESPONDENT'S
EXHIBIT
5

tabbles
RESPONDENT'S
EXHIBIT
1



North Carolina Department of Public Safety
State Highway Patrol

Pat McCrory, Governor
Frank L. Perry, Secretary

Colonel William Grey
Commander

Troop C Headquarters

11 November 2016

MEMORANDUM

TO: LIEUTENANT COLONEL B. T. CLAYTON
FROM: LIEUTENANT J. C. MORTON JCM
RE: STATEMENT OF FINDINGS

On today's date, I was on duty and acting as Troop C Officer of the Day. Acting on your orders, I went to the primary residence of Sergeant M. A. DeValle, C223, located at 1152 Southern Meadows Drive, Raleigh, NC 27603. I arrived at the residence at 7:33 pm and found a marked Patrol vehicle parked beside the garage, facing the roadway. I rang the doorbell at the front door and two children and Sergeant DeValle's wife came to the door. I asked if Sergeant DeValle was there and she said yes, closed the door, and walked down the hallway. Sergeant DeValle came to the door at 7:35 pm, stepped onto the porch, and closed the door behind him. He was wearing shorts and a t-shirt.

When he closed the door, he stated that his daughter was sick today and he was sick with what he believed to be a stomach bug. I took a step back and did not offer to shake hands, stating that I did not want to catch what he had. I then told him that I would get right to the point and asked him if he was on duty. He said no and that he tried to check off around 5:00 pm on his MDC, but noticed that he was still showing on duty. I asked him what time he checked on and he said around 3:00 pm. He stated that he had no intention of claiming any of the time. I asked him if he had left the house and he replied no.

I told him that those were all of the questions that I had of him and hoped that he felt better soon. He asked me why I was there and what was going on, accusing me of setting up on him at his residence. I replied that I could not discuss the matter and that I had completed my orders.

I departed his residence at 7:50 pm and Sergeant DeValle went back inside.

JCM



MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4059

Respondent - 01150



North Carolina Department of Public Safety
State Highway Patrol

Pat McCrory, Governor
Frank L. Perry, Secretary

Colonel William Grey
Commander

Internal Affairs Section

14 November 2016

MEMORANDUM

TO: CAPTAIN J. O. HOLMES
FROM: CAPTAIN W. T. EVANS (EMAIL)
**RE: COMPLAINT MADE BY LIEUTENANT J. C. MORTON AGAINST
SERGEANT M. A. DEVALLE, REGISTRY #1966 (IA2016-052)**

Attached is a Personnel Complaint alleging the following Personal Conduct violation on the part of Sergeant M. A. Devalle:

- Directive N^o. H.01, Section IV (Violation of Rules) to wit: E.09, Section IV (Procedures for Establishing Residence)

The Internal Affairs Unit will investigate this complaint. Sergeant Devalle should be informed that he is the subject of an investigation. He should read and initial the Personnel Complaint Report, Directive N^o. H.01, H.02 and E.09. Sergeant Devalle is hereby ordered not to discuss this complaint or any aspects of this investigation with the complainant, the complainant's witnesses or persons not involved in this investigation.

You are to inform Sergeant Devalle that this investigation is not limited to these specific allegations but may extend to other sections of the Highway Patrol Code of Conduct revealed by this investigation. Sergeant Devalle should immediately prepare a written statement addressing the allegations set out in the complaint and provide names of any witnesses on his behalf. In like manner, he should have any evidence on his behalf pertaining to this matter ready to present to investigators.

This memorandum and attachments are for your use and information in carrying out the instructions listed above. You are instructed to serve these documents on the accused (Sergeant Devalle). He should initial, date, and receive a copy of each item. After the documents have been served, please scan and attach them back in Blue Team and forward to the Unit Commander of Internal Affairs for processing. Please return the original signed documents to the Internal Affairs Unit for filing.

WTE:dmb

Attachments

MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4059



Respondent - 01151

Personnel Complaint Report

Incident Entered By: First Sergeant Rodney Sawyer

Incident Details

Date Received	Date of Occurrence	Time of Occurrence
11/14/2016	11/11/2016	
Record ID #	CAD Sequence No.	IA No.
539		
Date/Time Entered		
11/14/2016 10:50		

Incident Summary

On Friday, 11 November 2016, Sergeant Maurice Devalle was assigned to work a 10 hour shift beginning at 00 PM and ending at 3:00 AM. He was also assigned as the Late Duty Officer for the district. Sergeant Devalle checked on for duty at 2:43 PM, and never traveled to his assigned duty station for duty. Sergeant Devalle remained at his residence during his assigned shift located at 1152 Southern Meadows Drive, Raleigh, NC.

Incident Location

1152 Southern Meadows Drive, Raleigh, NC 27603

Reporting Officers

Officer John Morton - Network User Name: 01291776

Involved Officers

Sergeant Maurice Devalle - Network User Name: 01265297
Assignment at time of incident: C/2/Troop C District II/SHP 349/Y

Violations linked to this officer
• Violation of Rules

L.M.A. D.Y. 11/14/16

Attachments

Date Attached	Attachment Description	Attachment Type
11/14/2016	Policy Directive H01	pdf
11/14/2016	Policy Directive H02	pdf
11/14/2016	Policy Directive E09	pdf
11/14/2016	IA Service Memo	pdf

11/14/2016
3:04 p.m.

Chain of Command History

Reporting Officer Signature Line

Sergeant Rodney Sawyer

Respondent - 01152

INTERVIEW OF UNIFORMED MEMBER

Today's date is 15 November 2016. I am Lieutenant P. T. Clark of the Internal Affairs Section. Also with me today, from Internal Affairs, is First Sergeant R. W. Sawyer. We are in Raleigh, North Carolina interviewing Sergeant M. A. Devalle about an anonymous complaint that was lodged against you.

Prior to going on tape, you were furnished with the memorandum from Captain W. T. Evans to Captain J. O. Holmes in reference to this complaint, as well as the attached Personnel Complaint. Additionally, you were provided with excerpts of policy, specifically, *Directive N° H.02, (Investigation of Complaints and Charges Against Highway Patrol Members)* which includes the subsections pertaining to *Investigation of Complaints at the Commanders Office Level, Internal Affairs Investigation Procedures, and the Responsibility and Rights of Members being Investigated.*

- ☒ Did you have an opportunity to review these documents?
- ☒ Do you understand them?
- ☒ Did you initial and date these documents?
- ☒ Did you receive a copy of these documents?

Yes No
Yes No
Yes No
Yes No

You were also provided with *Patrol Directive N° H.01, the Highway Patrol Rules of Personal Conduct and Job Performance, Subsection II General Policies and Procedures.*

- ☒ Did you have an opportunity to review this directive?
- ☒ Do you understand this directive?
- ☒ Did you initial and date it?
- ☒ Did you receive a copy of it?

Yes No
Yes No
Yes No
Yes No

Also under *Directive N° H.01*, you were given *Subsection 4 Violation of Rules, Subsection 7 Truthfulness, Subsection 25 Conduct While Under Investigation, Subsection 35 Obstruction of Investigation, and Directive H.01, Section IV (Violation of Rules) to wit: E.09, Section IV (Procedures for Establishing Residence) which is the specific policy you are charged with violating.*

- ☒ Did you have an opportunity to review these documents?
- ☒ Do you understand them?
- ☒ Did you initial and date them?
- ☒ Did you receive a copy of these documents?

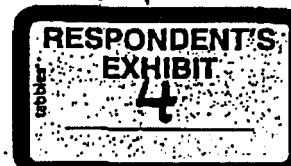
Yes No
Yes No
Yes No
Yes No

☒ Have you ingested any substances which would prevent you from answering questions today?

Yes No

☒ Do you admit or deny the allegation of Violation of Rules?

Admit Deny



Rules of Personal Conduct and Job Performance

Applicable to: Members
CALEA Chapters 12; 26; 35

Directive H.01

Revised 4/8/2008
Effective 8/27/1999

I. POLICY

This policy establishes policies and rules for governing the conduct and performance of Patrol members. (CALEA 12.2.1; 35.1.9)

II. GENERAL POLICIES AND PROCEDURES (CALEA 26.1.1; 35.1.9)

The Highway Patrol Rules of Personal Conduct and Job Performance shall govern the official and unofficial actions of each uniformed member of the Patrol. All members shall conduct themselves, both on and off duty, in a manner which will not in any way reflect negatively upon the professional image of the Patrol or of any of its members.

Each member charged with a violation of the rules of conduct or job performance should be charged with a violation under a specific section, when applicable. Any member against whom a charge is filed shall be given notice of the specific section he/she is alleged to have violated. A member charged with violating one of the specific subsections in this directive shall not also be charged with violating Sections III (Conformance to Laws), IV (Violation of Rules), V (Unbecoming Conduct), or VI (Unsatisfactory Job Performance) for the same conduct.

If an investigation reveals that a member has not violated the subsection under which he/she is charged but has instead violated some other subsection, or that the member should be charged with a different type of violation, the investigator shall contact the Unit Commander of Internal Affairs for directions as to how to proceed.

An accumulation of disciplinary actions taken against a member may be deemed sufficient cause for dismissal, demotion, or other disciplinary or administrative action as provided in this manual.

III. CONFORMANCE TO LAWS (CALEA 26.1.1)

Each member shall obey the laws of the United States, the State of North Carolina and of local jurisdictions. If facts revealed by a thorough investigation indicate there is substantial evidence that a member has committed acts which constitute a violation of a civil or criminal law, ordinance, or infraction other than a parking ordinance, then the member may be deemed to have violated this subsection, even if the member is not prosecuted or is found not guilty in court.

The reporting provisions located in Directive H.02, Section V, "Employee Criminal Charges / Arrest Notification Procedures" shall be adhered to.



IV. VIOLATION OF RULES (CALEA 26.1.1)

Members shall not commit any act or fail to perform any act which would constitute a violation of any of the rules, regulations, directives, orders, or policies of the Patrol, whether or not they are stated in this directive. Ignorance of Patrol rules, regulations, directives, orders, or policies shall not justify any such violation. Members shall be responsible for their own acts, and they shall not unjustly attempt to shift to others the responsibility for executing or for failing to execute a lawful order or a Patrol duty.

V. UNBECOMING CONDUCT (CALEA 26.1.1; 35.1.9)

Members shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably upon the Highway Patrol and in keeping with the high standards of professional law enforcement. Unbecoming conduct shall include any conduct that constitutes unacceptable personal conduct pursuant to State Personnel Policy and any conduct which tends to bring the Patrol into disrepute, or which reflects discredit upon any member(s) of the Patrol, or which tends to impair the operation and efficiency of the Patrol or of a member, or which violates Patrol policy.

VI. UNSATISFACTORY JOB PERFORMANCE (CALEA 26.1.1; 35.1.9)

Members shall maintain sufficient competency to properly perform their duties and to assume the responsibilities of their positions. Members shall perform their duties in a manner, which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Patrol.

Examples of unsatisfactory performance include but are not limited to the following:

- Failure to properly supervise subordinates
- Lack of knowledge of the proper application of laws the member is required to enforce
- Unwillingness or inability to perform assigned tasks
- Failure to conform to work standards established for the member's rank, grade, or position
- Failure to take appropriate enforcement action at any time
- Absence without leave
- Unnecessary absence from assigned duty

The following will be considered prima-facie evidence of unsatisfactory performance:

- Repeated poor job performance evaluations
- Repeated infractions of policy, regulations, manuals, or directives

VII. TRUTHFULNESS (CALEA 26.1.1)

Members shall be truthful and complete in all written and oral communications, reports, and testimony. No member shall willfully report any inaccurate, false, improper, or misleading information.

VIII. COURTESY (CALEA 26.1.1; 61.1.8.)

Members shall be as courteous to the public as possible. Members shall be tactful in the performance of their duties. They shall exercise the utmost patience and discretion in performing their duties and shall be as polite as possible with the public. While in uniform, members shall not use coarse, violent, profane, obscene, or insolent language or gestures and shall not publicly express any prejudice concerning race, religion, politics, national origin, life style, or similar personal characteristics.

IX. ABUSE OF POSITION (CALEA 26.1.1)

Members are prohibited from using their official positions or their official identification cards and badges for:

- Intimidating or harassing of anyone for personal reasons
- Obtaining privileges not otherwise available to them or to someone else
- Avoiding the consequences of illegal acts

Members are prohibited from lending their identification cards or badges or any replica thereof to another person or permitting these items to be photographed or reproduced.

X. SEEKING OR ACCEPTING GIFTS, FAVORS, OR BRIBES (CALEA 26.1.1)

Except as authorized by Directive H.03, members shall neither solicit nor accept from any person, business, or organization any gift, favor, or bribe.

XI. USE OF ALCOHOLIC BEVERAGES (CALEA 26.1.1)

Members shall not ingest any intoxicant while in uniform.

Members shall not appear for duty or be on duty while under the influence of intoxicants to any degree whatsoever, nor shall they have any odor of intoxicants on their breath.

Members shall not bring or allow to be brought into or store alcoholic beverages in any Patrol facility or vehicle, except alcoholic beverages which are being held as evidence, and then only in conformance with Patrol procedures.

XII. USE OF ALCOHOLIC BEVERAGES WHILE OFF DUTY (CALEA 26.1.1)

While off duty, members shall refrain from ingesting any intoxicants to the extent that such ingestion results in appreciable impairment which would tend to discredit the member or the Patrol or to render the member unfit to report for his/her next regular tour of duty, including having any amount of intoxicant in his/her system.

XIII. USE OF DRUGS (CALEA 26.1.1)

Members shall not ingest any illegal controlled substance that is illegal under State or federal law.

Members shall not ingest any controlled substance without a prescription.

Members shall not ingest any prescribed drug(s) in amounts above prescribed dosage.

Members shall not possess any illegal controlled substance or any controlled substance without a prescription other than for evidentiary purposes and then only in conformance with Patrol procedures.

Members shall not knowingly use performance enhancing drugs (Anabolic-Androgenic Steroids, Testosterone, Human Growth Hormone) or any other controlled substance that may be used for the purpose of performance enhancement, unless prescribed for use as a medical necessity by a board certified physician who is licensed by the State that he/she generally practices medicine. Except in emergency, life and death circumstances, members who have a prescription for any performance enhancing drug must consult with the Patrol's Medical Director prior to using the drug. Members who are prescribed any performance enhancing drug will not be allowed to report for duty without prior approval of the Medical Director.

XIV. CONFIDENTIALITY OF INFORMATION (CALEA 26.1.1)

Members shall treat the official business of the Patrol as confidential. Information regarding official business shall be disseminated only to those persons for whom it is intended and only in accordance with established Patrol procedures. Members may remove and/or copy official records or reports from Patrol files or from Patrol installations only in accordance with established State Personnel, Departmental, and Patrol procedures. Members shall not divulge the identity of persons giving confidential information except when properly authorized for the performance of Patrol duties.

M.A. Dye 11/14/16

XV. REPORTING FOR DUTY (CALEA 26.1.1)

Members shall report for duty at the time and place required by assignment or orders and shall be capable of performing their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they can immediately assume their duties. A subpoena or order to appear in court or at an administrative hearing shall constitute an order to appear for duty as provided in this section.

XVI. FICTITIOUS ILLNESS OR INJURY (CALEA 26.1.1)

Members shall not feign illness or injury, falsely report themselves ill or injured or otherwise deceive or attempt to deceive any official of the Patrol as to the condition of their health.

XVII. HIGHWAY PATROL REPORTS (CALEA 26.1.1)

Members shall submit all necessary reports on time and in accordance with established Patrol procedures.

XVIII. INSUBORDINATION (CALEA 12.1.3; 26.1.1)

Members shall promptly obey any lawful order of a superior officer. This will include orders relayed from a superior officer by an employee of the same or lesser rank. Any disrespectful, mutinous, insolent or abusive language, conduct, or attitude directed toward a superior officer or the authority or the position shall be considered insubordination.

XIX. CONFLICTING OR ILLEGAL ORDERS (CALEA 12.1.3; 26.1.1)

Members who are given an order, which is in conflict with a previous order, rule, regulation, directive or manual shall respectfully point out the conflict to the officer issuing the order. If the superior officer issuing the order does not alter or retract the conflicting order, the order shall stand. Under these circumstances, the responsibility for issuing and carrying out a conflicting order shall rest upon the superior officer. Members shall obey the conflicting order and shall not be held responsible for disobedience of the order previously issued. Members shall not obey any order that would require them to commit any illegal act. If in doubt as to the legality of the order, members shall request the issuing officer to clarify the order or shall confer with a higher authority.

XX. OPERATION OF VEHICLES AND AIRCRAFT (CALEA 26.1.1)

Members shall operate official vehicles and aircraft in a careful and prudent manner and shall obey all laws of the State, Federal Regulations, and all Patrol policy pertaining to such operation.

XXI. USE OF PATROL EQUIPMENT (CALEA 26.1.1)

Members shall utilize Patrol equipment only for its intended purpose in accordance with established Patrol procedures and shall not deliberately or through carelessness, abuse, damage, or lose Patrol equipment. All Patrol equipment issued to members, including manuals, shall be maintained in proper order.

Members shall immediately notify the Director of Support Services Section via chain-of-command of any Patrol equipment that is lost or damaged.

A member may receive disciplinary action for lost, damaged, or stolen equipment when caused by negligence of the member. The member's immediate supervisor shall investigate and make recommendations to the appropriate Section Director/Troop Commander. The appropriate Section Director/Troop Commander, with the advice and assistance of the Unit Commander of Internal Affairs will determine whether to conduct a further investigation.

If it is determined that a member was negligent, disciplinary action may be imposed against the member for lost, damaged or stolen equipment. In appropriate circumstances, the State Highway Patrol may take or seek additional appropriate action against the negligent member to obtain restitution.

XXII. REQUESTS FOR ASSISTANCE (CALEA 26.1.1)

When any person applies for assistance or advice, either by telephone or in person, members while on duty or in uniform shall accept all pertinent information in an official and courteous manner and will properly and judiciously act upon such information in a manner consistent with established Patrol procedures.

XXIII. IDENTIFICATION (CALEA 26.1.1)

Members while on duty, while in uniform, or while acting in the capacity of a law enforcement officer shall furnish their names and other identification to any person requesting that information except when the withholding of such information is necessary for the performance of Patrol duties.

XXIV. CITIZEN COMPLAINTS (CALEA 26.1.1; 35.1.9)

Members shall courteously and promptly accept and record complaints made by citizens against any member or any Patrol policy or procedure in accordance with Patrol policy.

XXV. CONDUCT WHILE UNDER INVESTIGATION (CALEA 26.1.1)

Any member being investigated for any reason shall cooperate with investigating officers and shall be subject to the policy set forth in this manual.

XXVI. NEGLECT OF DUTY (CALEA 26.1.1)

Members shall not be inattentive to duty nor neglect their duties. Members shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty or which would impair their ability to perform such duty.

A supervisor's failure to take appropriate action when he/she has personal knowledge of violations of the Rules of Personal Conduct and Job Performance by subordinates; shall be considered serious neglect of duty.

XXVII. ASSOCIATIONS (CALEA 26.1.1)

Members shall avoid regular or continued association or dealings with persons whom they know, or should know, are under criminal investigation or indictment or who have a reputation for ongoing involvement in felonious or criminal behavior, except as necessary in the performance of official duties.

XXVIII. VISITING PROHIBITED ESTABLISHMENTS (CALEA 26.1.1)

Members shall not willfully visit, enter, or frequent a house of prostitution, gambling house, or establishment wherein the laws of the United States, the State of North Carolina, or the local jurisdiction are regularly violated or reputed to be regularly violated, except in the performance of duty or while acting under proper and specific orders from a superior officer.

XXIX. GAMBLING (CALEA 26.1.1)

Members shall not engage in any form of gambling which is in violation of federal, State, or local laws.

XXX. PAYMENT OF DEBTS (CALEA 26.1.1)

Members shall not undertake any financial obligations which they know or should know they will be unable to meet and shall pay all just debts promptly. An isolated instance of financial irresponsibility will not be grounds for discipline except in unusually severe cases. However, repeated instances of financial irresponsibility shall be cause for disciplinary action.

Financial difficulty stemming from unforeseen medical expenses or personal disaster shall not be cause for discipline, provided that the member is making a reasonable, good faith effort to settle all accounts.

Members shall not become financially obligated to subordinates or supervisors.

XXXI. ENDORSEMENTS AND REFERRALS (CALEA 26.1.1)

Members shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service such as an attorney, ambulance service, towing service, bondsman or mortician.

In the case of ambulance or towing service, when such service is necessary and the person needing the service is unable or unwilling to procure it or requests assistance, members shall proceed in accordance with established Patrol policy.

XXXII. PUBLIC APPEARANCES AND STATEMENTS (CALEA 26.1.1)

Members shall not publicly criticize or ridicule the Patrol, its policies, or other members by speech, writing, or other expression when such criticism or ridicule directly or visibly affects or would reasonably be expected to directly or visibly affect the operation of the Patrol.

Without official approval, members shall not address gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or periodical, or release or divulge investigative information or any other matters pertaining to the Patrol while holding themselves out as having an official capacity in such matters. Official approval may be given to conduct highway safety programs and otherwise release information concerning highway safety matters so long as this activity does not conflict with the official position of the Highway Patrol.

XXXIII. LABOR ACTIVITIES (CALEA 26.1.1)

Members shall have the right to join labor organizations, but nothing shall compel the Patrol to recognize or to engage in collective bargaining with any such labor organizations except as provided by law.

Members shall not engage in any strike. Strike includes the concerted failure by more than one member to report to duty, willful absence from one's position, unauthorized holidays, feigned sickness, the stoppage of work, and improper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of employment.

XXXIV. SEEKING PREFERENTIAL TREATMENT (CALEA 26.1.1)

Members shall not solicit petitions, influence, or intervene with any person outside the Highway Patrol for purposes of preferential treatment, advantage, transfer, advancement, promotion, or change of duty or duty station for themselves or for another member. Members should not knowingly encourage others to take such action on their behalf.

XXXV. OBSTRUCTION OF INVESTIGATION (CALEA 26.1.1)

Patrol members shall not intentionally delay or obstruct the Patrol's response to a complaint or minimize the importance of a problem being complained against or obstruct the proper investigation of a problem which is the subject of a complaint. Patrol members shall not refuse to answer any question which is narrowly and directly related to any matter under investigation.

88

**Investigation of Complaints and Charges Against
Highway Patrol Employees**

Applicable to: Employees
CALEA Chapters 28; 35; 52

Directive H.02

Revised 10/11/2011
Effective 11/1/1998

I. POLICY

This policy provides guidelines for accepting, recording, resolving, and forwarding complaints.

**II. ACCEPTING, RECORDING, RESOLVING, AND FORWARDING COMPLAINTS
(CALEA 26.1.8)**

Accepting Complaints (CALEA 35.1.9; 52.1.1; 52.1.4; 52.2.1)

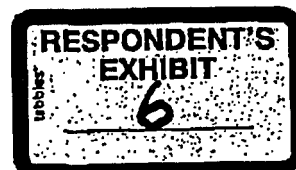
- A complaint or charge against an employee may originate from within the Patrol or from the general public. Charges from within the Patrol shall be processed as hereinafter provided in this directive. Complaints from the general public shall be courteously accepted by any employee of the Patrol and shall be processed as hereinafter provided in this subchapter. No employee shall attempt to dissuade any person from lodging a complaint. A supervisor has the obligation to investigate possible violations of policy even if the person providing the information does not want a complaint filed.

Resolving Complaints Based on Misunderstanding of Patrol Policy

- In the case of complaints involving a misunderstanding of traffic laws or Patrol policy on the part of the complainant, the employee receiving the complaint shall attempt to resolve the complaint by explaining the law or the policy to the complainant. If unable to resolve the complaint, the employee shall refer the complaint to his/her supervisor, who shall attempt to resolve it. If the supervisor is unable to resolve it, the supervisor shall refer the complaint on up the chain-of-command.

Recording Complaints Alleging Violation of Code of Conduct

- If the complaint involves a possible violation of the Rules of Personal Conduct, Grossly Inefficient Job Performance, or Job Performance by any employee of the Patrol, the employee receiving the complaint shall accept the complaint, record the information and forward the information to his/her appropriate supervisor, who shall be responsible for completing a Personnel Complaint (HP-307), if warranted, after consultation with the appropriate Section Director/Troop Commander. Such a complaint shall be accepted and recorded even when the identity of the complainant and/or the employee is unknown.



M.A. DN 11/14/11

- If the complainant indicates no desire to make a formal complaint but has indicated a violation of Patrol policy by an employee, this information must be transmitted to a supervisor. The supervisor must document the information and determine if such information warrants further inquiry to determine if a complaint should be filed by the supervisor. If the supervisor determines a violation of policy may have occurred, the supervisor shall complete the HP-307, after consultation with the appropriate Section Director/Troop Commander.

Forwarding Complaints Alleging Violation of Code of Conduct (CALEA 52.2.4)

- After completing a HP-307, the supervisor shall immediately forward the original HP-307 of the affected employee and any other appropriate documents to the Unit Commander of Internal Affairs, the Unit Commander of Internal Affairs shall acknowledge the receipt of all complaints to the complainant. Upon conclusion of the investigation, the complainant shall be notified that the investigation has been completed.
- If it appears that an Internal Investigation will exceed thirty (30) calendar days and after each extension granted, a letter indicating the status shall be mailed to the complainant by the Unit Commander of Internal Affairs.

Classifying and Assigning Complaint Investigations (CALEA 52.2.1)

- The Unit Commander of Internal Affairs shall classify the alleged complaint as a Personal Conduct, Grossly Inefficient Job Performance, or Job Performance violation and direct an investigation. When an investigation is assigned to supervisors other than Internal Affairs personnel, the Section Director/Troop Commander shall designate the level of supervisory personnel to conduct the investigation.

III. INVESTIGATION OF COMPLAINTS BY THE SECTION, TROOP, OR DISTRICT SUPERVISORY STAFF LEVEL (CALEA 26.1.5)

Designation of Investigator (CALEA 52.2.1)

- The supervisor responsible for imposing disciplinary action against an employee accused of a Personal Conduct, Grossly Inefficient Job Performance, or Job Performance violation may designate a subordinate within the supervisor's command to investigate the complaint. An investigator must hold at least the rank of Sergeant. In complex investigations, any supervisor may request that the Internal Affairs Unit at Patrol Headquarters in Raleigh assist or take charge of, any specific investigation.

Conduct of the Investigation

- Before permitting the investigation to begin, the supervisor of the employee being investigated shall notify the employee of the investigation except in cases where such notification would jeopardize the investigation. Should the employee admit the conduct alleged and that such conduct is, in fact, a violation of policy, then the supervisor, in consultation with Internal Affairs, may impose the appropriate disciplinary action without further investigation. In the event the employee denies the violation with which the employee is charged, the investigation shall proceed as hereinafter provided.
- The employee shall be given an opportunity to supply the investigator with evidence or witnesses favorable to the employee. No decision as to whether or not the employee violated the rules of Personal Conduct, Grossly Inefficient Job Performance, or Job Performance shall be made against a charged employee until the employee has had a reasonable opportunity to produce evidence or witnesses and has had an opportunity to explain the employee's actions.
- The employee chosen to investigate the case shall not go outside the employee's assigned jurisdiction or neglect regular duties in order to carry out such investigation without the authority of the immediate supervisor. No investigative action shall be taken in any case where it might jeopardize a simultaneous or subsequent investigation.
- The investigator shall make every effort to complete the investigation within 30 calendar days. If unable to do so, the investigator shall inform the supervisor requesting the investigation who shall in turn notify Internal Affairs as to the reasons why the investigation cannot be completed within 30 calendar days and shall estimate the additional time needed to complete the investigation. (CALEA 52.2.3)
- If upon completion of the investigation the First Sergeant or other supervisor authorized to impose disciplinary action determines that the employee should be exonerated or that the result of the investigation is inconclusive, the supervisor shall (after conferring with the Unit Commander of Internal Affairs) inform the employee and forward the Report of Investigation and all related documents to the Unit Commander of Internal Affairs for filing in the employee's personnel file. (CALEA 52.2.1)
- If, upon completion of the investigation and after allowing the charged employee an opportunity to explain his/her actions, the supervisor determines that the employee should be disciplined, the supervisor shall confer with the appropriate Section Director/Troop Commander and shall administer disciplinary action within the options authorized by the Unit Commander of Internal Affairs.

M.A. D'Valle 11/14/12

**IV. INVESTIGATION OF COMPLAINTS BY THE INTERNAL AFFAIRS UNIT
(CALEA 26.1.8; 52.2.1)**

The Unit Commander of Internal Affairs shall be responsible for the supervision of all complaints initiated at the request of the Commander's Office.

Internal Affairs Investigation Procedures (CALEA 52.2.2)

- The Internal Affairs Unit shall notify the employee to be investigated and the employee's Section Director/Troop Commander that an investigation is to be made except in cases where such notification would jeopardize the investigation. In the event the charged employee admits the violation with which the employee is charged, the Internal Affairs Unit shall prepare for the Commander's Office a statement of the facts and submit its recommendation for disciplinary action to be taken and shall give the entire file to the Commander's Office for consideration, pursuant to the provisions of this directive. In the event the charged employee denies the violation with which the employee is charged, then the investigation shall proceed as hereinafter provided. (CALEA 52.2.5)
- The employee shall be given an opportunity to supply the investigator with evidence or witnesses favorable to the employee. No decision as to whether or not the employee violated the Rules of Personal Conduct, Grossly Inefficient Job Performance, or Job Performance shall be made against a charged employee until the employee has had a reasonable opportunity to produce evidence or witnesses and has had an opportunity to explain his/her actions.
- If an investigation uncovers evidence of a possible criminal violation by an employee, the Internal Affairs Unit shall immediately notify the Commander's Office which decides whether or not appropriate authorities should be notified and take such other disciplinary or administrative action necessary consistent with the provisions of this policy.
- If an investigator uncovers evidence of additional violations of policy, an additional HP-307 need not be completed. The employee must be informed of the allegations and must be given an opportunity to respond to the potential new charges.
- Upon completion of the investigation, the Internal Affairs Unit shall prepare a summary report of the investigation setting forth the facts of the case, and shall submit the summary report to the Director of Professional Standards for review in accordance with Directive H.04, Section XII.

M.A. D'Amico 11/14/16

Respondent : 0T166

Responsibility and Rights of Employees Under Investigation (CALEA 52.2.5)

- Employees under investigation for possible violations of the Patrol Rules of Personal Conduct, Grossly Inefficient Job Performance, or Job Performance shall truthfully and fully answer all questions asked of them by investigator(s) concerning the incident being investigated.
- When a supervisor or investigator reasonably suspects that an employee has violated the Rules of Personal Conduct, Grossly Inefficient Job Performance, or Job Performance, the supervisor or investigator may require the employee to submit to tests such as medical, ballistics, or chemical analysis or agree to participate in a lineup or be photographed. The employee may also be requested to furnish financial disclosure statements in connection with the case under investigation, after approval of the Commander's Office. (CALEA 52.2.6)
- When an employee is to be investigated for a non-criminal violation of the Patrol Rules of Personal Conduct, Grossly Inefficient Job Performance, or Job Performance, the employee shall be notified that the investigation is to take place unless such notification would jeopardize the investigation.
- Any employee who is the subject of an internal investigation may be ordered by the assigned investigator(s) to cooperate in the investigation and to appear before investigator(s) at a reasonable time and place to submit to questioning or other investigative procedures.
- Investigations conducted pursuant to this directive are for non-criminal violations or for violations that may be criminal but for which the purpose of the investigation is purely administrative in nature. Accordingly, the employee may be ordered to respond to questions which are narrowly and directly related to the matter under investigation. The employee shall not be permitted to have an attorney present during the questioning.
- Highway Patrol property may be searched at any time even if assigned to and used exclusively by an individual employee. An employee's personal property found on State-owned property or within a State owned vehicle may be searched at any time. All other personal property of an employee shall not be subjected to search and seizure except in accordance with law.
- An employee shall provide the investigator with any evidence and the names of witnesses who may have information about the matter under investigation.

V. EMPLOYEE UNDER ARREST / INVESTIGATION NOTIFICATION PROCEDURES

- Each employee shall immediately notify a supervisor if he/she is arrested or is the subject of any investigation by an outside law enforcement agency involving allegations that, if true, could constitute a felony or misdemeanor.

M.A. DX 22 11/1/14

- Each member shall immediately notify the North Carolina Criminal Justice Standards Division in writing at the address below, if the member is arrested or charged with, or pleads no contest to, or pleads guilty to any criminal offense other than a minor traffic offense. Such notification shall comply with the requirements of 12 NCAC 09B.0101, and a copy of the written notification shall be forwarded by the member to the Commander's Office.

North Carolina Criminal Justice Standards Division
North Carolina Department of Justice
P.O. Drawer 149
114 West Edenton Street
Raleigh, NC 27602

- Any member who charges or arrests a Highway Patrol employee with any felony or misdemeanor violation of law shall immediately notify an on-duty/on-call supervisor, who shall be responsible for notifying the Unit Commander of Internal Affairs of the incident.
- Each employee is required to immediately report any conviction, finding of guilt, or plea of no contest, or determination of responsibility involving the violation of any law or ordinance other than a parking ordinance to a supervisor.
- Each employee, sworn and non-sworn, shall immediately notify a supervisor if his/her driving privilege is suspended or revoked.
- The immediate supervisor must ensure the Unit Commander of Internal Affairs is immediately notified, via the chain-of-command, in any case where an employee (sworn or non-sworn) is arrested, charged, or the subject of an investigation involving any felony violation or any misdemeanor.
- In any case where a DCI certified employee is arrested, charged, or being investigated for a felony or any misdemeanor involving fraud, misrepresentation, or deceit, the Unit Commander of Internal Affairs must notify the Executive Officer of Technical Services within twenty (20) hours of the arrest. The Executive Officer of Technical Services will ensure the State Bureau of Investigation, Criminal Information and Identification is notified in writing within twenty-four (24) hours of the arrest and the DCI user is disabled by the Patrol's Senior Terminal Coordinator.
- In any case where a sworn member is arrested for or charged with, pleads no contest to, pleads guilty to, or is found guilty of a criminal offense, the Unit Commander of Internal Affairs shall consult with the Patrol's Legal Staff to determine whether notification must be made to the Standards Division pursuant to 12 NCAC 9B .0101 (8).

M.A.D. 11/1/12

**Assignments, Transfers, Retirements,
Resignations, and Residence Requirements**
Applicable to: Employees

Directive E.09
Revised 03/01/2016
Effective 11/10/2004

I. POLICY

This policy sets forth procedures in reference to transfers, retirements, resignations, and residence requirements of members of the Highway Patrol. All assignments and transfers shall be in the best interest of the Patrol as determined by the Commander's Office.

A member's residence must be established to ensure members can respond to calls for service in a timely manner on a 24-hour basis. Members shall reside within North Carolina and in the county of their assigned duty station or reside in an approved location within twenty (20) miles from the county line of their assigned duty station.

II. ASSIGNMENT OF DUTY STATIONS WITHIN THE PATROL BY THE COMMANDER'S OFFICE

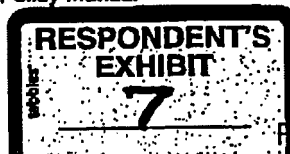
The Commander's Office shall assign members to duty stations in such a manner that will allow the Patrol to best fulfill its responsibilities to the entire state. Patrol members or civilian employees who are immediate family members shall not be stationed in a district, troop or section in which one may have direct supervision over the other. Members must be willing to live and work in any section of the state and may be reassigned or transferred at the discretion of the Commander's Office.

A newly promoted Sergeant may not be allowed to remain in his/her current duty station or assigned to a district where he/she has served as a member within two years of the date of promotion. The Commander's Office may provide an exception to this if the promotion is in the best interest of the Patrol.

Cadets may be assigned to the county from which they applied or any county in North Carolina, at the discretion of the Commander's Office, as long as there is an available opening at the time the Cadet is instructed to report. First consideration will be given to those members described in Section III (Transfer to another Duty Station within the Patrol at the Request of the Member) of this directive. If more than one Cadet applied from the same county, assignments will be made based on the recommendations of the Director of Field Operations.

III. TRANSFER TO ANOTHER DUTY STATION WITHIN THE PATROL AT THE REQUEST OF THE MEMBER

A one (1) year commitment to the member's initial duty station shall be required by all members upon graduation/sworn-in date from Patrol Basic School as indicated in CAD. After the one (1) year commitment has been fulfilled, a member may request to transfer to the duty station of his/her choice. If



M.A. D. Wall 11/11/16
Respondent - 01169

extenuating circumstances exist, the Commander's Office may waive the one (1) year rule provided the member submits a memorandum documenting the extenuating circumstances via chain-of-command.

Members desiring to transfer into a vacant Size and Weight Trooper position shall meet all of the following minimum qualifications:

- Shall have a minimum of eight (8) years of service prior to being considered for transfer into a vacant Size and Weight Trooper position
- Shall have a positive work performance history with no documented conduct issues demonstrating a continuous need for supervisory intervention in their current district(s) for the three (3) previous evaluation years
- Shall attend the Size and Weight training and obtain the certification prior to be transferred
- Shall be able to meet the minimum physical qualifications outlined in the Size and Weight Trooper job description

Transfer requests into a vacant Size and Weight Trooper position that do not meet the aforementioned criteria may be denied.

Members granted a transfer into a MCE position shall be required to make a two (2) year commitment to remain assigned to a MCE position. The date for this requirement will be the official transfer date. If extenuating circumstances exist, the Commander's Office may waive the two (2) year rule provided the member submits a memorandum documenting the extenuating circumstances via chain-of-command.

Each member holding the rank of Trooper, Sergeant, First Sergeant, Lieutenant or Captain who wishes to transfer to a different duty station within the Patrol shall request permission for such transfer by completing an HP-205 (*Request for Transfer*) electronically and submitting it to the Director of Field Operations via chain of command. Troopers' requests for transfer of duty stations within one (1) year following the date a member is sworn in shall be denied unless:

- In the discretion of the Commander's Office, extenuating circumstances warrant an exception to this policy. The requesting member should attach a memorandum stating any extenuating circumstances
- Members who are assigned to a multi-county district who wish to transfer to another county within that district may do so without being required to meet the one (1) year minimum time in duty station requirement

Requests for transfer shall follow the procedure as outlined below:

- Personnel Unit will post the "Trooper and Motor Carrier Allocation" report on internal website the 10th of each month or the first workday after the 10th of the month for each section, troop, and district. Vacant supervisor positions for the rank of Sergeant and First Sergeant will also be posted.
- Members shall submit transfer requests (HP-205) electronically to their District Supervisor or the appropriate supervisor in their chain-of-command on a quarterly basis (during the months of January, April, July, and October). The (HP-205) must be received electronically on or before the 15th of the above months or on the first workday after the 15th.
- District Supervisors or the appropriate supervisor in the chain-of-command shall make a recommendation as to whether the member's request should be granted or denied, state the reasons therefore, and shall forward the request electronically to the Section Director/Troop Commander no later than the 16th of the month or the first workday after the 16th.
- Section Directors/Troop Commanders or their designees shall make a recommendation as to whether the member's request should be granted or denied, state the reasons therefore, and transmit the request electronically to Field Operations no later than the 17th of the month or the first workday after the 17th. Section Directors, other than those assigned to Field Operations, shall make a recommendation as to whether the member's request should be granted or denied for employees in their chain-of-command and state the reason therefore.
- Transfer requests shall be forwarded to the Commander's Office electronically no later than the 19th or the first workday after the 19th.

The Commander's Office shall approve or deny all transfer requests with a response electronically sent to affected members by the Personnel Unit.

In considering the member's request for transfer, the District Supervisor, Section Director/Unit/Troop Commander, Director of Field Operations, Commander's Office shall first consider the best interest of the Patrol but shall also give consideration to the reason given by the member for requesting the transfer, the living conditions of the member and his/her family, and any special family circumstances which would justify the transfer. The Commander's Office in his/her discretion may grant or deny the request for transfer.

When members are transferred to another duty station pursuant to their own request, they shall be responsible for all moving expenses.

Transfers to Specialized Units

Members wishing to transfer to a specialized unit must follow the transfer guidelines established by that unit. The Commander's Office shall approve all guidelines or amendments to the guidelines. The director of each specialized unit shall maintain approved guidelines that shall include selection criteria,

vacancy announcement procedures, selection procedures, duration of assignment, and post-selection training requirements.

Supervisor Transfers

- Patrol supervisors who request to transfer to another duty station will be required to make a one (1) year commitment to remain in that duty station. The only exceptions to the one (1) year commitment in duty station requirement are:
 - District Supervisors who are assigned to a multi-county district may be allowed to transfer to another county within that district without being required to meet the one (1) year time in duty station requirement. Each District Supervisor shall request permission for such transfer in writing by completing an HP-205 (*Request for Transfer*) by following the aforementioned procedures. It shall be documented in the "Comments" section on the (HP-205) that the transfer being requested is within a multi-county district.
 - As referenced in this policy, members, at the discretion of the Commander's Office, may be reassigned or transferred if the reassignment or transfer is in the best interest of the Patrol, without being required to meet the one (1) year in duty station requirement
 - The one (1) year in duty station requirement mentioned in the aforementioned does not prohibit a supervisor from being eligible for promotion

IV. PROCEDURES FOR ESTABLISHING RESIDENCE

Within 180 days of initial assignment or transfer, members shall establish their residence in accordance with this directive. In extenuating circumstances, a 90-day extension may be granted by the Section Director/Troop Commander. The Section Director/Troop Commander may grant an additional 90-day extension; however, the members must establish their residence within twelve months. The affected Section Director/Troop Commander shall submit a written report to the Unit Commander of the Personnel Unit stating the reason granting or denying each extension and describe the progress being made to solve the problem.

Moving and relocation procedures and expenses are governed by the Office of State Budget and Management. Directive E.05 (Expenditures) outlines State budget and management guidelines regarding the moving of household goods, requests for extensions, or other authorized expenses.

Section Directors/Troop Commanders are responsible for determining compliance with this policy and shall approve or deny requests to reside outside of the county of assignment.

A member's supervisor is responsible for ensuring that personnel under their supervision have a correct physical address and telephone number listed on the Computer Assisted Dispatch (CAD) System. If a member has a separate mailing address different from their current physical address, it shall be listed in the comments section on the first page of the personnel information page.

Before establishing or changing a residence, members wishing to reside outside their county of assignment must submit an HP-740 (*Request to Reside Outside County of Assigned Duty Station*) to their supervisor listing the physical address at which they wish to reside and the most direct public highway route to that address. The member's supervisor will then determine whether the proposed location is within twenty (20) miles of the county line of the assigned duty station using the most direct public highway route. Approval must be granted prior to the member establishing the new residence.

After determining whether the proposed residence location is within the 20-mile allowance of the member's assigned duty station, the supervisor will forward his/her findings to the appropriate Section Director/Troop Commander within fourteen (14) working days of receiving the request.

After reviewing the supervisor's findings, the Section Director/Troop Commander will either approve or deny the request. If the Section Director/Troop Commander approves the request for the member to reside at the proposed location, a copy of the HP-740 shall be returned to the requesting member within fourteen (14) working days of receiving the request. If the Section Director/Troop Commander denies the request for the member to reside at the proposed location, a copy of the HP-740 shall be returned to the requesting member, and the original HP-740 forwarded to the Commander's Office within fourteen (14) working days.

The Commander's Office may approve exception to this policy on a case-by-case basis when, in the discretion of the Commander's Office, such an exception is necessary to prevent a hardship or to benefit the Patrol. The Commander's Office shall make a decision and respond to the requesting member within 14 working days of receiving the HP-740.

Members shall report any change of address and/or telephone number in writing to their immediate supervisor within twenty-four (24) hours.

Change of Residence Due to Promotion or Transfer

A member shall establish a residence, as defined in this policy, upon the effective date of the transfer, promotion, or as outlined above

Regulations for Living Outside of Duty Station

- Members living in an approved location outside of the county of their assigned duty station and within twenty (20) miles from the county line of their assigned duty station must be in their assigned duty station at the beginning of their

M.A. DND 11/1/14

assigned shift. Members affected by this policy shall check 10-86 with the appropriate communications center upon leaving their residence en-route to begin their tour of duty and 10-87/10-41 at or before their scheduled start time upon entering the county of their assigned duty station. Likewise, members shall remain in their assigned duty station until the scheduled time they go 10-42. Members shall check 10-42/10-86 with the appropriate communications center at the end of their scheduled shift and upon leaving the county of their assigned duty station. Members shall check 10-87 upon reaching their residence. Pursuant to this policy, en-route travel time (10-86/10-87) is not compensatory.

- Should the need arise to make an enforcement contact or provide assistance during the period of en-route travel, members should check 10-87/10-41
- Members living in an approved location outside of the county of their assigned duty station and within twenty (20) miles from the county line of their assigned duty station who are called out in accordance with Emergency Call Back BEACON Code (9516) time as set forth in Directive E.03 shall check 10-41 as opposed to 10-86 when responding to a call for service as assigned by the appropriate Highway Patrol telecommunications center.
- All members must remain in their assigned duty station until the end of their assigned shift. Members are not permitted to leave their assigned duty station for meal hour or otherwise unless doing so in accordance with Highway Patrol policy and/or approved by their supervisor.
- All members, while on en-route travel pursuant to this policy, are limited to the most direct public highway route as specified on the HP-740 unless circumstances require otherwise
- This regulation shall not supersede any policy or regulation established prior to the effective date of this policy. However, any member who changes residences subsequent to this policy becoming effective shall adhere to the residence requirements provided herein.

V. TRANSFER TO OTHER STATE AGENCIES

Each member who wishes to transfer to another State agency shall follow the mandates of the State Personnel Manual. Members shall include in their request the following information:

- Reasons for the request
- Name of the agency to which the member desires to transfer
- Description of the position which the member desires
- Name of the supervisor for that position

W.A. D'Amico 11/11/14

- Desired effective date of the transfer

VI. RETIREMENT SYSTEM

All Highway Patrol personnel automatically become members of the Teachers' and State Employees' Retirement System of North Carolina upon full-time employment.

VII. RETIREMENT FOR ALL EMPLOYEES

All employees shall submit a memorandum of intent to retire to the Personnel Unit. If the requesting member meets the criteria of "Service Retirement" or "Early Retirement" as defined in Section VIII of this directive, and he/she is not currently under any investigation for serious personal conduct and/or job performance violations of Patrol policy, then the employee's request shall be classified as Honorable.

An Honorable retirement qualifies the employee for the following:

- Engraved Agency Retirement Plaque
- Agency Retirement Certificate
- Long Leaf Pine (30+ years of honorable service for Sworn employees), Red Cardinal (30+ years of honorable service for Civilian employees), Old North State (20+ years of honorable service for Sworn and Civilian employees), or the Certificate of Appreciation (5+ years of honorable service for sworn or civilian employees)
- State Highway Patrol "Retired Identification Card"
- A sworn member shall receive the badge he/she wore or carried while a member of the Patrol.
- A sworn member is eligible to purchase his/her current service side arm if he/she meets the criteria listed in Section IX

VIII. RECOGNITION OF RETIRED MEMBERS

The recognition of a member retiring from the Highway Patrol shall be allowed when one (1) of the following criteria has been met as defined by the state retirement system:

- "Service Retirement," being not less than 55 years of age and completing 10 or more years of service as a sworn law enforcement officer or, at any age, having completed 30 or more years of credible service; or
- "Early Retirement," being not less than 50 years of age and completing 15 or more years of credible service as a law enforcement officer; or

After meeting one (1) of the criteria mentioned above, any honorably retiring member may request a retirement ceremony to be conducted in the Commander's Office or at a place designated by the affected retiring member.

Upon the death of an Honorably-retired member, the Patrol Headquarters staff will assist the member's dependents in all matters pertaining to Patrol related benefits and a Patrol funeral may be provided if requested by the family. The Commander's Office or his/her designee shall determine the feasibility of providing a Patrol funeral for a retired member.

IX. BADGES AND SERVICE SIDE ARMS

Upon request and at no cost to them, an Honorably-retiring member shall receive the badge he/she wore or carried while a member of the Patrol.

At the discretion of the Secretary of the Department of Public Safety (DPS) an Honorably-retiring member may purchase his/her service side arm at a price determined by the Secretary.

To be eligible to purchase his/her current service side arm, an Honorably-retiring member must meet one (1) of the criteria outlined in this directive, as defined by the state retirement system, submit the HP-500 to the Personnel Unit and obtain approval from the Commander's Office, and must have carried the current side arm for not less than twelve (12) months prior to retirement. An Honorably-retiring member who does not meet the twelve (12) month criteria may elect to purchase his/her previous side arm provided he/she notified the Commander's Office of his/her intent to retire at the time his/her current side arm was issued.

The twelve (12) month rule may be waived for an Honorably-retiring member at the discretion of the Commander's Office, along with consultation with the Secretary of the Department of Public Safety (DPS).

An Honorably-retiring member making a request to purchase his/her current or previously-issued service side arm must complete form HP-500 and submit the form directly to the Personnel Unit at the time of the member's retirement conference with the Benefits Unit. The member shall submit legible copies of their Patrol Identification Card and driver's license to the Patrol Armory in compliance with N.C.G.S. § 14-404(d) and N.C.G.S. § 20-187.2. Additionally, a cashiers check or money order payable to the NC Department of Public Safety shall be submitted to the Patrol Armory.

On the last day of employment of an Honorably-retiring member that has been approved to purchase his/her service side-arm, the immediate supervisor must complete a HP-500B (Receipt of Service Weapon). The HP-500B shall then be forwarded to the Patrol Armory within ten (10) working days.

X. RESIGNATION

Members who intend to resign should notify the Commander's Office in writing via chain-of-command at least two (2) weeks prior to the date of resignation.

XI. SEPARATIONS – PERSONNEL FILES

The following Personnel Files shall be forwarded to the Personnel Unit within fifteen (15) calendar days of the employee's last scheduled working day:

- General Correspondence
- Certifications
- Copy of Training Records
- HP-35's (members only)
- Performance Appraisals (Current year and three years prior)

These Personnel Files shall then be forwarded to the Department of Public Safety Human Resources Records Coordinator where it shall be maintained for a period of five (5) years. At the completion of this five (5) year retention the DPS HR Records Coordinator shall be responsible for forwarding these files to State Archives where they shall be maintained permanently.

The following Personnel Files shall be given back to the member:

- HP-201's and HP-201B's (if applicable to the position)
- Patient Files / Insurance Documents
- Form 19 or DPS-WC-EE
- Bi-Annual Inspection Report (if applicable to the position)
- HP-740 Residence (if applicable to the position)
- HP-745 Secondary Employment
- HP-767 Promotional Process Application (if applicable to the position)
- Commendations
- HP-341 File Transfer / Promotion Checklist

HP-721
Page 1 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

TYPE OF REPORT	SUBJECT	REPORT SUBMITTED TO	
<input checked="" type="checkbox"/> Personnel Complaint	Complaint of: Lieutenant J. C. Morton North Carolina State Highway Patrol Troop C Headquarters Raleigh, North Carolina Against: Sergeant M. A. DeValle Registry #1966 North Carolina State Highway Patrol Troop C, District II Goldsboro, North Carolina 1A2016-052	Name	Lieutenant Colonel C. V. Ward
<input type="checkbox"/> Incident / Other		Date	
INVESTIGATIVE STATUS		INVESTIGATED BY	
<input checked="" type="checkbox"/> Initial		Name	Lieutenant P. T. Clark
<input type="checkbox"/> Supplementary		Name	First Sergeant R. W. Sawyer

INTRODUCTION

On 14 November 2016, a Personnel Complaint was filed against Sergeant Maurice A. DeValle, North Carolina State Highway Patrol, Goldsboro, North Carolina, by Lieutenant J. C. Morton.

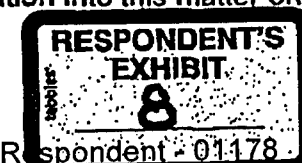
On 11 November 2016, the Senior Command Staff of the Highway Patrol was notified by a WRAL news reporter, through the Patrol's Public Information Officer, that they had received a "tip" that Sergeant DeValle had on multiple occasion checked on duty, and would not leave his residence to report for duty for several hours, if at all. The reporter advised they were in possession of photographs and video recordings of Sergeant DeValle being at his residence while being on duty. In addition, it was reported Sergeant DeValle had on occasions conducted secondary employment while on duty. The reporter also advised that Sergeant DeValle was, at the then present time, at his residence while being checked on for duty. As a result of this allegation, Lieutenant Morton was given orders by Lieutenant Colonel B. T. Clayton to travel to Sergeant DeValle's residence and confirm if he was in fact at his residence while being checked on for duty.

It is alleged that on Friday, 11 November 2016, Sergeant Devalle checked on for duty and never reported to his duty station; but rather remained at his residence during his shift.

As a result of information discovered during the investigation, it is also alleged that Sergeant DeValle was insubordinate to Lieutenant J. C. Morton when Lieutenant Morton questioned Sergeant Devalle about his being at his residence while on duty.

Captain W. T. Evans, Unit Commander of Internal Affairs, classified the complaint as a Personal Conduct Violation of Directive No. H.01, Section IV (Violation of Rules), to wit: Directive E.09, Section IV (Procedures for Establishing Residence).

Lieutenant P. T. Clark and First Sergeant R. W. Sawyer began an investigation into this matter on 14 November 2016.



HP-721
Page 2 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

☐ Not applicable

**ALLEGATION: VIOLATION OF RULES –
RESIDENCY POLICY**

Lieutenant J. C. Morton was interviewed by **Lieutenant P. T. Clark** and **First Sergeant R. W. Sawyer** on 15 November 2016, at Troop C Headquarters, Raleigh, North Carolina. **Lieutenant Morton** is assigned to Troop C Headquarters, Raleigh.

On Friday, 11 November 2016, **Lieutenant Morton** received orders from **Lieutenant Colonel B. T. Clayton** to drive to **Sergeant DeValle's** residence to confirm whether or not **Sergeant DeValle** was at his residence while being checked on for duty and working. If **Sergeant DeValle** was working and on duty, **Lieutenant Morton's** orders were to have him report to his duty station and meet with him to discuss reasons why he was at his residence, which is located outside of his duty station. **Lieutenant Morton** conducted a CAD query to confirm that he was checked 10-41, and to confirm the address.

Lieutenant Morton traveled to **Sergeant DeValle's** residence, located at 1152 Southern Meadows Drive, Raleigh, North Carolina, and arrived in his driveway at 7:33 PM. **Lieutenant Morton** observed **Sergeant DeValle's** patrol vehicle parked next to his garage facing the roadway. **Lieutenant Morton** knocked on the front door of the residence and was greeted first by **Sergeant DeValle's** children, and then his wife. He asked if **Sergeant DeValle** was at home, to which **Mrs. DeValle** replied that he was. She then shut the front door and **Lieutenant Morton** remained on the front porch. Approximately one and a half to two minutes passed before **Sergeant DeValle** came to the door and stepped out onto the porch, wearing shorts and a t-shirt.

Lieutenant Morton asked **Sergeant DeValle** if he was on duty, to which **Sergeant DeValle** replied that he was not on duty. **Sergeant DeValle** stated that the CAD may show him checked on, but he had attempted to check off on his MDC around 5:00 PM and was not going to claim any time. **Sergeant DeValle** explained that his daughter had been sick with a "stomach bug" and believed he was sick as well. **Lieutenant Morton** then asked **Sergeant DeValle** if he ever left his residence after checking on for duty, to which **Sergeant DeValle** replied that he had not. After a short conversation, **Lieutenant Morton** left **Sergeant DeValle's** residence.

Lieutenant Morton then drove to the parking lot of a nearby Lowe's Foods, and wrote notes of his conversation with **Sergeant DeValle**. He reported his findings back to **Lieutenant Colonel Clayton** via memorandum. After looking at CAD times, and based on the time he arrived at **Sergeant DeValle's** residence, the time standing on the porch, and the approximate ten minute conversation he had with **Sergeant DeValle**, **Lieutenant Morton** believed **Sergeant DeValle** checked 10-42 (Ending Tour of Duty) just prior to coming to the door to speak with him.

Captain J. O. Holmes was interviewed by **Lieutenant P. T. Clark** and **First Sergeant R. W. Sawyer** on 29 November 2016, by telephone from Patrol Headquarters, Raleigh, North Carolina. **Captain Holmes** is the Troop C Commander assigned to Troop C Headquarters, Raleigh.

Sometime in early 2016, **Captain Holmes** held a meeting with **Sergeant DeValle** at Troop C Headquarters. Also present during the meeting was **Lieutenant S. G. Finney** and **First Sergeant G. L. Burton, Jr.** During that meeting, **Captain Holmes** informed **Sergeant DeValle** that he had heard rumors and "grumbings" that he had been seen cutting grass while on duty, and "not being where he

Respondent - 01179

HP-721
Page 3 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

was supposed to be" after checking on for duty. Captain Holmes informed Sergeant DeValle that if the rumors were true, then he was to stop immediately.

Also during the meeting, Captain Holmes advised Sergeant DeValle of his expectations concerning the Patrol's residency policy. Sergeant DeValle was informed that he was to have an approved HP-740 on file, and that he was to insure his compliance with the Patrol's residency policy, either by establishing a residence or by parking his patrol vehicle. Sergeant DeValle was not permitted to speak during the meeting, and was dismissed by Captain Holmes at its conclusion.

First Sergeant G. L. Burton, Jr. was interviewed on 20 January 2017, by Captain W. T. Evans and First Sergeant R. W. Sawyer by telephone from Highway Patrol Headquarters, Raleigh, North Carolina. First Sergeant Burton is assigned to Troop C, District II and is Sergeant DeValle's immediate supervisor.

First Sergeant Burton was present when Captain Holmes met with Sergeant DeValle addressing the concerns of him being in compliance with the residency policy. First Sergeant Burton recounted Captain Holmes giving Sergeant DeValle a "shot across the bow" when a complaint came to him about how he was "at the house" and not where he should be. Captain Holmes directed Sergeant DeValle to be in Wayne County to perform his job functions at the directed times he was to report for duty and asked him if he understood. Sergeant DeValle replied "Yes sir" and acknowledged what he had been told. Captain Holmes immediately followed up this conversation by asking First Sergeant Burton if he understood his orders whereby he also replied "Yes sir." In response to this conversation, First Sergeant Burton instructed Sergeant DeValle to be in Wayne County and "work your shift."

First Sergeant Burton indicated the members of his district were in "response mode" when Hurricane Matthew impacted Wayne County. He advised his members the priority during this time was to respond to calls for service, conserve fuel when possible while limiting traffic enforcement contacts. First Sergeant Burton stated he never told Sergeant DeValle to "hang out at the house" during this disaster.

Sergeant M. A. DeValle was interviewed by Lieutenant P. T. Clark and First Sergeant R. W. Sawyer on 15 November 2016, at Patrol Headquarters, Raleigh, North Carolina. Sergeant DeValle admitted to the allegation of Violation of Rules.

On 11 November 2016, Lieutenant Morton arrived at Sergeant DeValle's residence at approximately 7:30 PM. At the time Lieutenant Morton arrived, Sergeant DeValle was sick and in the bed. Sergeant DeValle's wife initially answered the door, and went and told Sergeant DeValle that someone was at the door to see him. Sergeant DeValle then got up and spoke with Lieutenant Morton on the front porch of his residence.

Lieutenant Morton asked Sergeant DeValle if he was working. Sergeant DeValle responded that he was not, and explained that both his wife and daughter had been sick with a stomach virus the night before, and that he was now also sick and suffering with diarrhea. Lieutenant Morton then advised Sergeant DeValle that the CAD indicated he was checked 10-41. Sergeant DeValle stated he was scheduled to work a late shift beginning at 5:00 PM, and explained that he had checked on at approximately 3:00 PM, but remained at his residence hoping his diarrhea would subside. After

Respondent - 01180

HP-721
Page 4 of 8
Rev. 8/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

approximately 2 hours, Sergeant DeValle realized that he was not going to be able to report for duty due to going back and forth to the bathroom, and attempted to check 10-42 utilizing his mobile data computer (MDC) at approximately 5:00 PM. Sergeant DeValle also stated that he checked 10-41 and 10-42 on his MDC from inside his residence on that day, and had no intention of claiming any time worked for that day's shift. Once Lieutenant Morton advised Sergeant DeValle that the CAD was showing him 10-41, Sergeant DeValle stated he immediately went to his MDC and checked 10-42 once he and Lieutenant Morton concluded their conversation on the porch. Sergeant DeValle did not know why his attempt to check 10-42 at approximately 5:00 PM was not reflected on the CAD.

Sergeant DeValle admitted he did not notify a supervisor to inform him that he was sick and unable to report for duty. Sergeant DeValle was the on call supervisor for the district that night, and admitted he did not make any arrangement for another supervisor to take his duty officer calls for the remainder of the shift. Sergeant DeValle stated that he informed First Sergeant Burton of his sickness and inability to work the following day.

Sergeant DeValle could not recall any previous conversation with any District or Troop level supervisor specifically regarding his reporting to his duty station, and abiding by the Patrol's residency policy. He did recall a conversation he had with Captain Holmes and Lieutenant Finney at Troop C Headquarters, approximately one year ago, during which Captain Holmes instructed Sergeant DeValle to insure he was "where he was supposed to be, when he was supposed to be." Sergeant DeValle stated that he understood from that meeting that he was to be in compliance with the Patrol's residency policy.

Sergeant DeValle was questioned specifically about his failure to leave his residence and report to his duty station after checking on for duty for the 2016 dates alleged in the anonymous complaint letter. After reviewing his HP-201s and CAD reports, Sergeant DeValle stated that he was assigned a day off and did not work on 28 September and 4 October, and his patrol vehicle would therefore be at his residence in Wake County. On the alleged dates of 30 September, 1 October, 2 October, and 6 October, due to the amount of time that had passed, Sergeant DeValle could not speak with certainty whether or not he failed to report to his duty station and was at his residence during the time he was checked on for duty. Sergeant DeValle admitted there have been occasions when he would check on for duty and remain at his residence for a period of time. Sergeant DeValle also admitted that there have been times when he returned to his residence during his shift to take his meal hour. Sergeant DeValle stated that "it would be possible," and that would not deny that he was at his residence on the dates and times alleged in the complaint. Sergeant DeValle also admitted that there have been occasions when he checked 10-41, and remained at his residence during his entire assigned shift.

Sergeant DeValle stated that it is his common practice to check 10-41 and 10-42 utilizing his Patrol issued MDC. Sergeant DeValle also stated that he knows of occasions when the CAD did not always accurately reflect when Patrol members, himself included, were either checked on duty or checked off duty.

Sergeant DeValle admitted that he was not been in compliance with the Patrol's residency or domicile policy. Sergeant DeValle's permanent home residence is located at 1152 Southern Meadows Drive, Raleigh, North Carolina. Sergeant DeValle listed the address of 400 Hillside Drive, Smithfield, North Carolina, on his HP-740 Form (Request to Reside Outside County of Assigned Duty Station), and it is recorded in the CAD as his duty station address. Sergeant DeValle admitted that he has never

HP-721
Page 6 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

resided, stayed, or parked his patrol vehicle at the Smithfield address, and only used the address "on paper" to attempt to satisfy the Patrol's residency policy. The Smithfield address is owned by Trooper J. T. Creech, who is assigned to Troop C, District 2, Goldsboro. During this time, no one else was living at the residence and it was vacant. Sergeant DeValle admitted he has continued to live and drive his patrol vehicle to his permanent Raleigh address, which is located approximately 35 miles from the Wayne County Line. Sergeant DeValle admitted he fully understood the Patrol residency policy, and knew he was not abiding by it.

Sergeant DeValle has requested to work secondary employment, and has an approved HP-745A (Secondary Employment / Annual Review Request) on file. Sergeant DeValle explained that he cuts grass for both residential and commercial properties. Sergeant DeValle also maintains the entry way and common areas within his residential subdivision. Sergeant DeValle denied ever being engaged in secondary employment activities while being checked on duty with the Patrol.

Other than news reports, Sergeant DeValle denied knowing any specific details regarding the State Auditor's investigation and report involving First Sergeant C. M. Hardee, Jr. Sergeant DeValle was not aware of any address used by First Sergeant Hardee in order to be in compliance with the Patrol's residency policy.

Sergeant DeValle admitted he has made some mistakes, and takes responsibility for those mistakes. Sergeant DeValle apologized for his mistakes and stated he is ashamed by them. Sergeant DeValle admitted that his actions, and the investigation into his conduct, do not reflect favorably upon him as a State Trooper and as a leader and supervisor with the Patrol.

Sergeant M. A. DeValle was re-interviewed by Lieutenant P. T. Clark and First Sergeant R. W. Sawyer on 18 November 2016, by telephone from Patrol Headquarters, Raleigh, North Carolina.

Since his initial interview with Internal Affairs investigators, Sergeant DeValle stated that he had received a letter from Mr. Cullen Browder, an investigative reporter with WRAL-TV News. The letter requested a comment or response from Sergeant DeValle regarding the allegations that he had remained at his residence while being on duty with the Highway Patrol and his allegedly being in violation of the Patrol's residency policy. Sergeant DeValle forwarded the letter to his supervisor.

Sergeant DeValle was questioned by investigators specifically regarding the additional date of 14 October 2016, on which it is alleged that Sergeant DeValle remained at his residence after checking on for duty. This date was the Friday after Hurricane Matthew struck eastern North Carolina, which left much of eastern North Carolina, including Wayne County, devastated by strong winds and severe flooding. Sergeant DeValle again could not speak with any certainty as to his reporting to his duty station on that date or his activities, but admitted he did work from home on some occasions after the hurricane struck, and that it would be possible that he had remained at his residence for some period of time while being checked on for duty.

Sergeant DeValle stated he was certain that he did not check 10-41 on his Patrol radio with the Communications Center, and denied informing the Communications Center that he was in Wayne County. Sergeant DeValle stated he could not remember what he did on 14 October 2016, and could not recall whether or not he reported to his duty station for duty on that day.

HP-721
Page 6 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

☐ Not applicable

ADDITIONAL ALLEGATION: INSUBORDINATION

Lieutenant J. C. Morton was interviewed by Lieutenant P. T. Clark and First Sergeant R. W. Sawyer on 15 November 2016, at Troop C Headquarters, Raleigh, North Carolina. Lieutenant Morton is assigned to Troop C Headquarters, Raleigh.

On Friday, 11 November 2016, Lieutenant Morton received orders from Lieutenant Colonel B. T. Clayton to drive to Sergeant DeValle's residence to confirm whether or not Sergeant DeValle was at his residence while being checked on for duty and working. Lieutenant Morton traveled to Sergeant DeValle's residence and arrived in his driveway at 7:33 PM. Sergeant DeValle came out of his residence and spoke with Lieutenant Morton on the front porch.

During their conversation, Sergeant DeValle questioned as to why Lieutenant Morton felt it necessary to come to his residence and question if he was working. Lieutenant Morton explained that he was following orders in coming to his residence, and that he was not permitted to discuss the matter any further. Sergeant DeValle asked him why he could not discuss the matter, and then questioned Lieutenant Morton's "loyalty and leadership style."

Sergeant DeValle accused Lieutenant Morton of having a reputation of "sitting up on people," and asked him if he was checking up on him. Lieutenant Morton explained to Sergeant DeValle that he was following orders in coming to his residence, and stated he had been to Sergeant DeValle's residence on one previous occasion, also at the direction of a higher authority and not of his own volition. Sergeant DeValle stated to Lieutenant Morton that he had an opportunity to show his leadership style, and that he was choosing to be a poor leader. Lieutenant Morton characterized Sergeant DeValle's tone during their conversation as "defensive."

Lieutenant Morton explained that he has dealt with Sergeant DeValle in the past, and characterized him as someone who "holds his ground." Lieutenant Morton explained that he did not initially feel that Sergeant DeValle was being insubordinate to him during their conversation, but was rather caught off guard by Lieutenant Morton's being at his residence and reacted defensively.

Sergeant M. A. DeValle was interviewed by Lieutenant P. T. Clark and First Sergeant R. W. Sawyer on 15 November 2016, at Patrol Headquarters, Raleigh, North Carolina. Sergeant DeValle admitted to the allegation of Insubordination.

On Friday, 11 November 2016, Lieutenant Morton came to Sergeant DeValle's residence. During a conversation on the porch, Sergeant DeValle admitted he asked Lieutenant Morton, "What's this about?" and where was "this" coming from for him to have to come to his house. Lieutenant Morton advised him that he could not discuss it with him at that time. Sergeant DeValle then stated to Lieutenant Morton that there had been rumors of him riding around checking on people, and questioned why the top of the organization expected loyalty from the Troopers, but loyalty was not reciprocated to the Troopers and Sergeants from the top down.

Lieutenant Morton then advised Sergeant DeValle that this was the second occasion in which he had been sent to his residence for some complaint or issue, and recounted the previous domestic disturbance which had taken place at his residence. Sergeant DeValle felt that it was a "malicious dig" and "inappropriate" for Lieutenant Morton to bring up a personal issue involving his marriage,

Respondent - 01183

HP-721
Page 7 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

which had occurred four years earlier, which in his opinion had nothing to do with the issue at hand. Sergeant DeValle then commented to Lieutenant Morton that if he wanted his legacy to be that he rode around and checked up on people, "then congratulations." Sergeant DeValle further stated to Lieutenant Morton that he did not appreciate Lieutenant Morton bringing up his former marital issues, and stated to Lieutenant Morton that he himself had had his own marital issues with his wife, and the Patrol did not get involved in them.

Sergeant DeValle stated that he was "angry and upset," and that he made a poor decision in making comments to Lieutenant Morton, questioning his authority, his duty to supervise members under his command, and his loyalty to the Patrol or to Patrol members. Sergeant DeValle apologized for his comments and the tone and manner in which the comments were made. Sergeant DeValle admitted that it was inappropriate for him to address a superior officer in the manner in which he did, and that he should not have said anything at all. Sergeant DeValle admitted that if a Trooper had spoken to him in the same manner in which he had spoken to Lieutenant Morton, he "would not have liked it." Sergeant DeValle admitted his attitude he exhibited towards Lieutenant Morton constituted insubordination, and characterized his comments and attitude as being "unacceptable."

☐ Not applicable

SUPPLEMENTARY INFORMATION

Sergeant DeValle was placed on Administrative Duty on 14 November 2016.

On 28 November 2016, Internal Affairs investigators reviewed Sergeant DeValle's In-Car Camera. Using the "Record After the Fact" feature, no video recordings were found to be on the camera's hard drive for the dates and times listed in the complaint. Video recordings did not exist due to either the patrol vehicle and camera system being powered off during these dates and times, or due to the "non-triggered" recordings being "written over" by more recent "non-triggered" recordings.

On Monday, 21 November 2016, WRAL News aired a story concerning allegations that Sergeant DeValle remained at his residence and failed to report to his duty station after checking on for duty. The print story posted on WRAL News' website is attached.

Fuel logs for Sergeant DeValle's patrol vehicle were obtained for the time period of 2 September 2016 through 13 November 2016. An inquiry into the logs revealed Sergeant DeValle went several days between refueling, on multiple occasions, which is consistent with his statements he would remain at his residence while on duty.

☐ Not applicable

SUPPORTING DOCUMENTS

Member's Statement

Anonymous Complaint Letter

CAD Employee Roster Inquiry

CAD Personnel Information (Page 5 of 7)

Request to Reside Outside County of Assigned Duty Station Form (HP-740)

Secondary Employment/Annual Renewal Request Form (HP-745)

CAD Unit Activity Reports

Member's Daily Reports of Weekly Activity (HP-201s)

Respondent - 01184

HP-721
Page 8 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

BEACON Time Reports
Handwritten Notes of Lieutenant Morton
Memorandum of Lieutenant Morton to Lieutenant Colonel Clayton
Letter of Mr. Cullen Browder, WRAL-TV News, to Sergeant DeValle
WRAL Investigative News Report
Administrative Duty Memorandum
Fuel logs for Sergeant DeValle's patrol vehicle

☐ Not applicable

INTERVIEW LIST

Lieutenant J. C. Morton
Captain J. O. Holmes
First Sergeant G. L. Burton, Jr.
Sergeant M. A. DeValle

Members Statement

On Friday, 11 November 2016 I checked 10-41 at approximately 3pm. I began to feel sick earlier in the day but attempted to work through my illness. Lt. Morton arrived at my residence at approximately 7:30 pm and asked me if I was working. I stated "No" due to having a stomach bug. He asked me what time I checked on and I stated around 3pm. He stated that I was still on the CAD and I replied well I am off duty. Lt. Morton asked me if I have left my residence after checking on and I stated "No". Lt. Morton left my residence and I immediately opened my computer and removed myself from the CAD. Even though I was not able to go far from the bathroom, I remained available for district operations through my cell phone.

M.A. D. N. 11/15/2016



Handwritten: Hilly, Lintana in Bexar

Sgt. Maurice Devalle

Video and/or pictures from 9/28 (2:43pm), 10/6 (6:45pm), 10/1 (4-7pm) 10/4 (3:55pm the Friday after Hurricane Matthew hit)

9/30 checked in at 1pm or 4pm - never left home - *10 hrs down checked AMOFT on P2 AT 2424*

10/2 checked in, left several hours later to drive to Goldsboro to turn in reports and came right back Home 3 or 4 hours after checking in - *10 hrs*

Video of Sgt. Devalle conducting secondary employment (yard maintenance, HOA open space maintenance)

Home address: 1152 Southern Meadows Drive, Raleigh, NC (35 miles from Wayne County line)

Possible address on file with SHP 400 Hillside Drive, Smithfield, NC (within 20 mile SHP rule)

400 Hillside Drive owned by Justin Tyler Creech, who appears to be another trooper

15 400 Hillside Drive the same address on file used by trooper who was accused of wasting taxpayer money by commuting from Elizabethtown?

RESPONDENT'S
EXHIBIT
8B

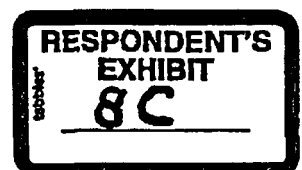
Page: 1 Document Name: Untitled

SGT 1966 096 60085641
DEVALLE MAURICE A
400 HILLSIDE DRIVE SHP 349 6
SMITHFIELD 27577 919 757 1599
730719 H M UNK ACT
980517 980601
981125 N 1701
GOLDSBORO 919 731 7960 C2 C2
701 WEST GRANTHAM STREET GOLDSBORO, NC 27530
01-14-23 919 731-7961
TOX R/T CJL MDT ECT ISG FTS PIT NCA ECR
ARD CEW GNU
099
919 740 7378 919 757 1599
**E/C-DARIUS LITAKER(FRIEND)704-641-6024
1152 SOUTHERN MEADOWS DRIVE,RALEIGH, 27603

2013 DODGE CHARGER 5001-3108 2C3CDXAT5DH676825
02/08/16 10:25:13 1576

4-c 5 1 Sess-1 192.168.200.2 HPT5036 1/2

Name: wtevans - Date: 11/10/2016 Time: 4:41:29 PM



Respondent - 01188

Page: 1 Document Name: Untitled

DEVALLE, MAURICE A

Y

N
JOHNS

2005 EXCHANGE CLUB
2010 CCPS

LEO OF THE YEAR
MERITORIOUS SERVICE

HOLLANDS UNITED METHODIST CHURCH

ALL SPORTS

4-o §

1

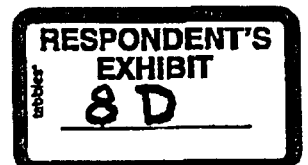
Sess-1

192.168.200.2

HPT5036

1/2

Name: wtevans - Date: 11/10/2016 Time: 4:41:51 PM



Respondent - 01189

HP-740
Rev. 04/2013

North Carolina
State Highway Patrol

REQUEST TO RESIDE OUTSIDE COUNTY OF ASSIGNED DUTY STATION

I, <u>Maurice</u> <u>A.</u> <u>DeValle</u> , request permission to reside outside my county of			
<small>First Name M.I. Last Name</small>			
assigned duty station. I understand if this request is approved, I must adhere fully with the provisions set forth in Directive E.9 (Residence Requirements) of the North Carolina Highway Patrol Policy and Procedures Manual. I am also aware that should this request be approved, the State will bear no expense.			
<u>Sgt. M.A. DeValle</u>		<u>1966</u>	<u>C/2</u>
<small>Rank / Signature of Member</small>		<small>Registry</small>	<small>Troop / District</small>
			<u>1/7/15</u>
			<small>Date</small>
Current Duty Station: <u>Goldsboro</u>			
County Requesting to Reside: <u>Johnston</u>			
Physical Address of Residence Member Will Reside: <u>400 Hillside Drive</u>			
		<u>Smithfield</u>	<u>NC</u>
		<small>City</small>	<small>State</small>
			<u>27577</u>
			<small>Zip Code</small>
SUPERVISOR FINDINGS			
I, <u>F/Sgt. / Gerald</u> <u>L.</u> <u>Burton</u> have personally driven the most direct public			
<small>Rank / First Name M.I. Last Name</small>			
highway route to the member's proposed residence. The route traveled, with exact mileage to the county line of assigned duty station from proposed residence, is as follows:			
<u>Travel north on Hillside Drive to Longview Drive, turn left and travel west on Longview Drive to Park Avenue. Turn right on Park Avenue and travel north to US 70 (Business). Turn right and travel east on US 70 (Business) to US 70 and continue east on US 70 to Wayne County. Total Distance 15.5 Miles</u>			
The member's proposed residence (<input checked="" type="checkbox"/> is / <input type="checkbox"/> is not) within the 20-mile distance set forth in Directive E.9.			
<u>[Signature]</u>		<u>January 7, 2015</u>	
<small>Supervisor's Signature</small>		<small>Date</small>	
AUTHORIZATION			
<input checked="" type="checkbox"/> Approval is made with the understanding that the requesting member is in full compliance with Directive E.9.			
<input type="checkbox"/> Permission to reside outside the county of assigned duty station is denied. Member's proposed residence is outside the 20-mile distance set forth in Directive E.9. (Forward to Patrol Commander)			
<u>[Signature]</u>		<u>2/4/2015</u>	
<small>Section Director / Troop Commander's Signature</small>		<small>Date</small>	
PATROL COMMANDER			
<input type="checkbox"/> Permission is denied in accordance with previous recommendations / findings.			
<input type="checkbox"/> Permission is granted; the denial has been overturned by order of the Patrol Commander.			
<u>[Signature]</u>		<u></u>	
<small>Patrol Commander's Signature</small>		<small>Date</small>	

RESPONDENT'S
EXHIBIT
8E

Respondent 81408

HP-745A
Rev. 3/2012

North Carolina
State Highway Patrol

SECONDARY EMPLOYMENT / ANNUAL REVIEW REQUEST

<input checked="" type="checkbox"/> Enforcement Member / Rank	<input type="checkbox"/> Similar Employee / Title
Sergeant	

Name	Troop / District / Section / Unit	Date
Maurice A. DeValle	C2	1/14/2016

CONTINUED EMPLOYMENT REQUEST (Completed by member requesting secondary employment)

Date:	
I have received previous approval to perform the following type of work as secondary employment:	
Lawn Care Service	

ANNUAL REVIEW (Completed by Supervisor)

Name / Signature	Date
F/Sgt. G. L. Burton <i>[Signature]</i>	1/14/2016
Comments	
Sgt. DeValle is continuing in a grass cutting business and is in full compliance with policy and procedure. Secondary Employment activities do not interfere with the performance of Highway Patrol duties.	

APPROVAL (Troop / District / Section / Unit Supervisor)

Note: Forward to Section Director / Troop Commander if approval is denied.

Name / Signature	Approved	Denied	Date
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1/14/2016
Comments			
This job does not place the Highway Patrol in a hard ship position.			

SECTION DIRECTOR / TROOP COMMANDER	
Name / Signature	Date
<i>[Signature]</i>	1/14/2016
<input checked="" type="checkbox"/> Approval is granted to continue secondary employment provided it will not in any way impair the employee's ability to perform expected duties.	
<input type="checkbox"/> Permission to continue secondary employment is denied.	
<input type="checkbox"/> Secondary employment terminated on . Maintain HP-745A one year past secondary employment termination date.	
Comments	

RESPONDENT'S
EXHIBIT
8F

Respondent: 01191

HP-745A
Rev. 3/2012

North Carolina
State Highway Patrol

SECONDARY EMPLOYMENT / ANNUAL REVIEW REQUEST

<input checked="" type="checkbox"/> Enforcement Member / Rank	<input type="checkbox"/> Civilian Employee / Title
Sergeant	

Name	Troop / District / Section / Unit	Date
Maurice A. DeValle	C/2	1/8/2015

CONTINUED EMPLOYMENT REQUEST (Completed by member requesting secondary employment)

Date:	1/8/2015
I have received previous approval to perform the following type of work as secondary employment:	
Landscaping and Lawn Maintenance	

ANNUAL REVIEW (Completed by Supervisor)

Name / Signature	Date
F/Sgt. G. L. Burton	1/8/2015
Comments	
Sergeant DeValle stated there have been no employment changes in the past 12 months. Sergeant DeValle's secondary employment does not interfere with his abilities to perform his expected duties.	

APPROVAL (Troop / District / Section / Unit Supervisor)

Note: Forward to Section Director / Troop Commander if approval is denied.

Name / Signature	Approved	Denied	Date
F/Sgt. G. L. Burton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1/8/15
Comments			

SECTION DIRECTOR / TROOP COMMANDER	
Name / Signature	Date
Capt. J. G. H.	2/4/2015
<input checked="" type="checkbox"/> Approval is granted to continue secondary employment provided it will not in any way impair the employee's ability to perform expected duties.	
<input type="checkbox"/> Permission to continue secondary employment is denied.	
<input type="checkbox"/> Secondary employment terminated on . Maintain HP-745A one year past secondary employment termination date.	
Comments	

HP-745
Rev. 3/2012

North Carolina
State Highway Patrol
SECONDARY EMPLOYMENT REQUEST

1. I, <u>Maurice A. DeValle</u> , request to perform the type of secondary employment explained below.
<input checked="" type="checkbox"/> Enforcement Member: I will fully comply with Highway Patrol Directives E.10 and H.01.
<input type="checkbox"/> Civilian Employee

2. Name of Employer	3. Place of Employment
Self Employed	Wake County

4. Phone Number	5. Date(s) and Time(s)
919-757-1599	On my scheduled days off / working hours will vary

6. Type of Work / Task
Lawn Maintenance

Job Title / Signature	Duty Station	Date
Owner / <u>M.A. DeValle</u>	Goldsboro	October 10, 2014

SUPERVISOR'S PRELIMINARY INVESTIGATION

Supervisor's Name	Recommendation	Date
F/Sgt. G. L. Burton <u>[Signature]</u>	<input checked="" type="checkbox"/> Approve <input type="checkbox"/> Not Approved	October 11, 2014

Comments
I don't find where this employment would cause any conflict of interest between Sergeant Devalle and his official duties of the North Carolina State Highway Patrol.

SECTION DIRECTOR / TROOP COMMANDER

Section Director's Name / Troop Commander's Name	Date
<u>[Signature]</u>	11/5/2014

Approval
<input type="checkbox"/> Approval is granted to engage in secondary employment, provided it will not in any way impair the employee's ability to perform expected duties.
<input type="checkbox"/> Permission to engage in secondary employment is denied.

Comments

Page: 1 Document Name: Untitled

*1966 - Devalle
Pitt #*

P 161111
012-UNTLOG END-OF-FILE REACHED

1611111453000000	DEVALLE, M 41	10-41	<i>Friday 11th</i>	1966	161111	CA	C2
1611111035010000	DEVALLE, M 42	SIGNOF		1966	161111	CA	C2
1611111213512300	DEVALLE, M 41	10-41		1966	161112	CA	C2
1611111515130000	DEVALLE, M 07	CELL		1966	161112	CA	C2
1611111541270000	DEVALLE, M 08			1966	161112	CA	C2
1611111501411000	DEVALLE, M 42	SIGNOF		1966	161113	CA	C2
1611111501411000	DEVALLE, M 41	10-41		1966	161113	CA	C2
1611111501411000	DEVALLE, M 07	CELL		1966	161113	CA	C2
1611111501411000	DEVALLE, M 08			1966	161113	CA	C2
1611111501411000	DEVALLE, M 50	F SR1575 BARTLETT RD BU		7271	161113	CA	C2
1611111501411000	DEVALLE, M 08			7804	161113	CA	C2
1611111501411000	DEVALLE, M 42	SIGNOF		1966	161114	CA	C2

4-0 \$ 1 Sess-1 192.168.200.2 HPT6036 1/2

Name: wtevans - Date: 11/14/2016 Time: 9:01:51 AM



Respondent - 01194

Page: 1 Document Name: Untitled

- 16100812503100657 UNIT ACTIVITY BROWSE BY PARAMETER 11/14/2016 15:06 HPCS146
 030-MAX-RECORDS READ, PRESS ENTER

SEARCH ARGUMENT DATES(START/END): 160926/161114

DATE	HHMMSS	UNIT NAME	10-	SIG	HIWAY	LOCATION	STAT	MT:#	DATE	RADIO	ASGN
PARMS>****	C223	*****	**	**	*****	*****	**	****		**	
160926	061818	00C223	DEVALLE, M	41	10-41		1966	160926	CA	C2	
160926	135640	00C223	DEVALLE, M	42	SIGNOF		1966	160926	CA	C2	
160930	160432	00C223	DEVALLE, M	41	10-41		1966	160930	CA	C2	
161002	042439	00C223	DEVALLE, M	42	SIGNOF		7487	161002	CA	C2	
161002	125058	00C223	DEVALLE, M	41	10-41		1966	161002	CA	C2	
161002	230522	00C223	DEVALLE, M	42	SIGNOF		1966	161002	CA	C2	
161005	125700	00C223	DEVALLE, M	41	10-41		1966	161005	CA	C2	
161005	231811	00C223	DEVALLE, M	42	SIGNOF		1966	161005	CA	C2	
161006	130233	00C223	DEVALLE, M	41	10-41		1966	161006	CA	C2	
161006	231951	00C223	DEVALLE, M	42	SIGNOF		1966	161006	CA	C2	
161007	074219	00C223	DEVALLE, M	41	10-41		1966	161007	CA	C2	
161007	085245	00C223	DEVALLE, M	07		EM SIG 9	7056	161007	CA	C2	
161007	172136	00C223	DEVALLE, M	08			7056	161007	CA	C2	
161007	192301	00C223	DEVALLE, M	42	SIGNOF		1966	161007	CA	C2	

P = PARAMETER ENTRY SCREEN----- (F11) I = INQUIRY (CURSOR)----- (F5)
 F = NEXT PAGE----- (F8) R/S = UNIT ACTIVITY/SYSTEM MENU- (F2/F1)

Name: rwsawyer - Date: 11/14/2016 Time: 3:10:44 PM

Respondent - 01195

Page: 1 Document Name: Untitled

1610081844310E740

030-MAX-RECORDS READ, PRESS ENTER

DATE: 10/20/2016 10:10:10 AM BY: [REDACTED] FROM: [REDACTED] TO: [REDACTED]

1610031302350022	DEVALLE, M 41	10-41	1966 161008 CA C2
1610062319510022	DEVALLE, M 42	SIGNOF	1966 161006 CA C2
1610070742190022	DEVALLE, M 41	10-41	1966 161007 CA C2
1610070882450022	DEVALLE, M 07	EM SIG 9	7056 161007 CA C2
1610071721360022	DEVALLE, M 08		7056 161007 CA C2
1610071920010022	DEVALLE, M 42	SIGNOF	1966 161007 CA C2

PASADENA 11/14/2016 9:32:59 AM
P. NAME: [REDACTED]
4-c § 1 Sess-1 192.168.200.2 HPT6036 1/2

Name: wtevans - Date: 11/14/2016 Time: 9:32:59 AM

Respondent - 01196

Page: 1 Document Name: Untitled

1610071301550B238
030-MAX-RECORDS READ, PRESS ENTER

1610061301550B238	DEVALLE, M 41	10-41	1966 161006	CA	C2
1610061301550B238	DEVALLE, M 42	SIGNOF	1966 161006	CA	C2
1610071301550B238	DEVALLE, M 41	10-41	1966 161007	CA	C2
1610071301550B238	DEVALLE, M 07	EM SIG 9	7058 161007	CA	C2

4-0 \$

1

Sess-1

192.168.200.2

HPT6036

1/2

Name: wtevans - Date: 11/14/2016 Time: 9:31:35 AM

Respondent - 01197

Page: 1 Document Name: Untitled

- 1610161156030C648 UNIT ACTIVITY BROWSE BY PARAMETER 11/16/2016 14:51 HPGS146
030-MAX-RECORDS READ, PRESS ENTER

SEARCH ARGUMENT DATES(START/END): 161014/161116

DATE HHMMSS	UNIT NAME	10- SIG HIWAY	LOCATION	STAT MT:#,DATE,RADIO ASGN
PARMS>****	C223	*****	**	*****
1610141455570C223	DEVALLE, M 41	10-41		1988 161014 CA C2
1610150057410C223	DEVALLE, M 42	SIGNOF		1966 161015 CA C2
1610151555200C223	DEVALLE, M 41	10-41		1966 161015 CA C2
1610151655520C223	DEVALLE, M 50	F SR2014	300 ROLLINGW BU	7874 161015 CA C2
1610151822470C223	DEVALLE, M 08			7271 161015 CA C2
1610151823490C223	DEVALLE, M 07	OFFICE		1966 161015 CA C2
1610160444360C223	DEVALLE, M 42	SIGNOF		1966 161016 CA C2
1610161145150C223	DEVALLE, M 41	10-41		1966 161016 CA C2

P = PARAMETER ENTRY SCREEN----- (F11) I = INQUIRY (CURSOR)----- (F5)
F = NEXT PAGE----- (F8) R/S = UNIT ACTIVITY/SYSTEM MENU- (F2/F1)

Name: rwsawyer - Date: 11/16/2016 Time: 2:53:40 PM

Respondent - 01198

HP-2018
Page 1
Rev. 9/2013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

11/7/2016	1966	1265287	Maurice	A	DeVall	Goldsboro	C/2	-
-----------	------	---------	---------	---	--------	-----------	-----	---

DUTY HOURS WORKED									
	1P-12A	DO	DO	7A-6P	5P-4A	5P-4A	3P-2A		
9500 Time Worked with (1 Shift Premium)	1P-12A	DO	DO	7A-6P	AL	2P-1A	4P-2A		
9000 Approved Leave (Vacation, K-Time)	10.00			10.00		11.00	10.00		41.00
					9.00				9.00
					H?				
					S?				
									50.00

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOUR SEGMENTS)									
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun	TOTAL	
Mon	11.00								
Tue		8.00							10.00
Wed			8.00						
Thu				2.00					
Fri					8.00				10.00
Sat						9.00			
Sun							2.00		11.00
TOTAL	331.00								41.00

CASES MADE									
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun	TOTAL	
Mon									
Tue									
Wed									
Thu									
Fri									
Sat									
Sun									
TOTAL									

PATROL OFFICER'S DUTY ASSIGNMENT				PATROL OFFICER'S DUTY ASSIGNMENT				PATROL OFFICER'S DUTY ASSIGNMENT				PATROL OFFICER'S DUTY ASSIGNMENT			
First Serial #				First Serial #				First Serial #				First Serial #			
Last Serial #				Last Serial #				Last Serial #				Last Serial #			
First Serial #				First Serial #				First Serial #				First Serial #			
Last Serial #				Last Serial #				Last Serial #				Last Serial #			
First Serial #				First Serial #				First Serial #				First Serial #			
Last Serial #				Last Serial #				Last Serial #				Last Serial #			
First Serial #				First Serial #				First Serial #				First Serial #			
Last Serial #				Last Serial #				Last Serial #				Last Serial #			
Grand Total				Grand Total				Grand Total				Grand Total			

RESPONDENT'S
EXHIBIT
8H
Respondent - 01199

HP-2018
Page 2
Rev. 02/013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

11/7/2016	1968	1265297	Maurice	A	DeValle	Goldsboro	C/2	-
-----------	------	---------	---------	---	---------	-----------	-----	---

RECORDED PERFORMANCES (WORK ZONE)												
Mon												
Tue												
Wed												
Thu												
Fri												
Sat												
Sun												
TOTAL												

RECORDED PERFORMANCES (GENERAL FUNCTIONS)												
Mon												
Tue												
Wed												
Thu												
Fri												
Sat												
Sun												
TOTAL												

RECORDED PERFORMANCES (PORTABLE / PERMANENT)												
Mon												
Tue												
Wed												
Thu												
Fri												
Sat												
Sun												
TOTAL												

RECORDED PERFORMANCES (INSPECTION REPORT)												
Mon												
Tue												
Wed												
Thu												
Fri												
Sat												
Sun												
TOTAL												

RECORDED PERFORMANCES (INSPECTION REPORT)												
Mon												
Tue												
Wed												
Thu												
Fri												
Sat												
Sun												
TOTAL												

Sgt. M. A. DeValle

☐ Approved

HP-2018
Page 1
Rev. 8/2013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

E1

MM/YY (Week Beginning Monday)	Reg #	BEACON ID #	First	M.I.	Last	Duty Station	Troop / District	Ensign / Civ/Sgt
10/3/2018	1966	1265297	Maurice	A	DeValle	Goldsboro	C/2	.

	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
Assigned Shift	DO	DO	1P-12A	1P-12A	6A-7P	DO	DO	
Shift Worked	DO	DO	1P-11P	1P-11P	6A-5P	DO	DO	
9500 Time Worked			10.00	10.00	10.00			30.00
Total Weekly Duty Hours								30.00

Day of Week	Mileage	Hours of Work	Traffic Accidents	Supervisor Activities	Weight Station Activities	Civilian Activities	Collaborative Investigations	Other	Speed Enforcement	Public Demonstrations	Habitat Conservation	Other Civilian	Equipment	Training		Recreation	Promotion	Club Activities	Essential	Post Call Inspection	Inspection Work	Tow / Misc	Other Activities (See Exhibit C for Details)	TOTAL
														Required	Other									
Mon		8.00																						
Tue		8.00																						
Wed	95.00			5.00													5.00							10.00
Thu	114.00			5.00													5.00							10.00
Fri	87.00			5.00													5.00							10.00
Sat		8.00																						
Sun		8.00																						
TOTAL	296.00			15.00													15.00							30.00

CASES MADE																											
Passenger Vehicles														Commercial Motor Vehicles													
Day of Week	Implied Consent			Drug Viol.		Reckless Driving	Speeding				Seatbelt	Child Restraint	Improper Passing	Slow Stop or Light	Equipment	Left of Center	Driver's License Viol.	Vehicle Reg. Violations	Licensing	Yield	Following Too Close	Lead	Securement	Mistake Over Law	Other	TOTAL PV	
	DWI	Provisional License	Other I.C.	Drugs	Fire Phlebotomy		1-15 Over Posted	16-25 Over Posted	> 25 Over Posted	Other Speed																	
Mon																											
Tue																											
Wed																											
Thu																											
Fri																											
Sat																											
Sun																											
TOTAL																											
Day of Week	Implied Consent			Drug Viol.		Reckless Driving	Speeding				Seatbelt	Child Restraint	Improper Passing	Slow Stop or Light	Equipment	Left of Center	Driver's License Viol.	Vehicle Reg. Violations	Licensing	Yield	Following Too Close	Lead	Securement	Mistake Over Law	Other	TOTAL CMV	
	DWI	Provisional License	Other I.C.	Drugs	Fire Phlebotomy		1-15 Over Posted	16-25 Over Posted	> 25 Over Posted	Other Speed																	
Mon																											
Tue																											
Wed																											
Thu																											
Fri																											
Sat																											
Sun																											
TOTAL																											
Total PV and CMV																											

CVS SEAL ISSUED First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # Grand Total	CVSA DECALS ISSUED First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # Grand Total	ENF-608 OUT-OF-SERVICE First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # Grand Total	AFFIDAVITS AND WARRANTS ISSUED First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # Grand Total
VOIDED ENF-601 Serial # Serial # Serial # Serial #	VOIDED ENF-621 Serial # Serial # Serial # Serial #	VOIDED ENF-607 Serial # Serial # Serial # Serial #	VOIDED AFFIDAVITS AND WARRANTS Serial # Serial # Serial # Serial #

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

26 27 28 29 30 1 2

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

CASES MADE

CMV SEAL ISSUED First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # Grand Total	CVSA DECALS ISSUED First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # Grand Total	ENF-686 OUT-OF-SERVICE First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # Grand Total	AFFIDAVITS AND WARRANTS ISSUED First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # First Serial # Last Serial # Grand Total
VOIDED ENF-601 Serial # Serial # Serial # Serial #	VOIDED ENF-624 Serial # Serial # Serial # Serial #	VOIDED ENF-687 Serial # Serial # Serial # Serial #	VOIDED AFFIDAVITS AND WARRANTS Serial # Serial # Serial # Serial #

HP-3015
Page 1
Rev. 8/2013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

61

10/31/2016	1968	1285287	Maurice	A	DeValle	Goldsboro	C/Z	-
------------	------	---------	---------	---	---------	-----------	-----	---

DUTY HOURS WORKED								
	DO	7A-8P	1P-12A	8A-7P	DO	DO	DO	
1580 Time Worked	DO	7A-8P	8A-8P	11A-10P	DO	DO	DO	
		10.00	10.00	10.00				30.00
								30.00

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)												
Mon	8.00											
Tue	24.00					8.00		2.00				10.00
Wed	120.00		8.00					2.00				10.00
Thu	133.00		8.00					2.00				10.00
Fri		8.00										
Sat		8.00										
Sun		8.00										
TOTAL	277.00		16.00				8.00	6.00				30.00

CASES MADE												
Mon												
Tue												
Wed												
Thu												
Fri												
Sat												
Sun												
TOTAL												

ALL OTHER VIOLATIONS				ALL OTHER VIOLATIONS				ALL OTHER VIOLATIONS				ALL OTHER VIOLATIONS			
First Serial #				First Serial #				First Serial #				First Serial #			
Last Serial #				Last Serial #				Last Serial #				Last Serial #			
First Serial #				First Serial #				First Serial #				First Serial #			
Last Serial #				Last Serial #				Last Serial #				Last Serial #			
First Serial #				First Serial #				First Serial #				First Serial #			
Last Serial #				Last Serial #				Last Serial #				Last Serial #			
First Serial #				First Serial #				First Serial #				First Serial #			
Last Serial #				Last Serial #				Last Serial #				Last Serial #			
Grand Total				Grand Total				Grand Total				Grand Total			

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

DUTY HOURS WORKED**ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)**

CASES MADE

PART DATA FOR WAGON SETS	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

PART DATA FOR WAGON SETS	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

PART DATA FOR WAGON SETS	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

PART DATA FOR WAGON SETS	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

8/19/2016	1966	1265297	Maurice	A	DeVale	Goldboro	C/2	-
-----------	------	---------	---------	---	--------	----------	-----	---

DUTY HOURS WORKED[illegible]**ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)**

Week	Mon	Tue	Wed	Thu	Fri	Sat	Sun	TOTAL
Mon	8.00							
Tue	8.00							
Wed	126.00		5.00			5.00		10.00
Thu	161.00		2.00		5.00	3.00		10.00
Fri	105.00		5.00			5.00		10.00
Sat		8.00						
Sun		8.00						
TOTAL	382.00		12.00		5.00	13.00		30.00

CASES MADE

[illegible]

NEW PARCEL	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

Serial #	
Serial #	
Serial #	
Serial #	

REPAIRS BY DATE	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

AFFIDAVIT AND WARRANT CHARGES	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	
AFFIDAVIT AND WARRANT RETURN	
Serial #	
Serial #	
Serial #	
Serial #	

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

DUTY HOURS WORKEDACTIVITY IN 15 MINUTE SEGMENTS IN HOURS AND QUARTER HOURS SEGMENTS

CASES MADE

ESTABLISHED 1971

First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total

RETURNED TO SENDER	
Serial #	
Serial #	
Serial #	
Serial #	

HP-2010
Page 1
Rev. 9/2013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

8/29/2016	1968	1265297	Maurice	A	DeVallie	Goldseboro	C/2	-
-----------	------	---------	---------	---	----------	------------	-----	---

DUTY HOURS WORKED									
1P-12A	1P-12A	DO	DO	5P-4A	8P-4A	3P-2A*			
9100 Time Worked	10.00	10.00			11.00	11.00	10.00		52.00
									52.00

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)									
Mon	91.00		7.00					3.00	10.00
Tue	87.00		7.00					3.00	10.00
Wed		8.00							
Thu		8.00							
Fri	188.00		2.00			6.00	3.00		11.00
Sat	89.00		7.00			4.00			11.00
Sun	78.00		6.00			4.00			10.00
TOTAL	522.00		29.00			20.00	3.00		52.00

CASES MADE									
Mon									
Tue									
Wed									
Thu									
Fri									
Sat									
Sun									
TOTAL									
Mon									
Tue									
Wed									
Thu									
Fri									
Sat									
Sun									
TOTAL									

INVESTIGATIVE REPORTS	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

INVESTIGATIVE REPORTS	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

INVESTIGATIVE REPORTS	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

INVESTIGATIVE REPORTS	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
First Serial #	
Last Serial #	
Grand Total	

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

DUTY HOURS WORKED**ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)**

CASES MADE

120-52-5327 0918 0700 4833 58

蘇聯政府與各國政府之關係

1949年12月26日

ARRESTS AND WARRANTS ISSUED

44-38861-1000

THE UNIVERSITY OF CHICAGO

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207. 208. 209. 210. 211. 212. 213. 214. 215. 216. 217. 218. 219. 220. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 84

AVOIDED ALL DAVITS AND WARRANTS

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

DUTY HOURS WORKED**ACTIVITY (PUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)**

CASES MADE

附註：本報社址：澳門新馬路新時代大廈二樓

1950年10月1日

我公姓朱名山字子厚自天啓初年

AFFIDAVITS AND WARRANTS ISSUED

LET'S AVOID ENERGY WASTES

2020年12月25日

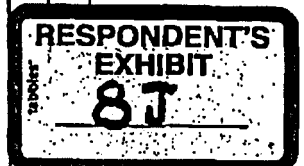
RESEARCH DESIGN

EXPLORED AFFIDAVITS AND WARRANTS

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

[illegible][illegible]

7:33 arrived Redline
7:35 came to door - with kids dog - Marie later
7:50 departed residence
7:59 notes in ~~theater~~ lower front lot
Arrived Redline - car parked beside house facing out
took photo of car
Rear doorbell
Wife + kids + dog to door - asked for Marie
7:55 Marie in shorts + t-shirt to door - slipped out
onto porch, closed door
Said he was sick of a stomach bug
said daughter was sick about 1 pm today
I asked if he was on duty - said no - tried to
check off on NBC around 5 but noticed he
was still on
Said he checked on around 3 but not closing time
asked if he left the house - said no
- Standing on porch - told him I was sent there to
ask those questions - got what I needed - told
him I sincerely hoped he felt better.
- Reminiscing me of setting up on him
- Said I have a reputation of catching people
native Cameron + Van Burton, told him
- told him I was on orders and couldn't talk about
it - have done it I was ordered, fulfilled my orders -
intend to leave
- asked if he was on duty what would have happened -
stated I would have told him to wait for
someone + get back to work
- questioned my loyalty + my Leadership Style
- told him I've been to his house twice now
+ both times were not because I chose to
do so
- Said there was some secret against Sheriff going
on and asked why I couldn't tell him what
was going on
- asked him if he was given an order not to say
anything what would he do?
- Said that's why Troopers question loyalty - loyalty
only goes up but doesn't go down
- Said he has a chance to show my Leadership Style
+ I'm choosing to be a poor leader
- Told him I had orders fulfilled my orders, +
wasn't here to be falsely accused, told him
I hope he feels better. Then left, walked away
- he went back inside.





North Carolina Department of Public Safety
State Highway Patrol

Pat McCrory, Governor
Frank L. Perry, Secretary

Colonel William Grey
Commander

Troop C Headquarters

11 November 2016

MEMORANDUM

TO: LIEUTENANT COLONEL B. T. CLAYTON
FROM: LIEUTENANT J. C. MORTON JCM
RE: STATEMENT OF FINDINGS

On today's date, I was on duty and acting as Troop C Officer of the Day. Acting on your orders, I went to the primary residence of Sergeant M. A. DeValle, C223, located at 1152 Southern Meadows Drive, Raleigh, NC 27603. I arrived at the residence at 7:33 pm and found a marked Patrol vehicle parked beside the garage, facing the roadway. I rang the doorbell at the front door and two children and Sergeant DeValle's wife came to the door. I asked if Sergeant DeValle was there and she said yes, closed the door, and walked down the hallway. Sergeant DeValle came to the door at 7:35 pm, stepped onto the porch, and closed the door behind him. He was wearing shorts and a t-shirt.

When he closed the door, he stated that his daughter was sick today and he was sick with what he believed to be a stomach bug. I took a step back and did not offer to shake hands, stating that I did not want to catch what he had. I then told him that I would get right to the point and asked him if he was on duty. He said no and that he tried to check off around 5:00 pm on his MDC, but noticed that he was still showing on duty. I asked him what time he checked on and he said around 3:00 pm. He stated that he had no intention of claiming any of the time. I asked him if he had left the house and he replied no.

I told him that those were all of the questions that I had of him and hoped that he felt better soon. He asked me why I was there and what was going on, accusing me of setting up on him at his residence. I replied that I could not discuss the matter and that I had completed my orders.

I departed his residence at 7:50 pm and Sergeant DeValle went back inside.

JCM



MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4059

Respondent - 01217



November 16, 2016

Sgt. Maurice Devalle
1152 S. Meadows Drive
Raleigh, NC 27603

Dear Sgt. Devalle,

My name is Cullen Browder, Investigative Reporter for WRAL-TV. I'm reaching out to you regarding your recent work history with the North Carolina Highway Patrol. Following a tip, WRAL started keeping track of your whereabouts after you checked on to work at the NCHP duty station in Goldsboro. We have video and/or pictures showing your patrol vehicle in your driveway at 1152 South Meadows Drive in Raleigh on 9/30, 10/1, and 11/11, among others, after you notified dispatch you were in Wayne County. We also have video of your patrol vehicle at home at 3:55pm on 10/14, a day that Goldsboro was underwater after Hurricane Matthew. I confirmed you checked on an hour earlier that day.

In addition, it appears that your Raleigh address violates the Highway Patrol's residency policy which requires troopers live in the county they work or get permission to live within at least 20 miles of the county line.

WRAL-TV intends to air a story about this on Monday, November 21 at 6pm. We want to give you every opportunity to explain your side of the story. We'd like to speak with you on-camera to better understand your work schedule. Please contact me as soon as you're able at 919-618-5550 or cbrowder@wral.com.

Sincerely,

Cullen Browder
Investigative Reporter
WRAL-TV News

RESPONDENT'S
EXHIBIT
82



North Carolina Department of Public Safety
State Highway Patrol

Pat McCrory, Governor
Frank L. Perry, Secretary

Colonel William Grey
Commander

Support Services
Personnel Unit

14 November 2016

MEMORANDUM

TO: CAPTAIN J. O. HOLMES
FROM: MAJOR K. D. KUBAS (E-MAIL)
RE: ADMINISTRATIVE DUTY -- SERGEANT M. A. DEVALLE
(PERS# 1265297)

Effective 14 November 2016, Sergeant Maurice A. Devalle, Troop C, District 2, Goldsboro was placed on Administrative Duty at Troop C, District 2, Goldsboro.

Sergeant Devalle should report to First Sergeant G. L. Burton, Jr. at Troop C, District 2 office for briefing and assignment.

KDK/drc

Cc: Commander's Office
Field Operations



MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4039

Respondent - 01219

| Date Fuel was Obtained | Time Fuel was Obtained | Mileage | Difference in mileage from last fuel entry | Entered into SAP by | Location | Time entered | | Material Doc. |
|------------------------|------------------------|-----------|--|---------------------|----------------------------|-----------------------|----------|---------------|
| | | | | | | Date entered into SAP | into SAP | |
| 20161113 | 21:30:00 | 63,561.00 | 273.00 | 7ARAYNOR | Goldsboro | 11/14/2016 14:57:06 | | 4914610405 |
| 20161103 | 13:15:00 | 63,288.00 | 327.00 | 7ARAYNOR | Goldsboro | 11/07/2016 09:55:22 | | 4914589376 |
| 20161028 | 19:45:00 | 62,961.00 | 333.00 | 7ARAYNOR | Goldsboro | 10/31/2016 10:41:01 | | 4914564243 |
| 20161020 | 08:30:00 | 62,628.00 | 158.00 | 7ARAYNOR | Goldsboro | 10/21/2016 08:43:30 | | 4914529889 |
| 20161019 | 12:45:00 | 62,470.00 | 296.00 | 7ARAYNOR | Goldsboro | 10/20/2016 11:06:42 | | 4914531230 |
| 20161011 | 16:00:00 | 62,174.00 | 111.00 | 7ARAYNOR | Goldsboro | 10/17/2016 10:49:22 | | 4914514639 |
| 20161010 | 18:30:00 | 62,063.00 | 188.00 | 7ARAYNOR | Goldsboro | 10/11/2016 10:34:47 | | 4914494843 |
| 20161006 | 16:20:00 | 61,875.00 | 292.00 | 7ARAYNOR | Goldsboro | 10/07/2016 09:25:54 | | 4914488793 |
| 20160922 | 11:30:00 | 61,583.00 | 296.00 | 7ARAYNOR | Goldsboro | 09/23/2016 09:03:23 | | 4914443248 |
| 20160917 | 20:05:00 | 61,287.00 | 148.00 | 7ARAYNOR | Goldsboro | 09/19/2016 09:09:36 | | 4914426381 |
| 20160916 | 13:08:23 | 61,139.00 | 134.00 | 7BPONZO | Troop C Garage/Maintenance | 09/16/2016 16:08:50 | | |
| 20160912 | 13:50:00 | 61,005.00 | 246.00 | 7ARAYNOR | Goldsboro | 09/13/2016 15:19:42 | | 4914409647 |
| 20160907 | 15:30:00 | 60,759.00 | 323.00 | 7ARAYNOR | Goldsboro | 09/13/2016 14:38:37 | | 4914409587 |
| 20160902 | 17:41:00 | 60,436.00 | 274.00 | DOT-FUEL | Smithfield | 09/07/2016 21:18:27 | | 4914391532 |



HP-721
Page 1 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

| TYPE OF REPORT | SUBJECT | REPORT SUBMITTED TO | |
|---|--|---------------------|----------------------------------|
| <input checked="" type="checkbox"/> Personnel Complaint | Complaint of:

Lieutenant J. C. Morton
North Carolina State Highway Patrol
Troop C Headquarters
Raleigh, North Carolina

Against:

Sergeant M. A. DeValle
Registry #1966
North Carolina State Highway Patrol
Troop C, District II
Goldsboro, North Carolina

IA2016-052 | Name | Lieutenant Colonel
C. V. Ward |
| <input type="checkbox"/> Incident / Other | | Date | |
| INVESTIGATIVE STATUS | | INVESTIGATED BY | |
| <input type="checkbox"/> Initial | | Name | First Sergeant R. W. Sawyer |
| <input checked="" type="checkbox"/> Supplementary | | Name | First Sergeant C. K. Parks |

INTRODUCTION

On 14 November 2016, a Personnel Complaint was filed against Sergeant Maurice A. DeValle, North Carolina State Highway Patrol, Goldsboro, North Carolina, by Lieutenant J. C. Morton.

On 11 November 2016, the Senior Command Staff of the Highway Patrol was notified by a WRAL news reporter, through the Patrol's Public Information Officer, that they had received a "tip" that Sergeant DeValle had on multiple occasion checked on duty, and would not leave his residence to report for duty for several hours, if at all. The reporter advised they were in possession of photographs and video recordings of Sergeant DeValle being at his residence while being on duty. In addition, it was reported Sergeant DeValle had on occasions conducted secondary employment while on duty. The reporter also advised that Sergeant DeValle was, at the then present time, at his residence while being checked on for duty. As a result of this allegation, Lieutenant Morton was given orders by Lieutenant Colonel B. T. Clayton to travel to Sergeant DeValle's residence and confirm if he was in fact at his residence while being checked on for duty.

It is alleged that on Friday, 11 November 2016, Sergeant Devalle checked on for duty and never reported to his duty station; but rather remained at his residence during his shift.

As a result of information discovered during the investigation, it is also alleged that Sergeant DeValle was insubordinate to Lieutenant J. C. Morton when Lieutenant Morton questioned Sergeant Devalle about his being at his residence while on duty.

Captain W. T. Evans, Unit Commander of Internal Affairs, classified the complaint as a Personal Conduct Violation of Directive No. H.01, Section IV (Violation of Rules), to wit: Directive E.09, Section IV (Procedures for Establishing Residence).

Lieutenant P. T. Clark and First Sergeant R. W. Sawyer began an investigation into this matter on 14 November 2016.

RESPONDENT'S
EXHIBIT
9

Respondent 01221

HP-721
Page 2 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

☐ Not applicable

**ALLEGATION(S): TRUTHFULNESS AND
VIOLATION OF RULES (RESIDENCY POLICY)**

Captain J. C. Morton was re-interviewed by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks on 23 March 2017, at Patrol Headquarters, Raleigh, North Carolina. Captain Morton serves as the Chief of Staff for the Commander's Office, Patrol Headquarters, Raleigh, North Carolina.

Captain Morton confirmed that he arrived at Sergeant DeValle's residence at 7:33 P.M. Once Sergeant DeValle came to the door and onto the porch to speak with him at 7:35 P.M., Sergeant DeValle never left Captain Morton's sight or returned inside the residence until the conversation was over and Captain Morton was leaving. Captain Morton confirmed that he spoke with Sergeant DeValle on the porch for approximately 15 minutes and left Sergeant DeValle's residence at 7:50 P.M. Due to CAD indicating that Sergeant DeValle checked 10-42 at 7:35 P.M., Captain Morton concluded that Sergeant DeValle checked 10-42 on his MDC prior to coming to the door and speaking with him on the porch.

Captain J. O. Holmes was re-interviewed by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks on 23 March 2017, at Patrol Headquarters, Raleigh, North Carolina. Captain Holmes served as the Troop C Commander at the time these allegations were brought against Sergeant DeValle. He is currently assigned to the Accreditation Section.

Captain Holmes again gave a brief synopsis of the meeting he had Sergeant DeValle sometime back in early 2016. He again stated he had heard "grumblings" and "scuttlebutt" regarding Sergeant DeValle "not being where he was supposed to be." Captain Holmes characterized his conversation and comments to Sergeant DeValle as both a "shot over the bow" and an order. He stated it was a "shot over the bow" in his telling Sergeant DeValle that he expected him to be in compliance with the Patrol's domicile policy, and if he hadn't been reporting to his duty station as he should, then he was to ensure going forward that he "was where he was supposed to be, when he was supposed to be." Captain Holmes characterized his comments as an order in that he, as the Troop Commander, was instructing a sergeant to ensure that he was compliant with Patrol policy on the issue, and be in the district working when he was scheduled.

Lieutenant S. G. Finney was interviewed by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks on 23 March 2017 at Patrol Headquarters, Raleigh, North Carolina. Lieutenant Finney is assigned to Troop C Headquarters.

Lieutenant Finney recalled a meeting Captain Holmes had with Sergeant DeValle, during which both he and First Sergeant Burton were present. Lieutenant Finney characterized the meeting as a formal meeting, during which the door was shut. During a one-way conversation, Captain Holmes directly addressed Sergeant DeValle, and clearly instructed that he was to "be where he was supposed to be, when he was supposed to be there." Lieutenant Finney stated although the Captain did not expressly use the word "order," the Captain's expectations of Sergeant DeValle were direct and clear to everyone present in the room, and for all intense and purpose was an order for Sergeant DeValle to report for duty to his duty station in compliance with Patrol policy.

HP-721
Page 3 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

First Sergeant G. L. Burton, Jr. was interviewed on 24 March 2017, by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks at Patrol Headquarters, Raleigh, North Carolina. First Sergeant Burton is assigned to Troop C, District II and is Sergeant DeValle's immediate supervisor.

First Sergeant Burton was present during a meeting Captain Holmes and Lieutenant Finney had with Sergeant DeValle at Troop C Headquarters in the early part 2016. First Sergeant Burton recalled the meeting being very clear as to what Captain Holmes was trying to convey to Sergeant DeValle. First Sergeant Burton advised Captain Holmes told them in the meeting he had received a complaint and did not advise where or from whom. Captain Holmes told Sergeant DeValle he needed to make sure he was where he was supposed to be, when he was supposed to be there and doing what he was supposed to be doing. First Sergeant Burton advised he took this as a formal meeting with one-way conversation. First Sergeant Burton advised he did not feel Captain Holmes was trying to convey to Sergeant DeValle he needed to come into compliance with the domicile policy; he advised Captain Holmes was simply sending a warning across the bow and that Sergeant DeValle just needed to be in Wayne County when he was assigned to work and until it was time to get off.

First Sergeant Burton recalled after leaving the meeting and traveling back to Wayne County with Sergeant DeValle, he and Sergeant DeValle discussing the meeting they had just had. First Sergeant Burton advised he did reiterate Captain Holmes expectations to Sergeant DeValle; on being where he was supposed to be and when he was supposed to be there. First Sergeant Burton advised he felt the Captain's expectations were very clear and he felt the issue had been addressed by the Captain and he expected Sergeant DeValle to immediately adhere to the Captain's expectations.

First Sergeant Burton advised he could not recall Sergeant DeValle ever going home for meal or working from home, nor had he ever authorized Sergeant DeValle to do so.

Sergeant M. A. DeValle was interviewed by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks on 24 March 2017, at Patrol Headquarters, Raleigh, North Carolina. Sergeant DeValle admitted to the allegation of Violation of Rules.

Sergeant DeValle recalled the meeting he had with Captain Holmes, during which Lieutenant Finney and First Sergeant Burton were also present. Sergeant DeValle explained that the gist of the meeting was that he was instructed by Captain Holmes to make sure he was where he was supposed to be, when he was supposed to be there, and doing what he was supposed to be doing. Sergeant DeValle recalled the door to the Captain's office being closed during their meeting, but would not characterize the meeting as a formal meeting. He characterized the meeting as a "friendly" meeting, but acknowledged that every supervisor in his chain of command was present at the meeting. Sergeant DeValle recalled that he was able to speak and ask questions during the meeting, and asked Captain Holmes, "What is this about?" or "Where is this coming from?" Sergeant DeValle also characterized the meeting as being "very confusing." Sergeant DeValle initially acknowledged he understood the instruction from Captain Holmes to him as being an order, in that he was to be where he was supposed to be, when he was supposed to be there. Sergeant DeValle then stated he does not know how it is he understood at that time, or even understands now, what Captain Holmes meant by "being where he is supposed to be, when he is supposed to be there." Sergeant DeValle stated that Captain Holmes would not clarify to him what he meant when he told him "to be where he was supposed to

HP-721
Page 4 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

be, when he was supposed to be." Sergeant DeValle admitted he was in violation of the residency policy in that he stayed home and worked from the house, and did not comply with the Captain's directive. Sergeant DeValle state he could not recall First Sergeant Burton ever having any conversation with him reiterating Captain Holms' expectations of his being in his duty station when he was supposed to be.

In being compliant with the Patrol's residency policy, Sergeant DeValle stated that Captain Holmes knew that he lived outside of his duty station, and more than 20 miles from the Wayne County line. Sergeant Devalle admitted he was in violation of the Patrol's residency policy in that he lived more than 20 miles outside of his duty station, and in that he did not check in travel mode (10-86, 10-87) while commuting to and from the district. Sergeant DeValle acknowledged that his travel time between his residence and the district is not compensable. Sergeant DeValle stated that it was necessary for a Trooper to be at his duty station at his 10-41 time; however, he did not believe it to be the same for supervisors due to the vast difference in job responsibilities. Sergeant DeValle explained there have been occasions when he checked on and even before he checked on for duty, that he received complaints, and had to "discharge" his duties as a sergeant prior to his reporting to his duty station. He explained that he has the technological capability of performing his duties as a sergeant from his residence and at times has done so.

Sergeant DeValle assured investigators that when he was home and working from his residence, he was working and involved in the business of the Highway Patrol, not "taking a hot bath" or just "hanging out." Sergeant DeValle acknowledged that policy requires members to be in their duty station and that there is no policy that allows members to work or perform job task from outside of their duty station. Sergeant DeValle explained that it was "very rare" that he would remain at his residence and work from home, and would often be due to "unusual circumstances." Sergeant DeValle stated that as a general rule, he reported to his duty station after checking on for duty, and remained in his duty station until the end of his shift. He did acknowledge that he has on occasion taken his meal hour at the beginning of his shift, and on other occasions at the end of his shift. Sergeant DeValle could not recall an occasion in which he returned to his residence during the middle of his shift in order to take his meal hour. Sergeant DeValle stated that if he was checked on for duty (10-41), then he was working. Sergeant DeValle explained that he would often check 10-41 utilizing his MDC from inside his residence and admitted he never checked into authorized travel mode (10-86 or 10-87). He stated he would work from his residence on occasion and would respond to emails, return telephone calls and do work on his computer while still at his residence.

Sergeant DeValle was specifically asked whether or not he reported to his duty station on the dates of 30 September 2016, 1 October 2016, 2 October 2016, 6 October 2016 and 14 October 2016, which were the dates supplied to the Highway Patrol by WRAL alleging that Sergeant DeValle was at his residence after being checked on for duty (10-41). Sergeant Devalle acknowledged that there were dates in which he checked 10-41 at his residence, and then remained at his residence for some period of time. Sergeant Devalle stated he did not know and was not able to recall or say with certainty if he remained at his residence after checking on for duty, or was at his house anytime while being checked on for duty on each of the specific dates listed. Sergeant DeValle acknowledged that he indicated hours worked on his HP-201s and entered work time in BEACON for the dates it is alleged he was at his residence, and admitted he would have claimed hours worked for the hours he was at his residence.

HP-721
Page 5 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

Sergeant DeValle stated he did not know if there were any dates in the six (6) months leading up to him being served with this complaint, that he checked on for duty and did not report to his duty station, but rather remained at his residence for some period time. However, Sergeant DeValle admitted he did not go to work and report in his duty station every day after checking on for duty. Sergeant DeValle recalled one day he checked on for duty and remained at his residence during his entire shift and worked from home due to being unable to secure child care for his child, and his wife was out of town. Sergeant DeValle never asked and never received any authorization from a supervisor to stay at his residence.

On 11 November 2017, Sergeant DeValle stated that he was home sick when Lieutenant Morton came to his residence. Lieutenant Morton asked Sergeant DeValle if he was still working, to which he replied that he was not. Lieutenant Morton advised him the CAD was indicating that he was still checked 10-41. The conversation between Sergeant DeValle and Lieutenant Morton on the front porch lasted approximately thirty seconds. Sergeant DeValle stated that after the conversation concluded, Lieutenant Morton left the front porch and Sergeant DeValle immediately went into his residence and checked 10-42 on his MDC. Sergeant DeValle stated that he did not check 10-42 prior to going to the door, and onto the front porch with Lieutenant Morton.

Sergeant DeValle stated he contacted Paul Nelson at the Technical Services Unit (TSU) and asked for assistance in retrieving emails from the dates alleged in the complaint. Sergeant DeValle stated that his purpose in doing so was to view his emails in hopes they would assist him in recalling his activities on the specific dates alleged in the complaint in order to better explain to investigators what he did on those dates. Sergeant DeValle was provided a copy of an email sent by him on 14 October 2016 to his fantasy football league. Sergeant DeValle did not deny he sent that email, but did not know if he was home at the time it was sent.

Sergeant DeValle admitted he made a mistake and that he is wrong. Sergeant DeValle apologized that he cannot answer all questions as directly as they are being asked of him.. Sergeant DeValle stated that this is his mistake, and that he is humiliated by this situation, and the embarrassment this has brought on the Patrol.

☒ Not applicable **SUPPLEMENTARY INFORMATION**

Internal Affairs Investigators spoke with Captain A. A. Back, formerly of the Personnel Unit, and First Sergeant G. M. Powell of Field Operations. Both Captain Back and First Sergeant Powell were responsible with various aspects of tracking the assignments and work time of members who worked the weeks following Hurricane Matthew, and account for those who were subject to receive overtime pay or whose time worked was subject to federal reimbursement. Only members assigned and deployed to affected areas outside of their duty station who completed and submitted an HP-202 (Special Operations Project) were eligible to receive overtime compensation. Both Captain Back and First Sergeant Powell confirmed that Sergeant DeValle did not submit an HP-202 and did not receive overtime compensation for any hours worked during the Hurricane Mathew event.

☒ Not applicable **SUPPORTING DOCUMENTS**

Emails sent from Sergeant DeValle's MDC

HP-721
Page 6 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

☐ Not applicable

INTERVIEW LIST

Captain J. C. Morton
Captain J. O. Holmes
Lieutenant S. G. Finney
First Sergeant G. L. Burton
Sergeant M. A. DeValle

Save Searches Tasks

| | | | | |
|------|----------------------------|-----|--------|-------|
| From | ▼ contains ▼ devalle | AND | Search | Basic |
| Date | ▼ is equal to ▼ 2016-10-14 | | | |

File Tools View ▶ Displaying 1 - 1 of 1

Size From To/Cc Subject
2... Maurice DeValle <maurice... southernmeadowsfantasyf... Maurice DeValle up...

Subject: Maurice DeValle updated their On The Block
Southern Meadows Fantasy Football League
Date: 2016-10-14 16:32:35
Download
From: Maurice DeValle
To/Cc: southernmeadowsfantasyfootball139@
football.cbssports.com
Bcc: Maurice.DeValle@ncdps.gov

View Source



Midland Posse have updated their "On the Block" below. If you want to offer this team a trade.

Comment:
Don't come back with some crappy kicker!

Offered:
Drew Brees QB | NO

Saved Searches Tasks

| | | | |
|------|----------------------------|-----|--------|
| From | ▼ contains ▼ devalle | AND | Search |
| Date | ▼ is equal to ▼ 2016-09-26 | | |

File Tools View Display

| Size From | To/Cc | Subject |
|-----------------------------------|--------------------------|----------|
| 9... "Devalle, Maurice A." <Ma... | Troop C HQ <TroopCHQ@... | MIFF SOP |
| Subject: MIFF SOP | | |
| Date: 2016-09-26 14:36:39 | | |
| Download | | |
| From: Devalle, Maurice A. | | |
| To/Cc: Troop C HQ + | | |

All MIFF 2016 SOP entries have been for Trooper A. R. Fowler (C232) and Sanders (C240).

Maurice DeValle / Sergeant

N.C. Department of Public Safety

North Carolina State Highway Patrol

Troop C, District 2

Former Sgt. M. A. Devalle

Mileage/Fuel Table

| Days worked or off | HP-201 Hours worked | HP-201 Claimed Mileage | SAP Fuel Log D Mileage |
|-----------------------------|-----------------------------|-------------------------|-----------------------------------|
| 09-22-16 | 6a-5p | 80 miles | 61,583 |
| 09-23-16 | 7a-5p | 105 miles | None |
| 09-24-16 | Day Off | N/A | N/A |
| 09-25-16 | Day Off | N/A | N/A |
| 09-26-16 | 1p-11p | 116 miles | None |
| 09-27-16 | Approved Leave | N/A | N/A |
| 09-28-16 | Day Off | N/A | N/A |
| 09-29-16 | Day Off | N/A | N/A |
| 09-30-16 | 4p-3a | 87 miles | None |
| 10-01-16 | 3p-3a | 99 miles | None |
| 10-02-16 | 1p-11p | 71 miles | None |
| 10-03-16 | Day Off | N/A | N/A |
| 10-04-16 | Day Off | N/A | N/A |
| 10-05-16 | 1p-11p | 95 miles | None |
| 10-06-16 | 1p-11p | 114 miles | 61,875 |
| Total Dates: 15 Days | Total Days Worked: 8 | Total Miles: 767 | Total Mileage Between: 292 |

According to MapQuest(<https://www.mapquest.com/directions/list/1/us/north-carolina/raleigh/27603-9530/1152-southern-meadows-dr-35.601544,-78.648374/to/us/nc/goldsboro/27530-1916/701-w-grantham-st-35.398165,-78.001753>) former Sgt. Devalle's residence in Wake County to the Troop C, District 2, District Office is 43.9 miles one way and 87.8 miles roundtrip. In that case and with him travelling to district office each day, he should have at a minimum logged 702 miles. (see attached MapQuest directions)

Former Sgt. Devalle's Wake County residence is approximately 35 miles from the Wayne County line. If he drove just to the Wayne County line each shift he should have at a minimum logged 560 miles.

Instead, in the eight (8) shifts he worked he only drove a total of 292 miles. (see attached SAP Fuel Log)



Respondent - 01229

YOUR TRIP TO:

701 W Grantham St

64 MIN | 43.8 MI

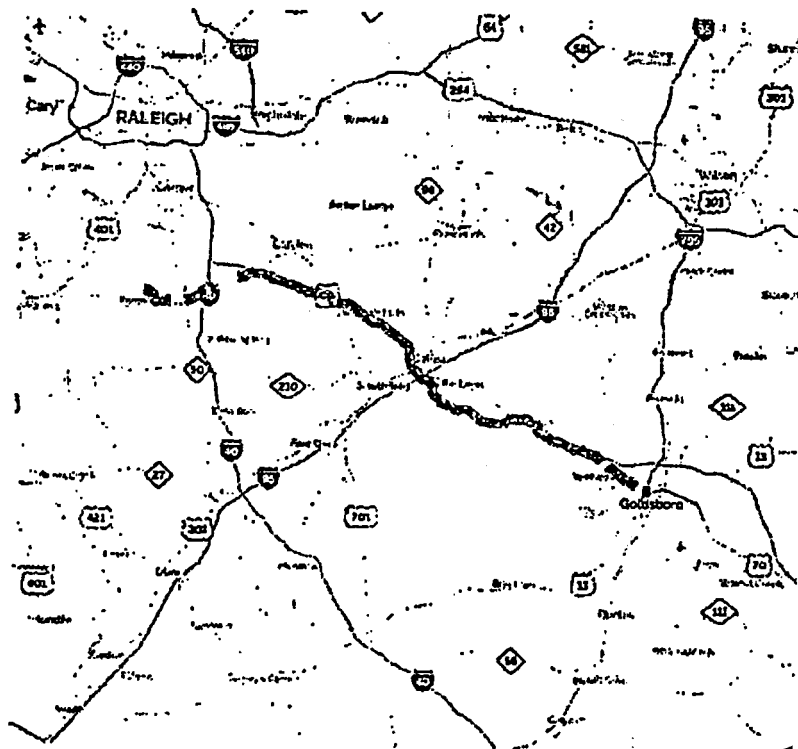
Est. fuel cost: \$2.60

Trip time based on traffic conditions as of 1:00 PM on July 4, 2017. Current Traffic: Light

mapquest

1. Start out going east on Southern Meadows Dr toward Southern Times Dr.
Then 0.31 miles 0.31 total miles
2. Turn right onto Mal Weathers Rd.
Then 0.53 miles 0.84 total miles
3. Turn right onto Saus Rd.
Then 0.52 miles 1.36 total miles
4. Turn left onto NC Highway 42 WNC-42.
Then 7.39 miles 8.75 total miles
5. Merge onto US-70 E toward Smithfield/Seale.
Then 12.67 miles 21.42 total miles
6. Take US-70 Byp E toward Goldsboro.
Then 2.90 miles 24.32 total miles
7. US-70 Byp E becomes US-70 E.
Then 18.51 miles 42.83 total miles
8. Turn left onto Elizabeth St.
Then 0.03 miles 42.86 total miles
9. Take the 1st right onto W Grantham St.
If you reach Marygold St you've gone a little too far.
Then 0.21 miles 43.07 total miles
10. 701 W Grantham St, Goldsboro, NC 27530-1916. You have arrived at your destination.
Your destination is just past Paul St.
If you reach A St you've gone about 0.2 miles too far.

Use of directions and maps is subject to our [Terms of Use](#). We don't guarantee accuracy, route conditions or timing. You assume all risk of use.



701W
Granham St



| | | | |
|---|---|---|--|
|  | Book a hotel tonight and
save with some great deals!
(1-877-577-5766) |  | Car trouble mid-trip?
MapQuest Roadside
Assistance is here:
(1-888-462-3825) |
|---|---|---|--|

Exhibit 3 to MIL Response in DeValle v DPS, 18 OSP 07196

000001



North Carolina Department of Public Safety
State Highway Patrol

Roy Cooper, Governor
Erik A. Hooks, Secretary


Glenn M. McNeill, Jr.
Commander

Internal Affairs

20 April 2017

MEMORANDUM

TO: LIEUTENANT COLONEL C. V. WARD

FROM: CAPTAIN J. H. WINGO II 

RE: SUMMARY OF PRE-DISCIPLINARY CONFERENCE - SERGEANT MAURICE A. DEVALLE, REGISTRY #1966 (IA CASE #16-052)

On 20 April 2017, Pre-Disciplinary Conference was conducted by Major B.K. Regan with Sergeant M.A. Devalle at Patrol Headquarters, Raleigh, North Carolina. Below is a summary of that conference.

- Conference began at 9:44 am
- Major Regan reviewed with Sergeant Devalle the documents related to the investigation. Sergeant Devalle acknowledged he reviewed and received all documents given to him on Monday 17 April 2017 and Tuesday April 18 2017. This conference was stopped at 9:49 am due to Sgt. Devalle advising he did not have an opportunity and enough time to go over all the documents and audios provided. Sergeant Devalle was provided more time to go over some of those documents to prepare.
- Conference began back at 10:03 am and was stopped again at 10:07 am to confirm Sgt. Devalle had all documents that were on file.
- Sgt. Devalle was advised at 10:35 am he would be provided with more time and that the conference would resume around 11:00 am.
- Conference resumed at 11:05 am, Major Regan reviewed policy directive H.04, Dismissals and the requirement of giving twelve (12) hours advanced notice.
- Major Regan read to Sergeant Devalle the Personnel Charge Sheet (HP-343).
- Sergeant Devalle advised he wanted to start with the violation of Insubordination. Sergeant Devalle advised he was not insubordinate to Lieutenant Morton. Sergeant Devalle advised through their conversation Lieutenant Morton never asked him or gave him an order, he simply asked was I working, and I immediately told him "no, no sir, I am not on duty." Sergeant Devalle advised he never failed or refused an order from Lieutenant Morton. Sergeant Devalle advised Lieutenant Morton's transcripts stated, Lieutenant Morton didn't think he was insubordinate to him. Sergeant Devalle read the North Carolina State Personnel Law definition of insubordination. Sergeant Devalle

MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4059

Exhibit 3

Respondent - 01232

**RESPONDENT
EXHIBIT**

MEMORANDUM
20 APRIL 2017
PAGE 2

- advised Lieutenant Morton never gave an order and he never refused an order. Sergeant Devalle admitted neither he nor Lieutenant Morton, ever raised their voices, but it wasn't a kind conversation. Sergeant Devalle claimed the CAD showing him to be 10-41 at the time Lieutenant Morton was at his residence, also showed First Sergeant Burton was 10-41 and stated it was a common problem of human error and the CAD was not always an accurate reflection of the time a member worked.
- Sergeant Devalle advised on "Truthfulness" he was as forth coming and honest at the time about everything he could remember about the information he was being interviewed on. Sergeant Devalle advised the truthfulness charge "hurts." Sergeant Devalle advised when he was interviewed, if he couldn't be 100% sure where he was at, he advised he couldn't recall because he wanted to be honest and truthful about everything.
- Sergeant Devalle advised reference the day in question of 9-26-2016 the charge sheet claimed, he claimed ten hours of time for only eight hours worked. Sergeant Devalle indicated the CAD and HP-201 did not match. He advised his time on the HP-201 indicated 1p - 11p not 6am like being accused of. Sergeant Devalle advised, "there was an error with this sir, it's a mistake somewhere." Sergeant Devalle advised his HP-201 was accurate with what he claimed on his Beacon time.
- Sergeant Devalle advised one of the initial accusation's given by WRAL was of him being at his residence on 9-28-2016. Sergeant Devalle advised it was inaccurate; due to it being a day off as indicated on his HP-201. Sergeant Devalle advised we took what he put on his HP-201 on some days at face value, but not on the 26th of September. Sergeant Devalle advised on days if he couldn't remember something, it was turned around to make it sound like he was not denying it; and that he was admitting to it.
- Sergeant Devalle advised reference the alleged date of 9-30-2016; he couldn't tell exactly where he was on that day. Sergeant Devalle advised his HP-201 did not reflect the same as to what he had been charged. Sergeant Devalle advised "these are mistakes that the Internal Affairs made not to see this." Sergeant Devalle advised he was not reporting inaccurate times, he was reporting what he felt was honest and nothing intentional.
- Sergeant Devalle advised on the date of 10-01-2016 his HP-201 showed 3p - 3a but he only claimed 10 hours worked. Sergeant Devalle advised he was doing his job and at the beginning of his shift he had a complaint he was investigating when he came out at 5:00pm that took two hours to handle. Sergeant Devalle could not remember what the complaint referenced or the Trooper's name the complaint was filed against.
- Sergeant Devalle advised on 10-02-2016; it was not possible for him to drive (99 miles) all the way to Goldsboro to the office and do his paperwork and discuss district operations with the guys and then all the way back home in two hours. He advised the timelines did not add up. Sergeant Devalle adamantly denied the accusation.
- On 10-06-2016 Sergeant Devalle was at his residence preparing bi-annual reports. Sergeant Devalle advised WRAL failed to note how long he was at his residence. Sergeant Devalle advised he drove 114 miles on that day and noted it was because he was

MEMORANDUM
20 APRIL 2017
PAGE 3

- working. Sergeant Devalle did not dispute the fact his vehicle was at his residence that day and advised he must have stopped by to pick something up.
- Sergeant Devalle stated on 10-14-2016 he claimed on his HP-201 he had started work at 3:00pm and the CAD and HP-201 did not match. Sergeant Devalle claimed he was working on bi-annual inspections for C235 and C239 and also maintaining wrecker files. Sergeant Devalle claimed even though he was at home, he was working. Sergeant Devalle then explained his job description for a Sergeant.
- Sergeant Devalle advised on 11-11-2016 he and F/Sgt. Burton had always had a very clear understanding that if he was not able to respond or handle a call or situation he would handle it for him. Sergeant Devalle advised he and his daughter were both sick on this day and knew he could call F/Sgt. Burton if needed.
- Sergeant Devalle reiterated the work he completed during the days in question such as handling emails, bi-annual reports, district operations, and community relations. He also provided six emails he received and indicated he was working on during the days in question.
- Sergeant Devalle stated policy required him to be in Wayne County but when he was at his residence he was working and executing his duties. Sergeant Devalle advised, he did not agree with Neglect of Duty due to preventive patrol not being an option due to the hazardous conditions of the hurricane. Sergeant Devalle advised the southern part of the county was without gas and limited driving was necessary. Sergeant Devalle stated he never received any hurricane money. Sergeant Devalle advised he on several occasions went above the call of duty and he believes he is a salvageable employee.
- Sergeant Devalle advised Captain Holmes by his own admission, gave him a shot across the bow not a direct order regarding his residency. Sergeant Devalle advised Captain Holmes during their last line inspection stated he did not care where he lived, to just make sure the paperwork is filed indicating he is abiding by policy.
- Sergeant Devalle stated he had a conversation with Lieutenant Colonel West on 10-08-2016 and he was aware of where he resided.
- Sergeant Devalle made a request for any documents of any member who has been charged with sitting at home while on duty and then listed several current and former members.
- Sergeant Devalle advised he deeply apologized for how sorry and ashamed of what has occurred and hopes the Highway Patrol can give him an opportunity where he can be a leader, an outstanding Trooper and a positive representation of this organization and wishes for a reconsideration of dismissal and for another punishment deemed appropriate.
- Conference was concluded at 12:37 pm.

JHW:bts



North Carolina Department of Public Safety

Prevent. Protect. Prepare.

Roy Cooper, Governor

Erik A. Hooks, Secretary

August 7, 2017

Maurice A. DeValle
1152 Southern Meadows Drive
Raleigh, NC 27603

Re: Final Agency Decision

Dear Mr. DeValle:

On July 5, 2017, the North Carolina Department of Public Safety Employee Advisory Committee convened to hear the appeal regarding your dismissal from the State Highway Patrol. Management's decision was to dismiss you effective April 24, 2017, based on Unacceptable Personal Conduct.

You were dismissed from the Highway Patrol based on the following allegations of misconduct:

1. That you were insubordinate toward Lt. J.C. Morton on November 11, 2016; in violation of SHP Directive H.01, Section XVIII;
2. That you violated the Highway Patrol's residency policy; in violation of SHP Directive H.01, Section IV and SHP Directive E.09, Section IV;
3. That you were inattentive to and neglected your duties by remaining at your residence on several occasions between September 30, 2016 and November 11, 2016 in violation of SHP Directive H.01, Section XXVI; and
4. That you were untruthful in that you reported false, misleading and inaccurate information into the BEACON payroll system resulting in your being compensated for hours you did not work, in violation of SHP Directive H.01, Section VII.

I have reviewed all of the information available, including the current incident of Unacceptable Personal Conduct, the information you provided during the Pre-Disciplinary Conference, and information provided during the Employee Advisory Committee Hearing. Having done so, it is my decision to uphold your dismissal from the Highway Patrol.

The Employee Advisory Committee determined that the allegation of insubordination was not supported by the facts and I concur with that finding. Accordingly, my decision is not based on any finding of insubordination, nor is it based on a violation of the then existing Highway patrol residency policy. For the reasons as more fully described below, it is my decision to uphold your dismissal from the Highway Patrol based on your violations of the Highway Patrol's Truthfulness and Neglect of Duty policies.

MAILING ADDRESS:
4201 Mail Service Center
Raleigh, NC 27699-4201
Telephone: (919) 733-2126



www.ncdps.gov
An Equal Opportunity employer

OFFICE LOCATION:
512 N. Salisbury Street
Raleigh, NC 27604-1159
Fax: (919) 715-8477

RESPONDENT'S
EXHIBIT

12

Respondent - 01235

2 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

On November 11, 2016, the Highway Patrol received a tip from a WRAL news reporter that, on several occasions, you notified the Communications Center that you were 10-41 (beginning tour of duty) in Wayne County when in fact you were actually located at your Wake County residence. According to the reporter, WRAL had photographs and video of you being at your residence when you were supposed to be on duty. The reporter alleged further that you were at your residence at that time even though you checked 10-41 and were supposed to be in Wayne County. In response to that complaint, Lieutenant Morton drove to your Wake County residence at approximately 7:30 pm and, although you had checked 10-41 (beginning tour of duty) at approximately 3:00 pm, you were at your Wake County residence when Lt. Morton arrived. Your being caught at your Wake County residence after having checked 10-41 on this occasion was consistent with the allegation made by the WRAL reporter earlier that date. I find your excuse that you were home on that occasion because you were sick to be without any credibility whatsoever. If you were truly sick, as you contend, you should not have checked 10-41, especially since, as a matter of policy, you were not authorized to check 10-41 until you crossed the Wayne/Johnston county line. Furthermore, you did not inform your supervisor that you were sick or otherwise unable to report for duty and although you were assigned as the district duty officer on that date, you did not make any arrangements with another district supervisor to cover the Duty Officer Responsibilities for the district. Finally, you did not check 10-42 (ending tour of duty) until after Lt. Morton arrived at your residence and discovered you were not at your assigned duty station.

On November 14, 2016, the Highway Patrol initiated an investigation into the allegations made by the WRAL reporter. That investigation revealed that you reported false, misleading and inaccurate information and improperly obtained credit and subsequent payment for time worked on the following occasions when you were not actually working:

- On September 26, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 6:16 a.m. and checked 10-42 (ending tour of duty) at 1:56 p.m.

Assuming you actually arrived in Wayne County as 6:16 am and left Wayne County at 1:56 pm as claimed, you would have been entitled to not more than 8 hours of compensable work time. Yet, you falsely entered 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours "time worked" for pay purposes in the Beacon payroll system for which you were not entitled.

- On September 30, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 4:04 p.m. and checked 10-42 (ending tour of duty) at 2:02 a.m. on October 1, 2016.

Although you checked 10-41 and 10-42 and claimed 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours for "time worked" for pay purposes in the

3 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

Beacon payroll system for this date, you did not deny, during your internal affairs interview, that you never left your residence located in Wake County for the duration of your entire assigned 10 hour shift on this occasion.

- On October 1, 2016, although you never checked 10-41, and although your vehicle was observed at your Wake County residence from 4:00 p.m. to 7:00 pm on that date, you nonetheless claimed that you worked a 3:00 p.m. to 3:00 a.m. shift on your Weekly Report of Daily Activity, and you claimed 10 hours for "time worked" for pay purposes in the Beacon payroll system.

Accordingly, you falsely claimed hours of "time worked" for pay purposes in the Beacon payroll system for which you were not entitled on October 1, 2016..

- On October 2, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 12:50 p.m. and checked 10-42 (ending tour of duty) at 11:05 p.m.; when, in fact, you returned to your residence in Wake County after working for only a few hours.

Although you returned to your residence in Wake County after working for only a few hours, you falsely entered 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours "time worked" for pay purposes in the Beacon payroll system thereby claiming credit for time you did not in fact work.

- On October 6, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 1:02 p.m. and checked 10-42 (ending tour of duty) at 11:19 p.m. when, in fact, your patrol vehicle was observed parked in the driveway of your Wake County residence at approximately 6:45 p.m.

Although you either never left you residence or returned to your residence for some undetermined period of time, you falsely claimed 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours "time worked" for pay purposes in the Beacon payroll system thereby claiming credit for time you did not in fact work.

- On October 14, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 2:14 p.m. and checked 10-42 (ending tour of duty) at 12:57 a.m. when, in fact, your patrol vehicle was observed parked in the driveway of your Wake County residence at approximately 3:55 p.m.

Although you were still at your residence at 3:55 p.m., you falsely claimed 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours "time worked" for pay purposes in the Beacon payroll system thereby claiming credit for time you did not in fact work.

4 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

SHP Directive H.01, Section VII (Truthfulness Policy) requires each member to be truthful and complete in all written and oral communications, reports, and testimony. No member shall willfully report any inaccurate, false, improper, or misleading information. Your above-described deliberate submissions of false, misleading, and inaccurate time records into the BEACON payroll system wherein you deliberately misrepresented the number of hours you worked on several occasions, thereby resulting in your being compensated for hours you did not work, is inconsistent with the expectations of the Highway Patrol and the taxpayers of the State of North Carolina. Because of your untruthfulness, your credibility has become impaired.

The Highway Patrol investigative report also establishes, by the greater weight of the evidence, that on or about September 30, 2016 through November 11, 2016, you neglected your duties as a supervisor assigned to Wayne County in violation of SHP Directive H.01, Section XXVI.

During your interview with Internal Affairs, you admitted that: "There has been days where I've checked on and been at my residence and should have been in Wayne County." You also admitted that there were times when you checked on for duty (10-41) and remained at your residence for extended periods of time before reporting to your duty station and that on at least one occasion you checked on for duty and remained at your residence in Raleigh for your entire assigned shift, and never reported to your duty station. Furthermore, you did not deny that you were at your residence while being checked on for duty (10-41) on the specific dates of September 30th, October 1st, October 2nd, October 6th, and October 14, 2016.

Although you were unable to substantiate which specific days you checked 10-41 and failed to report for duty, this admission is corroborated by the fact that you were scheduled to work and, in fact claimed work time, for eight (8) separate shifts between September 22, 2016 and October 6, 2016. The distance between your Wake County residence and the Wayne County district office is 43.9 miles. Accordingly, had you drove to and from the district office on each of those 8 days in which you claim to have worked, you would have driven not less than 702 miles. You indicated, on your weekly Activity Reports, that you in fact drove 767 miles. However, as evidenced by the actual mileage on your vehicle, as recorded by you in the SAP Fuel Log system, you only drove 292 miles. Mathematically, you could not have gone to the office on more than 3 occasions during this period of time.

As previously stated, I agree with the determination of the Employee Advisory Committee that the evidence of record does not support a finding that you were insubordinate to Lt. Morton on November 11, 2016. Accordingly, that allegation has no bearing on my decision. Additionally, I am not concerned that you were residing in Wake County in violation of SHP Directive E.09, Section IV (Procedures for Establishing Residence). I am very much concerned, however, that there were times when you were at your Wake County residence while you were "on the clock"

5 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

and supposed to physically be at your appointed place of duty, i.e. Wayne County and that you provided false, misleading and inaccurate information to the Highway Patrol thereby resulting in your receiving credit and payment for "time worked" to which you were not entitled and your being neglectful of your duties by claiming you were in your assigned county of responsibility (Wayne County) when, in fact, you were at your residence in Wake County. Your above-described pattern of deliberately misrepresenting information concerning your work activities has embarrassed the Highway Patrol and discredited you personally as a member of the Highway Patrol. Additionally, your demonstrated pattern of behavior demonstrates a willingness on your part to be deliberately untruthful, calls into question your credibility as a member of the Highway Patrol and severely impairs your ability to testify in court as a sworn law enforcement officer.

I have reviewed the record with an understanding that I have discretion in determining what, if any, level of punishment is most appropriate based on the facts and circumstances of this case and I have considered the entire range of disciplinary actions available under state law. I have considered that you had been employed by the Highway Patrol as a State Trooper for approximately nineteen (19) years prior to your dismissal and that your prior disciplinary actions for unsatisfactory conduct consists of a one (1) day Suspension without Pay in November 2011 for Neglect of Duty, a Written Warning in 2012 for Unbecoming Conduct and a Written Warning in 2015 for Abuse of Position. Pursuant to state personnel policy, each of these prior disciplinary actions, other than the Written Warning imposed on December 10, 2015 were inactive at all relevant times related to your misconduct as described herein. I have also reviewed your performance evaluations for 2015 & 2016.

For the reason as set out above, and as the Authorizing Agency Official for the N.C. Department of Public Safety and the N.C. State Highway Patrol this letter shall serve as notification of my decision to uphold the Department's action.

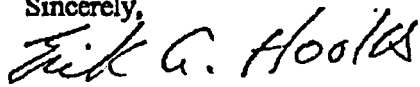
The Office of State Human Resources has reviewed and approved this final agency decision.

Should you disagree with this decision and wish to appeal this action, you may file a petition for a contested case hearing pursuant to G.S. 150B-23 with the Office of Administrative Hearings, (Physical Address) 1711 New Hope Church Road, Raleigh, N.C. 27609, (Mailing Address) 6714 Mail Service Center, Raleigh, NC 27699-6714, telephone number (919) 431-3000. A fee must be paid to OAH when the petition is filed, unless it is waived by OAH. A copy of the appeal must be served by certified mail on the Agency's registered agent Jane Gilchrist, General Counsel, North Carolina Department of Public Safety, (Mailing Address) MSC 4201, Raleigh, NC 27699-4201. Any appeal of this action must be filed within thirty (30) calendar days of receipt of this letter.

6 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

NCGS 126-23 (a) (11) provides that Dismissal letters are public information and must be released, if requested.

Sincerely,

A handwritten signature in black ink that reads "Erik A. Hooks". The signature is written in a cursive, slightly slanted style.

Erik A. Hooks

EAH:tp/jd

CC: NC-SHP Management
Human Resources

Certified Mail Receipt # 7011 1150 0000 5331 9261

HP-343
Page 1 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

IDENTIFICATION INFORMATION

| | | | |
|------------------------|---|-----------------|----------------|
| Employee | Registry / BEACON Number | Troop/District | |
| Sergeant M. A. DeValle | 1966 / 01265297 | C/2 | |
| Principal Investigator | Registry Number | Troop/District | |
| Lieutenant P. T. Clark | 1908 | X/4 | |
| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
| 4/24/2017 | Lieutenant Colonel Charles V. Ward <i>CVW</i> | 1946 | X/0 |

Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary):

It is charged that on or about October and November, 2016, at or near Raleigh, North Carolina, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section VII (Truthfulness), in that he/she:

Reported false, misleading and inaccurate information into the Beacon payroll system resulting in his being compensated for hours he did not work which is a criminal violation of law as follows:

- On September 26, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 6:16 a.m. and checked 10-42 (ending tour of duty) at 1:56 p.m. Sergeant DeValle claimed ten (10) hours of compensatory time worked for approximately eight (8) hours worked.
- On September 30, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 4:04 p.m. and checked 10-42 (ending tour of duty) at 2:02 a.m. on October 1, 2016. Sergeant DeValle claimed ten (10) hours of compensatory time worked for no hours worked. Sergeant DeValle does not deny that he never left his residence located in Wake County for the duration of his assigned ten (10) hour shift.
- On October 1, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at approximately 3:00 p.m., when, in fact, his patrol vehicle was observed parked in the driveway of his Wake County residence from 4:00 p.m. to 7:00 p.m. Sergeant DeValle claimed ten (10) hours of compensatory time worked for approximately six (6) hours worked.
- On October 2, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 12:50 p.m. and checked 10-42 (ending tour of duty) at 11:05 p.m. when, in fact, he returned to his residence in Wake County after working for only a few hours. Sergeant DeValle claimed ten (10) hours of compensatory time worked for only a few hours worked.
- On October 6, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 1:02 p.m. and checked 10-42 (ending tour of duty) at 11:19 p.m. when, in fact, his patrol vehicle was observed parked in the driveway of his Wake County residence at approximately 6:45 p.m. Sergeant DeValle claimed ten (10) hours of compensatory time worked for approximately six (6) hours worked.
- On October 14, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 2:14 p.m. and checked 10-42 (ending tour of duty) at 12:57 a.m. when, in fact, his patrol vehicle was observed parked in the driveway of his Wake County residence at approximately 3:55 p.m. Sergeant DeValle claimed ten (10) hours of compensatory time worked and did not work the entire ten (10) hour shift.

IA2016-052

Type of Violation

☒ Personal Conduct

☐ Grossly Inefficient Job Performance

☐ Job Performance

Action Imposed

See Page 4 of 5 for Action Imposed

RESPONDENT'S
EXHIBIT

13

Respondent - 01241

HP-343
Page 2 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

| Action Administered By | BEACON Number | Date |
|---------------------------|---------------|-----------|
| Lt. VAN Eugene Burton VEB | 01148497 | 4-24-2017 |

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|------------------------|--------------------------|----------------|
| Sergeant M. A. DeValle | 1966 / 01265297 | C/2 |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|---|-----------------|----------------|
| 4/24/2017 | Lieutenant Colonel Charles V. Ward <i>CVW</i> | 1946 | X/0 |

| |
|---|
| <p>Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary)</p> <p>It is charged that on or about September 30, 2016 through November 11, 2016, at or near Raleigh, North Carolina, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section XXVI (Neglect of Duty), in that he/she:</p> <p>Was inattentive to and neglected his duties by remaining at his Wake County residence located at 1152 Southern Meadows Drive, Raleigh, North Carolina on numerous occasions when he was supposed to be performing supervisory and patrol duties in Wayne County. By his own admission: "There has been days where I've checked on and been at my residence and should have been in Wayne County." Although Sergeant DeValle stated he does not recall specific dates and times that this occurred, he does not deny that this occurred on the following dates in 2016: September 30th, October 1st, October 2nd, October 6th, and October 14th. Significantly, Wayne County was still under a state of emergency, the Neuse River was 10 feet above flood stage in Goldsboro and dozens of Wayne County roads were impassable on October 14, 2016. Yet Sergeant DeValle, although checked on duty, remained at his Wake County residence, thirty-five (35) miles away.</p> <p>On November 11, 2016, by his own admission, checked on for duty at 3:00 p.m. at his residence, located at 1152 Southern Meadows Drive, Raleigh, North Carolina, and remained at his residence and did not report to his duty station in Troop C, District 2. Sergeant DeValle admitted he did not inform his supervisor that he was not or was unable to report for duty, and made no arrangements with another district supervisor to cover Duty Officer responsibilities for the district.</p> <p>IA2016-052</p> |
|---|

| Type of Violation |
|--|
| <input checked="" type="checkbox"/> Personal Conduct <input type="checkbox"/> Grossly Inefficient Job Performance <input type="checkbox"/> Job Performance |

| Action Imposed |
|------------------------------------|
| See Page 4 of 5 for Action Imposed |

| Action Administered By | BEACON Number | Date |
|---------------------------|---------------|-----------|
| Lt. VAN Eugene Burton VEB | 01148497 | 4-24-2017 |

HP-343
Page 3 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|------------------------|--------------------------|----------------|
| Sergeant M. A. DeValle | 1966 / 01265297 | C/2 |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|---|-----------------|----------------|
| 4/24/2017 | Lieutenant Colonel Charles V. Ward <i>CVW</i> | 1946 | X/0 |

Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary.)

It is charged that on or about 11 November 2016, at or near 1152 Southern Meadows Drive, Raleigh, North Carolina, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section XVIII (Insubordination), in that he/she:

By his own admission, when being questioned by Lieutenant J. C. Morton as to being at his residence while checked on for duty (10-41), was insubordinate to Lieutenant Morton by:

- Accusing Lieutenant Morton of "riding around" and "checking on people," and also congratulated Lieutenant Morton on leaving such a "legacy."
- Questioning Lieutenant Morton's authority and duty to supervise certain members of the Patrol, to include himself.
- Accusing Lieutenant Morton of having a poor leadership style.
- Speaking to Lieutenant Morton with a defensive and disrespectful tone of voice.

By his own admission, Sergeant DeValle's comments and attitude towards Lieutenant Morton was "unacceptable" and constituted insubordination.

IA2016-052

| Type of Violation |
|--|
| <input checked="" type="checkbox"/> Personal Conduct <input type="checkbox"/> Grossly Inefficient Job Performance <input type="checkbox"/> Job Performance |

| Action Imposed |
|------------------------------------|
| See Page 4 of 5 for Action Imposed |

| Action Administered By | BEACON Number | Date |
|----------------------------------|---------------|-----------|
| Lt. VAN Eugene Burton <i>yes</i> | 01148497 | 4-24-2017 |

HP-343
Page 4 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|------------------------|--------------------------|----------------|
| Sergeant M. A. DeValle | 1966 / 01265297 | C/2 |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|--|-----------------|----------------|
| 4/24/2017 | Lieutenant Colonel Charles V. Ward <i>CW</i> | 1946 | X/0 |

Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary):

It is charged that on or about September 2016 through November 2016, at or near Raleigh, North Carolina, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section IV (Violations of Rules) to wit: Directive E.09, Section IV (Procedures for Establishing Residence), in that he/she:

On 11 November 2016;

- By his own admission, checked on for duty at 3:00 p.m. at his residence, located at 1152 Southern Meadows Drive, Raleigh, North Carolina, and remained at his residence and did not report to his duty station in Troop C, District 2. Sergeant DeValle admitted he did not inform his supervisor that he was not or was unable to report for duty, and made no arrangements with another district supervisor to cover Duty Officer Responsibilities for the district.
- Lieutenant J. C. Morton, after traveling to Sergeant DeValle's residence, found Sergeant DeValle to be at his residence at approximately 7:30 p.m. At this time, the CAD reflected that Sergeant DeValle was checked on (10-41) for duty.

By his own admission, had on previous occasions;

- Checked on for duty (10-41) and remained at his residence for extended periods of time before reporting to his duty station. Sergeant DeValle admitted on one occasion, he checked on for duty and remained at his residence for his entire assigned shift, and never reported to his duty station. Sergeant DeValle did not deny that he was at his residence while being checked on for duty (10-41) on the specific dates of 30 September, 1 October, 2 October, 6 October, and 14 October 2016
- Left his duty station and returned to his residence during his shift for his meal hour.

By his own admission, met with Captain J. O. Holmes in early 2016, and was counselled on his being in compliance with the Patrol's residency policy. As a result of that meeting, Sergeant DeValle admitted he understood that he was to report for duty as assigned, and be "where he was supposed to be, when he was supposed to be."

IA2016-052

Type of Violation

☒ Personal Conduct ☐ Grossly Inefficient Job Performance ☐ Job Performance

Action Imposed

Dismissal from the North Carolina Highway Patrol.

| Action Administered By | BEACON Number | Date |
|---------------------------|---------------|-----------|
| Lt. VAN Eugene Burton VEG | 011484447 | 4-24-2017 |

HP-343
Page 5 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

Rights of Employee

I acknowledge that I am aware of the provisions of Directive H.04 of the Highway Patrol Rules and Regulations relating to disciplinary actions and have read and understand North Carolina State Human Resources Manual section 7 (Employee Grievance Policy) which establishes principles of administration to ensure a prompt, orderly, and fair response to an employee's grievance or complaint. I further acknowledge that I have read and understand the following

- Written Warnings may not be appealed or grieved.
- The above procedures must be followed unless I allege that I was disciplined because of my age, sex, race, color, political affiliation, handicapped condition, or in retaliation for opposition to such discrimination. In such cases, an appeal can be made directly to the State Personnel Commission by filing a petition as provided above.
- I have been informed, in writing, of the specific acts or omissions that are the reason for the disciplinary action taken and have been given the opportunity to be heard by the Patrol. I have been informed of my right to appeal this imposed action.

| Employee | Date |
|----------|------|
| | |

| Witness | Date |
|---------|------|
| | |

HP-343
Page 1 of 2
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|-----------------------------|--------------------------|----------------|
| Sergeant Maurice A. DeValle | 1868 / 01265297 | CZ |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|-------------------------------------|-----------------|----------------|
| 7 December 2015 | Colonel William Grey <i>W. Grey</i> | 2084 | X/0 |

| |
|--|
| Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary.) |
| It is charged that on or about 19 October 2015, at or near NC 65 in Wayne County, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section IX (Abuse of Position), in that he/she:

Used his position as a North Carolina State Trooper in obtaining privileges not otherwise available to other persons by:

1. By his own admission, did access the Division of Criminal Information (DCI) database to obtain information on Wake County Assistant District Attorney Colleen Janssen.

2. By his own admission, did access DCI and conduct an inquiry on Ms. Colleen Janssen for personal reasons, and not in the scope of his official duties.

IA 2015-080 |

| | | |
|--|--|--|
| Type of Violation | | |
| <input checked="" type="checkbox"/> Personal Conduct | <input type="checkbox"/> Grossly Inefficient Job Performance | <input type="checkbox"/> Job Performance |

| |
|-----------------------|
| Action Imposed |
| Written Warning |

| | | |
|-------------------------------|----------------------|-------------|
| Action Administered By | BEACON Number | Date |
| <i>Sgt. M.A. DeValle</i> | 00713017 | 12/10/2015 |

Sgt. M.A. DeValle

RECEIVED

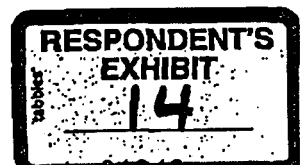
DEC 11 2015

NCOPS HUMAN RESOURCES
EMPLOYEE RELATIONS

D. [Signature]

1.27.15ohh

Respondent 01210



HP-343
Page 2 of 2
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

Rights of Employee

I acknowledge that I am aware of the provisions of Directive H.04 of the Highway Patrol Rules and Regulations relating to disciplinary actions and have read and understand North Carolina State Human Resources Manual section 7 (Employee Grievance Policy) which establishes principles of administration to ensure a prompt, orderly, and fair response to an employee's grievance or complaint. I further acknowledge that I have read and understand the following

- Written Warnings may not be appealed or grieved.
- The above procedures must be followed unless I allege that I was disciplined because of my age, sex, race, color, political affiliation, handicapped condition, or in retaliation for opposition to such discrimination. In such cases, an appeal can be made directly to the State Personnel Commission by filing a petition as provided above.
- I have been informed, in writing, of the specific acts or omissions that are the reason for the disciplinary action taken and have been given the opportunity to be heard by the Patrol. I have been informed of my right to appeal this imposed action.

| | |
|----------------------------|-------------------|
| Employee | Date |
| <i>Sgt. M. L. D. N. O.</i> | <i>12-10-2015</i> |
| Witness | Date |
| <i>P/Sgt. J. S. Lewis</i> | <i>12-10-2015</i> |

Capt. J. H. [Signature]

12/10/2015



North Carolina Department of Public Safety
State Highway Patrol

Pat McCrory, Governor
Frank L. Perry, Secretary

Colonel William Grey
Commander

Internal Affairs Section

7 December 2015

MEMORANDUM

TO: SERGEANT M. A. DEVALLE

FROM: CAPTAIN W. T. EVANS WTE

RE: WRITTEN WARNING AGAINST SERGEANT M. A. DEVALLE, REGISTRY #1966, TROOP C, DISTRICT 2, GOLDSBORO, NORTH CAROLINA

Pursuant to Directive H.02, the above-captioned complaint has been investigated by the Internal Affairs Unit. All facts and statements pertinent to the complaint are contained in the Report of Investigation.

The Report of Investigation substantiates that you were in violation of Directive H.01, Section IX (Abuse of Position). In accordance with Directive H.04, Section XII, you have been disciplined in the form of a Written Warning as noted on the attached Personnel Charge Sheet/Disposition (HP-343). This is a Personal Conduct violation.

In a private discussion, you were informed that this is a Written Warning, not some other non-disciplinary process such as counseling. You must correct the Unsatisfactory Personal Conduct immediately.

This is a Written Warning and it may not be appealed.

Failure to make the required improvements could result in a more severe form of disciplinary action up to and including dismissal.

| | |
|---------------------------|------------|
| Member Signature | Date |
| <i>Sgt. M. A. Devalle</i> | 12-10-2015 |

| | |
|---------------------------|------------|
| Witness Signature | Date |
| <i>E. Sgt. J. Haskins</i> | 12-10-2015 |

Capt. W. T. Evans

12/10/2015

MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4039

Page: 1 Document Name: Untitled

- 16100812503100657 UNIT ACTIVITY BROWSE BY PARAMETER 11/14/2016 15:06 HPCS146
 030-MAX-RECORDS READ, PRESS ENTER

SEARCH ARGUMENT DATES(START/END): 160926/161114

| DATE | HMMSS | UNIT NAME | 10- | SIG | HIWAY | LOCATION | STAT | MT:# | DATE | RADIO | ASGN |
|--|--------|-----------|------------|-----|--------|----------|------|--------|------|-------|------|
| PARMS>**** C223 ***** ** ** ***** ** **** ** | | | | | | | | | | | |
| 160926 | 061818 | 0C223 | DEVALLE, M | 41 | 10-41 | | 1966 | 160926 | CA | C2 | |
| 160926 | 135640 | 0C223 | DEVALLE, M | 42 | SIGNOF | | 1966 | 160926 | CA | C2 | |
| 160930 | 160432 | 0C223 | DEVALLE, M | 41 | 10-41 | | 1966 | 160930 | CA | C2 | |
| 161002 | 042439 | 0C223 | DEVALLE, M | 42 | SIGNOF | | 7487 | 161002 | CA | C2 | |
| 161002 | 125058 | 0C223 | DEVALLE, M | 41 | 10-41 | | 1966 | 161002 | CA | C2 | |
| 161002 | 230522 | 0C223 | DEVALLE, M | 42 | SIGNOF | | 1966 | 161002 | CA | C2 | |
| 161005 | 125700 | 0C223 | DEVALLE, M | 41 | 10-41 | | 1966 | 161005 | CA | C2 | |
| 161005 | 231811 | 0C223 | DEVALLE, M | 42 | SIGNOF | | 1966 | 161005 | CA | C2 | |
| 161006 | 130233 | 0C223 | DEVALLE, M | 41 | 10-41 | | 1966 | 161006 | CA | C2 | |
| 161006 | 231951 | 0C223 | DEVALLE, M | 42 | SIGNOF | | 1966 | 161006 | CA | C2 | |
| 161007 | 074219 | 0C223 | DEVALLE, M | 41 | 10-41 | | 1966 | 161007 | CA | C2 | |
| 161007 | 085245 | 0C223 | DEVALLE, M | 07 | | EM SIG 9 | 7056 | 161007 | CA | C2 | |
| 161007 | 172136 | 0C223 | DEVALLE, M | 08 | | | 7056 | 161007 | CA | C2 | |
| 161007 | 192301 | 0C223 | DEVALLE, M | 42 | SIGNOF | | 1966 | 161007 | CA | C2 | |

P = PARAMETER ENTRY SCREEN----- (F11) I = INQUIRY (CURSOR)----- (F5)
 F = NEXT PAGE----- (F8) R/S = UNIT ACTIVITY/SYSTEM MENU- (F2/F1)

Name: rwsawyer - Date: 11/14/2016 Time: 3:10:44 PM

Respondent - 01195

Page: 1 Document Name: Untitled

1610081844310E740

030-MAX-RECORDS READ, PRESS ENTER

DATE: 10/20/2016 10:10:10 AM BY: [REDACTED] FROM: [REDACTED] TO: [REDACTED]

| | | | | | |
|------------------|---------------|----------|-------------|----|----|
| 1610031302350022 | DEVALLE, M 41 | 10-41 | 1966 161008 | CA | C2 |
| 1610062319510022 | DEVALLE, M 42 | SIGNOF | 1966 161006 | CA | C2 |
| 1610070742190022 | DEVALLE, M 41 | 10-41 | 1966 161007 | CA | C2 |
| 1610070882450022 | DEVALLE, M 07 | EM SIG 9 | 7056 161007 | CA | C2 |
| 1610071721360022 | DEVALLE, M 08 | | 7056 161007 | CA | C2 |
| 1610071920010022 | DEVALLE, M 42 | SIGNOF | 1966 161007 | CA | C2 |

PASADENA 10/20/2016 10:10:10 AM BY: [REDACTED] FROM: [REDACTED] TO: [REDACTED]

4-c 5 1 Sess-1 192.168.200.2 HPT6036 1/2

Name: wtevans - Date: 11/14/2016 Time: 9:32:59 AM

Respondent - 01196

Page: 1 Document Name: Untitled

1610071301550B238
030-MAX-RECORDS READ, PRESS ENTER

| | | | | | |
|-------------------|---------------|----------|-------------|----|----|
| 1610061301550B238 | DEVALLE, M 41 | 10-41 | 1966 161006 | CA | C2 |
| 1610061301550B238 | DEVALLE, M 42 | SIGNOF | 1966 161006 | CA | C2 |
| 1610071301550B238 | DEVALLE, M 41 | 10-41 | 1966 161007 | CA | C2 |
| 1610071301550B238 | DEVALLE, M 07 | EM SIG 9 | 7058 161007 | CA | C2 |

4-0 \$

1

Sess-1

192.168.200.2

HPT6036

1/2

Name: wtevans - Date: 11/14/2016 Time: 9:31:35 AM

Respondent - 01197

Page: 1 Document Name: Untitled

- 1610161156030C648 UNIT ACTIVITY BROWSE BY PARAMETER 11/16/2016 14:51 HPGS146
030-MAX-RECORDS READ, PRESS ENTER

SEARCH ARGUMENT DATES(START/END): 161014/161116

| DATE HHMMSS | UNIT NAME | 10- SIG HIWAY | LOCATION | STAT MT:#,DATE,RADIO | ASGN |
|-------------------|---------------|---------------|-----------------|----------------------|----------|
| PARMS>**** | C223 | ***** | ** | ** ***** | ***** ** |
| 1610141455570C223 | DEVALLE, M 41 | 10-41 | | 1988 161014 | CA C2 |
| 1610150057410C223 | DEVALLE, M 42 | SIGNOF | | 1966 161015 | CA C2 |
| 1610151555200C223 | DEVALLE, M 41 | 10-41 | | 1966 161015 | CA C2 |
| 1610151655520C223 | DEVALLE, M 50 | F SR2014 | 300 ROLLINGW BU | 7874 161015 | CA C2 |
| 1610151822470C223 | DEVALLE, M 08 | | | 7271 161015 | CA C2 |
| 1610151823490C223 | DEVALLE, M 07 | OFFICE | | 1966 161015 | CA C2 |
| 1610160444360C223 | DEVALLE, M 42 | SIGNOF | | 1966 161016 | CA C2 |
| 1610161145150C223 | DEVALLE, M 41 | 10-41 | | 1966 161016 | CA C2 |

P = PARAMETER ENTRY SCREEN----- (F11) I = INQUIRY (CURSOR)----- (F5)
F = NEXT PAGE----- (F8) R/S = UNIT ACTIVITY/SYSTEM MENU- (F2/F1)

Name: rwsawyer - Date: 11/16/2016 Time: 2:53:40 PM

Respondent - 01198

HP-2018
Page 1
Rev. 9/2013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| | | | | | | | | |
|-----------|------|---------|---------|---|--------|-----------|-----|---|
| 11/7/2016 | 1966 | 1255287 | Maurice | A | DeVall | Goldsboro | C/2 | - |
|-----------|------|---------|---------|---|--------|-----------|-----|---|

| DUTY HOURS WORKED | | | | | | | | | |
|--|--------|----|----|-------|-------|-------|-------|--|-------|
| | 1P-12A | DO | DO | 7A-6P | 5P-4A | 5P-4A | 3P-2A | | |
| 9500 Time Worked with 01 Shift Premium | 1P-12A | DO | DO | 7A-6P | AL | 2P-1A | 4P-2A | | |
| 9000 Approved Leave (Vacation, K-Time) | 10.00 | | | 10.00 | | 11.00 | 10.00 | | 41.00 |
| | | | | | 9.00 | | | | 9.00 |
| | | | | | H? | | | | |
| | | | | | S? | | | | |
| | | | | | | | | | 50.00 |

| ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOUR SEGMENTS) | | | | | | | | | |
|--|--------|------|------|------|------|------|------|-------|-------|
| Day | Mon | Tue | Wed | Thu | Fri | Sat | Sun | TOTAL | |
| Mon | 11.00 | | | | | | | | |
| Tue | | 8.00 | | | | | | | 10.00 |
| Wed | | | 8.00 | | | | | | |
| Thu | | | | 2.00 | | | | | |
| Fri | | | | | 8.00 | | | | 10.00 |
| Sat | | | | | | 9.00 | | | |
| Sun | | | | | | | 2.00 | | 11.00 |
| TOTAL | 331.00 | | | | | | | | 41.00 |

| CASES MADE | | | | | | | | | |
|------------|-----|-----|-----|-----|-----|-----|-----|-------|--|
| Day | Mon | Tue | Wed | Thu | Fri | Sat | Sun | TOTAL | |
| Mon | | | | | | | | | |
| Tue | | | | | | | | | |
| Wed | | | | | | | | | |
| Thu | | | | | | | | | |
| Fri | | | | | | | | | |
| Sat | | | | | | | | | |
| Sun | | | | | | | | | |
| TOTAL | | | | | | | | | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

RESPONDENT'S
EXHIBIT
8H
Respondent - 01199

HP-2018
Page 2
Rev. 02/013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| | | | | | | | | |
|-----------|------|---------|---------|---|---------|-----------|-----|---|
| 11/7/2016 | 1968 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |
|-----------|------|---------|---------|---|---------|-----------|-----|---|

| RECORDED PERFORMANCES (WORK ZONE) | | | | | | | | | | | | |
|-----------------------------------|--|--|--|--|--|--|--|--|--|--|--|--|
| Mon | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | |

| RECORDED PERFORMANCES (GENERAL FUNCTIONS) | | | | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|--|--|--|
| Mon | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | |

| RECORDED PERFORMANCES (PORTABLE / PERMANENT) | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Mon | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | |

| RECORDED PERFORMANCES (INSPECTION REPORT) | | | | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|--|--|--|
| Mon | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | |

| RECORDED PERFORMANCES (INSPECTION REPORT) | | | | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|--|--|--|
| Mon | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | |

Sgt. M. A. DeValle

☐ Approved

HP-2018
Page 1
Rev. 8/2013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

E1

| MM/DD/YYYY
(Week Beginning Monday) | Reg # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Ensign / Civ/Sgt |
|---------------------------------------|-------|-------------|---------|------|---------|--------------|------------------|------------------|
| 10/3/2018 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | . |

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|-------------------------|-----|-----|--------|--------|-------|-----|-----|-------|
| Assigned Shift | DO | DO | 1P-12A | 1P-12A | 6A-7P | DO | DO | |
| Shift Worked | DO | DO | 1P-11P | 1P-11P | 6A-5P | DO | DO | |
| 9500 Time Worked | | | 10.00 | 10.00 | 10.00 | | | 30.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 30.00 |

| Day of Week | Mileage | Hours of Work | Traffic Accidents | Supervisor Activities | Weight Station Activities | Civilian Activities | Collaborative Investigation | Other | Speed Enforcement | Public Demonstrations | Hazardous Materials | Special Operations | Equipment | Training | | Recreation | Personal | Club Activities | Essential | Post Call Inspection | Inspection Work | Tow / Misc. Procedures | Other Activities (See Exhibit C for Details) | TOTAL |
|-------------|---------|---------------|-------------------|-----------------------|---------------------------|---------------------|-----------------------------|-------|-------------------|-----------------------|---------------------|--------------------|-----------|----------|-------|------------|----------|-----------------|-----------|----------------------|-----------------|------------------------|--|-------|
| | | | | | | | | | | | | | | Required | Other | | | | | | | | | |
| Mon | | 8.00 | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | 8.00 | | | | | | | | | | | | | | | | | | | | | | |
| Wed | 95.00 | | | 5.00 | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Thu | 114.00 | | | 5.00 | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Fri | 87.00 | | | 5.00 | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Sat | | 8.00 | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | 8.00 | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | 296.00 | | | 15.00 | | | | | | | | | | | | | 15.00 | | | | | | | 30.00 |

| CASES MADE | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--------------------|-----------------|---------------------|------------|------------|------|------------------|-----------|------------------|-------------------|------------------|----------|-----------------|------------------|---------------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|------|------------|---------------|-------|-----------|-------------|
| Passenger Vehicles | | | | | | | | | | | | | | Commercial Motor Vehicles | | | | | | | | | | | | | |
| Day of Week | Implied Consent | | | Drug Viol. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Slow Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Licensing | Yield | Following Too Close | Lead | Securement | Mist Over Law | Other | TOTAL PV | |
| | DWI | Provisional License | Other I.C. | Drugs | Fire | | Juveniles | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | | | | | | | | | | | | | | | | | Other Speed |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Day of Week | Implied Consent | | | Drug Viol. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Slow Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Licensing | Yield | Following Too Close | Lead | Securement | Mist Over Law | Other | TOTAL CMV | |
| | DWI | Provisional License | Other I.C. | Drugs | Fire | | Juveniles | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | | | | | | | | | | | | | | | | | Other Speed |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | |
|---|--|--|--|
| CVS SEAL ISSUED
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total | CVSA DECALS ISSUED
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total | ENF-608 OUT-OF-SERVICE
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total | AFFIDAVITS AND WARRANTS ISSUED
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total |
| VOIDED ENF-601
Serial #
Serial #
Serial #
Serial # | VOIDED ENF-621
Serial #
Serial #
Serial #
Serial # | VOIDED ENF-607
Serial #
Serial #
Serial #
Serial # | VOIDED AFFIDAVITS AND WARRANTS
Serial #
Serial #
Serial #
Serial # |

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

[illegible][illegible]Respondent - 01206

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| | | | | | | | | |
|-----------|------|---------|---------|---|--------|----------|-----|---|
| 8/19/2016 | 1966 | 1265297 | Maurice | A | DeVale | Goldboro | C/2 | - |
|-----------|------|---------|---------|---|--------|----------|-----|---|

DUTY HOURS WORKED[illegible]**ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)**

| Day | Rate | Hours | Amount | Notes |
|-------|--------|-------|--------|-------|
| Mon | 8.00 | | | |
| Tue | 8.00 | | | |
| Wed | 126.00 | 5.00 | 5.00 | 10. |
| Thu | 161.00 | 2.00 | 5.00 | 10. |
| Fri | 105.00 | 5.00 | 5.00 | 10. |
| Sat | 8.00 | | | |
| Sun | 8.00 | | | |
| TOTAL | 392.00 | 12.00 | 5.00 | 30. |

CASES MADE

[illegible]

| NEWSPAPER CTS | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| ***** DEPARTS ***** | |
|---------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| ***** DEPARTS ***** | |
|---------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| PAFFRANTS AND WARRANT CHARGES | |
|-------------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |
| SUBTOTAL WARRANT CHARGES | |
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

HP-2018
Page 1
Rev. 8/2013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

61

| | | | | | | | | |
|----------|------|---------|---------|---|---------|-----------|-----|---|
| 9/5/2016 | 1966 | 1265297 | Maurice | A | DeVelle | Goldsboro | C/2 | - |
|----------|------|---------|---------|---|---------|-----------|-----|---|

| DUTY HOURS WORKED | | | | | | | | | |
|-------------------|--|--|--------|----|--------|--------|----|----|-------|
| | | | 1P-12A | DO | 1P-12A | 1P-12A | DO | DO | DO |
| | | | 1P-12A | DO | 2P-12A | 1P-12A | DO | DO | DO |
| Total Time Worked | | | 10.00 | | 10.00 | 10.00 | | | 30.00 |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | 30.00 |

| ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOUR SEGMENTS) | | | | | | | | | | | | | | |
|--|--------|------|-------|------|--|--|--|--|--|-------|------|--|--|-------|
| Mon | 94.00 | | 6.00 | | | | | | | 4.00 | | | | 10.00 |
| Tue | | 6.00 | | | | | | | | | | | | |
| Wed | 143.00 | | 2.00 | 2.00 | | | | | | 4.00 | 2.00 | | | 10.00 |
| Thu | 122.00 | | 6.00 | | | | | | | 6.00 | | | | 10.00 |
| Fri | | 8.00 | | | | | | | | | | | | |
| Sat | | 8.00 | | | | | | | | | | | | |
| Sun | | 8.00 | | | | | | | | | | | | |
| TOTAL | 359.00 | | 13.00 | 2.00 | | | | | | 13.00 | 2.00 | | | 30.00 |

| CASES MADE | | | | | | | | | | | | | | |
|------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Mon | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | |

| CIVIL RIGHTS AND WARRANTS INDEX | | | | | | | | | | | | | | |
|---------------------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| First Serial # | | | | | | | | | | | | | | |
| Last Serial # | | | | | | | | | | | | | | |
| First Serial # | | | | | | | | | | | | | | |
| Last Serial # | | | | | | | | | | | | | | |
| First Serial # | | | | | | | | | | | | | | |
| Last Serial # | | | | | | | | | | | | | | |
| First Serial # | | | | | | | | | | | | | | |
| Last Serial # | | | | | | | | | | | | | | |
| First Serial # | | | | | | | | | | | | | | |
| Last Serial # | | | | | | | | | | | | | | |
| Grand Total | | | | | | | | | | | | | | |

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

DUTY HOURS WORKED

ACTIVITY/DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS

CASES MADE

STATEMENTS AND WARRANTS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

| VOICED AFFIDAVIT AND WARRANTS: | |
|--------------------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

HP-301B
Page 1
Rev. 8/2013

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| | | | | | | | | |
|-----------|------|---------|---------|---|---------|-----------|-----|---|
| 8/16/2016 | 1986 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |
|-----------|------|---------|---------|---|---------|-----------|-----|---|

DUTY HOURS WORKED

| | 1P-12A | 1P-12A | DO | DO | 5P-4A | 5P-4A | 3P-2A | |
|------------------|--------|--------|----|----|-------|-------|-------|-------|
| | 1P-12A | 2P-1A | DO | DO | 6P-2A | 6P-4A | 3P-2A | |
| 9500 Time Worked | 10.00 | 10.00 | | | 8.00 | 10.00 | 11.00 | 49.00 |
| 9000 | | | | | 1.00 | | | 1 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | 4.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Week | Mon | Tue | Wed | Thu | Fri | Sat | Sun | TOTAL |
|-------|-------|-------|------|------|------|-------|------|-------|
| 9000 | 9.00 | 7.00 | 8.00 | 8.00 | 8.00 | 11.00 | 9.00 | 47.00 |
| 9500 | | | | | | | | |
| 9600 | | | | | | | | |
| 9700 | | | | | | | | |
| 9800 | | | | | | | | |
| 9900 | | | | | | | | |
| TOTAL | 47.00 | 25.00 | | | | 24.00 | | 49.00 |

CASES MADE

| Week | Mon | Tue | Wed | Thu | Fri | Sat | Sun | TOTAL |
|-------|-----|-----|-----|-----|-----|-----|-----|-------|
| 9000 | | | | | | | | |
| 9100 | | | | | | | | |
| 9200 | | | | | | | | |
| 9300 | | | | | | | | |
| 9400 | | | | | | | | |
| 9500 | | | | | | | | |
| 9600 | | | | | | | | |
| 9700 | | | | | | | | |
| 9800 | | | | | | | | |
| 9900 | | | | | | | | |
| TOTAL | | | | | | | | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

DUTY HOURS WORKEDACTIVITY/DUTY HOURS IN HOURS AND QUARTER HOUR SEGMENTS:

CASES MADE

附註：本報社址：澳門新馬路新時代大廈五樓

1950年10月1日

FASTEN TO OUT OF SERVICE 951N

AFFIDAVITS AND WARRANTS ISSUED

LOVE AND AVOIDED ENERGY BUT NOT

2020年12月25日

2025 RELEASE UNDER E.O. 14176

EXPLORED AFFIDAVITS AND WARRANTS

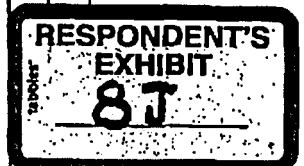
| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

[illegible]

7:33 arrived Redline
7:35 came to door - with kids dog - Marie later
7:50 departed residence
7:59 notes in ~~Plaster~~ lower back list

Arrived Redline - car parked beside house facing out
took photo of car
Rear doorbell
Wife + kids + dog to door - asked for Marie
7:55 Marie in shorts + t-shirt to door - slipped out
onto porch, closed door
Said he was sick of a stomach bug
said daughter was sick about 1 pm today
I asked if he was on duty - said no - tried to
check off on NBC around 5 but noticed he
was still on
Said he checked on around 3 but not during time
asked if he left the house - said no

- Standing on porch - told him I was sent there to
ask those questions - got what I needed - told
him I sincerely hoped he felt better.
- Reminiscing me of setting up on him
- Said I have a reputation of catching people
native Cameron + Van Burton, not him
- told him I was on orders and couldn't talk about
it - have done it I was ordered, fulfilled my orders -
intend to leave
- asked if he was on duty what would have happened -
stated I would have told him to wait for
Smashie + get back to work
- questioned my loyalty + my Leadership Style
- told him I've been to his house twice now
+ both times were not because I chose to
do so
- Said there was some secret against Sheriff going
on and asked why I couldn't tell him what
was going on
- asked him if he was given an order not to say
anything what would he do?
- Said that's why Troopers question loyalty - loyalty
only goes up but doesn't go down
- Said to have a chance to show my leadership style
+ I'm choosing to be a poor leader
- Told him I had orders fulfilled my orders, +
wasn't here to be falsely accused, told him
I hope he feels better. Then left, walked away
- he went back inside.





North Carolina Department of Public Safety
State Highway Patrol

Pat McCrory, Governor
Frank L. Perry, Secretary

Colonel William Grey
Commander

Troop C Headquarters

11 November 2016

MEMORANDUM

TO: LIEUTENANT COLONEL B. T. CLAYTON
FROM: LIEUTENANT J. C. MORTON JCM
RE: STATEMENT OF FINDINGS

On today's date, I was on duty and acting as Troop C Officer of the Day. Acting on your orders, I went to the primary residence of Sergeant M. A. DeValle, C223, located at 1152 Southern Meadows Drive, Raleigh, NC 27603. I arrived at the residence at 7:33 pm and found a marked Patrol vehicle parked beside the garage, facing the roadway. I rang the doorbell at the front door and two children and Sergeant DeValle's wife came to the door. I asked if Sergeant DeValle was there and she said yes, closed the door, and walked down the hallway. Sergeant DeValle came to the door at 7:35 pm, stepped onto the porch, and closed the door behind him. He was wearing shorts and a t-shirt.

When he closed the door, he stated that his daughter was sick today and he was sick with what he believed to be a stomach bug. I took a step back and did not offer to shake hands, stating that I did not want to catch what he had. I then told him that I would get right to the point and asked him if he was on duty. He said no and that he tried to check off around 5:00 pm on his MDC, but noticed that he was still showing on duty. I asked him what time he checked on and he said around 3:00 pm. He stated that he had no intention of claiming any of the time. I asked him if he had left the house and he replied no.

I told him that those were all of the questions that I had of him and hoped that he felt better soon. He asked me why I was there and what was going on, accusing me of setting up on him at his residence. I replied that I could not discuss the matter and that I had completed my orders.

I departed his residence at 7:50 pm and Sergeant DeValle went back inside.

JCM



MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4059

Respondent - 01217



November 16, 2016

Sgt. Maurice Devalle
1152 S. Meadows Drive
Raleigh, NC 27603

Dear Sgt. Devalle,

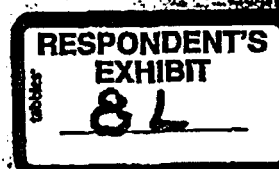
My name is Cullen Browder, Investigative Reporter for WRAL-TV. I'm reaching out to you regarding your recent work history with the North Carolina Highway Patrol. Following a tip, WRAL started keeping track of your whereabouts after you checked on to work at the NCHP duty station in Goldsboro. We have video and/or pictures showing your patrol vehicle in your driveway at 1152 South Meadows Drive in Raleigh on 9/30, 10/1, and 11/11, among others, after you notified dispatch you were in Wayne County. We also have video of your patrol vehicle at home at 3:55pm on 10/14, a day that Goldsboro was underwater after Hurricane Matthew. I confirmed you checked on an hour earlier that day.

In addition, it appears that your Raleigh address violates the Highway Patrol's residency policy which requires troopers live in the county they work or get permission to live within at least 20 miles of the county line.

WRAL-TV intends to air a story about this on Monday, November 21 at 6pm. We want to give you every opportunity to explain your side of the story. We'd like to speak with you on-camera to better understand your work schedule. Please contact me as soon as you're able at 919-618-5550 or cbrowder@wral.com.

Sincerely,

Cullen Browder
Investigative Reporter
WRAL-TV News



Respondent - 01218

N+C
DPS **North Carolina Department of Public Safety**
State Highway Patrol

Pat McCrory, Governor
Frank L. Perry, Secretary

Colonel William Grey
Commander

Support Services
Personnel Unit

14 November 2016

MEMORANDUM

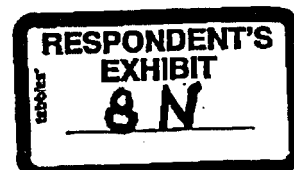
TO: CAPTAIN J. O. HOLMES
FROM: MAJOR K. D. KUBAS (E-MAIL)
RE: ADMINISTRATIVE DUTY -- SERGEANT M. A. DEVALLE
(PERS# 1265297)

Effective 14 November 2016, Sergeant Maurice A. Devalle, Troop C, District 2, Goldsboro was placed on Administrative Duty at Troop C, District 2, Goldsboro.

Sergeant Devalle should report to First Sergeant G. L. Burton, Jr. at Troop C, District 2 office for briefing and assignment.

KDK/drc

Cc: Commander's Office
Field Operations



MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4039

Respondent - 01219

| Date Fuel was Obtained | Time Fuel was Obtained | Mileage | Difference in mileage from last fuel entry | Entered into SAP by | Location | Time entered | | Material Doc. |
|------------------------|------------------------|-----------|--|---------------------|----------------------------|-----------------------|----------|---------------|
| | | | | | | Date entered into SAP | into SAP | |
| 20161113 | 21:30:00 | 63,561.00 | 273.00 | 7ARAYNOR | Goldsboro | 11/14/2016 14:57:06 | | 4914610405 |
| 20161103 | 13:15:00 | 63,288.00 | 327.00 | 7ARAYNOR | Goldsboro | 11/07/2016 09:55:22 | | 4914589376 |
| 20161028 | 19:45:00 | 62,961.00 | 333.00 | 7ARAYNOR | Goldsboro | 10/31/2016 10:41:01 | | 4914564243 |
| 20161020 | 08:30:00 | 62,628.00 | 158.00 | 7ARAYNOR | Goldsboro | 10/21/2016 08:43:30 | | 4914529889 |
| 20161019 | 12:45:00 | 62,470.00 | 296.00 | 7ARAYNOR | Goldsboro | 10/20/2016 11:06:42 | | 4914531230 |
| 20161011 | 16:00:00 | 62,174.00 | 111.00 | 7ARAYNOR | Goldsboro | 10/17/2016 10:49:22 | | 4914514639 |
| 20161010 | 18:30:00 | 62,063.00 | 188.00 | 7ARAYNOR | Goldsboro | 10/11/2016 10:34:47 | | 4914494843 |
| 20161006 | 16:20:00 | 61,875.00 | 292.00 | 7ARAYNOR | Goldsboro | 10/07/2016 09:25:54 | | 4914488793 |
| 20160922 | 11:30:00 | 61,583.00 | 296.00 | 7ARAYNOR | Goldsboro | 09/23/2016 09:03:23 | | 4914443248 |
| 20160917 | 20:05:00 | 61,287.00 | 148.00 | 7ARAYNOR | Goldsboro | 09/19/2016 09:09:36 | | 4914426381 |
| 20160916 | 13:08:23 | 61,139.00 | 134.00 | 7BPONZO | Troop C Garage/Maintenance | 09/16/2016 16:08:50 | | |
| 20160912 | 13:50:00 | 61,005.00 | 246.00 | 7ARAYNOR | Goldsboro | 09/13/2016 15:19:42 | | 4914409647 |
| 20160907 | 15:30:00 | 60,759.00 | 323.00 | 7ARAYNOR | Goldsboro | 09/13/2016 14:38:37 | | 4914409587 |
| 20160902 | 17:41:00 | 60,436.00 | 274.00 | DOT-FUEL | Smithfield | 09/07/2016 21:18:27 | | 4914391532 |



HP-721
Page 1 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

| TYPE OF REPORT | SUBJECT | REPORT SUBMITTED TO | |
|---|--|---------------------|----------------------------------|
| <input checked="" type="checkbox"/> Personnel Complaint | Complaint of:

Lieutenant J. C. Morton
North Carolina State Highway Patrol
Troop C Headquarters
Raleigh, North Carolina

Against:

Sergeant M. A. DeValle
Registry #1966
North Carolina State Highway Patrol
Troop C, District II
Goldsboro, North Carolina

IA2016-052 | Name | Lieutenant Colonel
C. V. Ward |
| <input type="checkbox"/> Incident / Other | | Date | |
| INVESTIGATIVE STATUS | | INVESTIGATED BY | |
| <input type="checkbox"/> Initial | | Name | First Sergeant R. W. Sawyer |
| <input checked="" type="checkbox"/> Supplementary | | Name | First Sergeant C. K. Parks |

INTRODUCTION

On 14 November 2016, a Personnel Complaint was filed against Sergeant Maurice A. DeValle, North Carolina State Highway Patrol, Goldsboro, North Carolina, by Lieutenant J. C. Morton.

On 11 November 2016, the Senior Command Staff of the Highway Patrol was notified by a WRAL news reporter, through the Patrol's Public Information Officer, that they had received a "tip" that Sergeant DeValle had on multiple occasion checked on duty, and would not leave his residence to report for duty for several hours, if at all. The reporter advised they were in possession of photographs and video recordings of Sergeant DeValle being at his residence while being on duty. In addition, it was reported Sergeant DeValle had on occasions conducted secondary employment while on duty. The reporter also advised that Sergeant DeValle was, at the then present time, at his residence while being checked on for duty. As a result of this allegation, Lieutenant Morton was given orders by Lieutenant Colonel B. T. Clayton to travel to Sergeant DeValle's residence and confirm if he was in fact at his residence while being checked on for duty.

It is alleged that on Friday, 11 November 2016, Sergeant Devalle checked on for duty and never reported to his duty station; but rather remained at his residence during his shift.

As a result of information discovered during the investigation, it is also alleged that Sergeant DeValle was insubordinate to Lieutenant J. C. Morton when Lieutenant Morton questioned Sergeant Devalle about his being at his residence while on duty.

Captain W. T. Evans, Unit Commander of Internal Affairs, classified the complaint as a Personal Conduct Violation of Directive No. H.01, Section IV (Violation of Rules), to wit: Directive E.09, Section IV (Procedures for Establishing Residence).

Lieutenant P. T. Clark and First Sergeant R. W. Sawyer began an investigation into this matter on 14 November 2016.

RESPONDENT'S
EXHIBIT

9

Respondent 01221

HP-721
Page 2 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

☐ Not applicable

**ALLEGATION(S): TRUTHFULNESS AND
VIOLATION OF RULES (RESIDENCY POLICY)**

Captain J. C. Morton was re-interviewed by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks on 23 March 2017, at Patrol Headquarters, Raleigh, North Carolina. Captain Morton serves as the Chief of Staff for the Commander's Office, Patrol Headquarters, Raleigh, North Carolina.

Captain Morton confirmed that he arrived at Sergeant DeValle's residence at 7:33 P.M. Once Sergeant DeValle came to the door and onto the porch to speak with him at 7:35 P.M., Sergeant DeValle never left Captain Morton's sight or returned inside the residence until the conversation was over and Captain Morton was leaving. Captain Morton confirmed that he spoke with Sergeant DeValle on the porch for approximately 15 minutes and left Sergeant DeValle's residence at 7:50 P.M. Due to CAD indicating that Sergeant DeValle checked 10-42 at 7:35 P.M., Captain Morton concluded that Sergeant DeValle checked 10-42 on his MDC prior to coming to the door and speaking with him on the porch.

Captain J. O. Holmes was re-interviewed by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks on 23 March 2017, at Patrol Headquarters, Raleigh, North Carolina. Captain Holmes served as the Troop C Commander at the time these allegations were brought against Sergeant DeValle. He is currently assigned to the Accreditation Section.

Captain Holmes again gave a brief synopsis of the meeting he had Sergeant DeValle sometime back in early 2016. He again stated he had heard "grumblings" and "scuttlebutt" regarding Sergeant DeValle "not being where he was supposed to be." Captain Holmes characterized his conversation and comments to Sergeant DeValle as both a "shot over the bow" and an order. He stated it was a "shot over the bow" in his telling Sergeant DeValle that he expected him to be in compliance with the Patrol's domicile policy, and if he hadn't been reporting to his duty station as he should, then he was to ensure going forward that he "was where he was supposed to be, when he was supposed to be." Captain Holmes characterized his comments as an order in that he, as the Troop Commander, was instructing a sergeant to ensure that he was compliant with Patrol policy on the issue, and be in the district working when he was scheduled.

Lieutenant S. G. Finney was interviewed by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks on 23 March 2017 at Patrol Headquarters, Raleigh, North Carolina. Lieutenant Finney is assigned to Troop C Headquarters.

Lieutenant Finney recalled a meeting Captain Holmes had with Sergeant DeValle, during which both he and First Sergeant Burton were present. Lieutenant Finney characterized the meeting as a formal meeting, during which the door was shut. During a one-way conversation, Captain Holmes directly addressed Sergeant DeValle, and clearly instructed that he was to "be where he was supposed to be, when he was supposed to be there." Lieutenant Finney stated although the Captain did not expressly use the word "order," the Captain's expectations of Sergeant DeValle were direct and clear to everyone present in the room, and for all intense and purpose was an order for Sergeant DeValle to report for duty to his duty station in compliance with Patrol policy.

HP-721
Page 3 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

First Sergeant G. L. Burton, Jr. was interviewed on 24 March 2017, by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks at Patrol Headquarters, Raleigh, North Carolina. First Sergeant Burton is assigned to Troop C, District II and is Sergeant DeValle's immediate supervisor.

First Sergeant Burton was present during a meeting Captain Holmes and Lieutenant Finney had with Sergeant DeValle at Troop C Headquarters in the early part 2016. First Sergeant Burton recalled the meeting being very clear as to what Captain Holmes was trying to convey to Sergeant DeValle. First Sergeant Burton advised Captain Holmes told them in the meeting he had received a complaint and did not advise where or from whom. Captain Holmes told Sergeant DeValle he needed to make sure he was where he was supposed to be, when he was supposed to be there and doing what he was supposed to be doing. First Sergeant Burton advised he took this as a formal meeting with one-way conversation. First Sergeant Burton advised he did not feel Captain Holmes was trying to convey to Sergeant DeValle he needed to come into compliance with the domicile policy; he advised Captain Holmes was simply sending a warning across the bow and that Sergeant DeValle just needed to be in Wayne County when he was assigned to work and until it was time to get off.

First Sergeant Burton recalled after leaving the meeting and traveling back to Wayne County with Sergeant DeValle, he and Sergeant DeValle discussing the meeting they had just had. First Sergeant Burton advised he did reiterate Captain Holmes expectations to Sergeant DeValle; on being where he was supposed to be and when he was supposed to be there. First Sergeant Burton advised he felt the Captain's expectations were very clear and he felt the issue had been addressed by the Captain and he expected Sergeant DeValle to immediately adhere to the Captain's expectations.

First Sergeant Burton advised he could not recall Sergeant DeValle ever going home for meal or working from home, nor had he ever authorized Sergeant DeValle to do so.

Sergeant M. A. DeValle was interviewed by First Sergeant R. W. Sawyer and First Sergeant C. K. Parks on 24 March 2017, at Patrol Headquarters, Raleigh, North Carolina. Sergeant DeValle admitted to the allegation of Violation of Rules.

Sergeant DeValle recalled the meeting he had with Captain Holmes, during which Lieutenant Finney and First Sergeant Burton were also present. Sergeant DeValle explained that the gist of the meeting was that he was instructed by Captain Holmes to make sure he was where he was supposed to be, when he was supposed to be there, and doing what he was supposed to be doing. Sergeant DeValle recalled the door to the Captain's office being closed during their meeting, but would not characterize the meeting as a formal meeting. He characterized the meeting as a "friendly" meeting, but acknowledged that every supervisor in his chain of command was present at the meeting. Sergeant DeValle recalled that he was able to speak and ask questions during the meeting, and asked Captain Holmes, "What is this about?" or "Where is this coming from?" Sergeant DeValle also characterized the meeting as being "very confusing." Sergeant DeValle initially acknowledged he understood the instruction from Captain Holmes to him as being an order, in that he was to be where he was supposed to be, when he was supposed to be there. Sergeant DeValle then stated he does not know how it is he understood at that time, or even understands now, what Captain Holmes meant by "being where he is supposed to be, when he is supposed to be there." Sergeant DeValle stated that Captain Holmes would not clarify to him what he meant when he told him "to be where he was supposed to

HP-721
Page 4 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

be, when he was supposed to be." Sergeant DeValle admitted he was in violation of the residency policy in that he stayed home and worked from the house, and did not comply with the Captain's directive. Sergeant DeValle state he could not recall First Sergeant Burton ever having any conversation with him reiterating Captain Holms' expectations of his being in his duty station when he was supposed to be.

In being compliant with the Patrol's residency policy, Sergeant DeValle stated that Captain Holmes knew that he lived outside of his duty station, and more than 20 miles from the Wayne County line. Sergeant Devalle admitted he was in violation of the Patrol's residency policy in that he lived more than 20 miles outside of his duty station, and in that he did not check in travel mode (10-86, 10-87) while commuting to and from the district. Sergeant DeValle acknowledged that his travel time between his residence and the district is not compensable. Sergeant DeValle stated that it was necessary for a Trooper to be at his duty station at his 10-41 time; however, he did not believe it to be the same for supervisors due to the vast difference in job responsibilities. Sergeant DeValle explained there have been occasions when he checked on and even before he checked on for duty, that he received complaints, and had to "discharge" his duties as a sergeant prior to his reporting to his duty station. He explained that he has the technological capability of performing his duties as a sergeant from his residence and at times has done so.

Sergeant DeValle assured investigators that when he was home and working from his residence, he was working and involved in the business of the Highway Patrol, not "taking a hot bath" or just "hanging out." Sergeant DeValle acknowledged that policy requires members to be in their duty station and that there is no policy that allows members to work or perform job task from outside of their duty station. Sergeant DeValle explained that it was "very rare" that he would remain at his residence and work from home, and would often be due to "unusual circumstances." Sergeant DeValle stated that as a general rule, he reported to his duty station after checking on for duty, and remained in his duty station until the end of his shift. He did acknowledge that he has on occasion taken his meal hour at the beginning of his shift, and on other occasions at the end of his shift. Sergeant DeValle could not recall an occasion in which he returned to his residence during the middle of his shift in order to take his meal hour. Sergeant DeValle stated that if he was checked on for duty (10-41), then he was working. Sergeant DeValle explained that he would often check 10-41 utilizing his MDC from inside his residence and admitted he never checked into authorized travel mode (10-86 or 10-87). He stated he would work from his residence on occasion and would respond to emails, return telephone calls and do work on his computer while still at his residence.

Sergeant DeValle was specifically asked whether or not he reported to his duty station on the dates of 30 September 2016, 1 October 2016, 2 October 2016, 6 October 2016 and 14 October 2016, which were the dates supplied to the Highway Patrol by WRAL alleging that Sergeant DeValle was at his residence after being checked on for duty (10-41). Sergeant Devalle acknowledged that there were dates in which he checked 10-41 at his residence, and then remained at his residence for some period of time. Sergeant Devalle stated he did not know and was not able to recall or say with certainty if he remained at his residence after checking on for duty, or was at his house anytime while being checked on for duty on each of the specific dates listed. Sergeant DeValle acknowledged that he indicated hours worked on his HP-201s and entered work time in BEACON for the dates it is alleged he was at his residence, and admitted he would have claimed hours worked for the hours he was at his residence.

HP-721
Page 5 of 8
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

Sergeant DeValle stated he did not know if there were any dates in the six (6) months leading up to him being served with this complaint, that he checked on for duty and did not report to his duty station, but rather remained at his residence for some period time. However, Sergeant DeValle admitted he did not go to work and report in his duty station every day after checking on for duty. Sergeant DeValle recalled one day he checked on for duty and remained at his residence during his entire shift and worked from home due to being unable to secure child care for his child, and his wife was out of town. Sergeant DeValle never asked and never received any authorization from a supervisor to stay at his residence.

On 11 November 2017, Sergeant DeValle stated that he was home sick when Lieutenant Morton came to his residence. Lieutenant Morton asked Sergeant DeValle if he was still working, to which he replied that he was not. Lieutenant Morton advised him the CAD was indicating that he was still checked 10-41. The conversation between Sergeant DeValle and Lieutenant Morton on the front porch lasted approximately thirty seconds. Sergeant DeValle stated that after the conversation concluded, Lieutenant Morton left the front porch and Sergeant DeValle immediately went into his residence and checked 10-42 on his MDC. Sergeant DeValle stated that he did not check 10-42 prior to going to the door, and onto the front porch with Lieutenant Morton.

Sergeant DeValle stated he contacted Paul Nelson at the Technical Services Unit (TSU) and asked for assistance in retrieving emails from the dates alleged in the complaint. Sergeant DeValle stated that his purpose in doing so was to view his emails in hopes they would assist him in recalling his activities on the specific dates alleged in the complaint in order to better explain to investigators what he did on those dates. Sergeant DeValle was provided a copy of an email sent by him on 14 October 2016 to his fantasy football league. Sergeant DeValle did not deny he sent that email, but did not know if he was home at the time it was sent.

Sergeant DeValle admitted he made a mistake and that he is wrong. Sergeant DeValle apologized that he cannot answer all questions as directly as they are being asked of him.. Sergeant DeValle stated that this is his mistake, and that he is humiliated by this situation, and the embarrassment this has brought on the Patrol.

☒ Not applicable **SUPPLEMENTARY INFORMATION**

Internal Affairs Investigators spoke with Captain A. A. Back, formerly of the Personnel Unit, and First Sergeant G. M. Powell of Field Operations. Both Captain Back and First Sergeant Powell were responsible with various aspects of tracking the assignments and work time of members who worked the weeks following Hurricane Matthew, and account for those who were subject to receive overtime pay or whose time worked was subject to federal reimbursement. Only members assigned and deployed to affected areas outside of their duty station who completed and submitted an HP-202 (Special Operations Project) were eligible to receive overtime compensation. Both Captain Back and First Sergeant Powell confirmed that Sergeant DeValle did not submit an HP-202 and did not receive overtime compensation for any hours worked during the Hurricane Mathew event.

☒ Not applicable **SUPPORTING DOCUMENTS**

Emails sent from Sergeant DeValle's MDC

HP-721
Page 6 of 6
Rev. 6/07

North Carolina
State Highway Patrol

REPORT OF INVESTIGATION

☐ Not applicable

INTERVIEW LIST

Captain J. C. Morton
Captain J. O. Holmes
Lieutenant S. G. Finney
First Sergeant G. L. Burton
Sergeant M. A. DeValle

Save Searches Tasks

| | | | | | | | |
|------|---|-------------|---|------------|-----|--------|-------|
| From | ▼ | contains | ▼ | devalle | AND | Search | Basic |
| Date | ▼ | is equal to | ▼ | 2016-10-14 | | | |

File Tools View ▶ Displaying 1 - 1 of 1

Size From To/Cc Subject
2... Maurice DeValle <maurice... southernmeadowsfantasyf... Maurice DeValle up...

Subject: Maurice DeValle updated their On The Block
Southern Meadows Fantasy Football League
Date: 2016-10-14 16:32:35
Download
From: Maurice DeValle
To/Cc: southernmeadowsfantasyfootball139@
football.cbsports.com
Bcc: Maurice.DeValle@ncdps.gov

View Source



Midland Posse have updated their "On the Bl
below. If you want to offer this team a trade.

Comment:
Don't come back with some crappy kicker!

Offered:
Drew Brees QB | NO

Saved Searches Tasks

| | | | |
|------|----------------------------|-----|--------|
| From | ▼ contains ▼ devalle | AND | Search |
| Date | ▼ is equal to ▼ 2016-09-26 | | |

File Tools View Disj

Size From To/Cc Subject
9... "Devalle, Maurice A." <Ma... Troop C HQ <TroopCHQ@... MFF SOP

Subject: MFF SOP
Date: 2016-09-26 14:36:39
Download
From: Devalle, Maurice A.
To/Cc: Troop C HQ +

All MFF 2016 SOP entries have been
for Trooper A. R. Fowler (C232) and
Sanders (C240).

Maurice DeValle / Sergeant

N.C. Department of Public Safety

North Carolina State Highway Patrol

Troop C. District 2

Former Sgt. M. A. Devalle

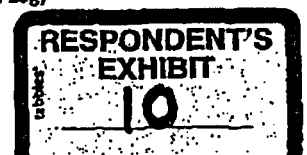
Mileage/Fuel Table

| Days worked or off | HP-201 Hours worked | HP-201 Claimed Mileage | SAP Fuel Log D Mileage |
|----------------------|----------------------|------------------------|----------------------------|
| 09-22-16 | 6a-5p | 80 miles | 61,583 |
| 09-23-16 | 7a-5p | 105 miles | None |
| 09-24-16 | Day Off | N/A | N/A |
| 09-25-16 | Day Off | N/A | N/A |
| 09-26-16 | 1p-11p | 116 miles | None |
| 09-27-16 | Approved Leave | N/A | N/A |
| 09-28-16 | Day Off | N/A | N/A |
| 09-29-16 | Day Off | N/A | N/A |
| 09-30-16 | 4p-3a | 87 miles | None |
| 10-01-16 | 3p-3a | 99 miles | None |
| 10-02-16 | 1p-11p | 71 miles | None |
| 10-03-16 | Day Off | N/A | N/A |
| 10-04-16 | Day Off | N/A | N/A |
| 10-05-16 | 1p-11p | 95 miles | None |
| 10-06-16 | 1p-11p | 114 miles | 61,875 |
| Total Dates: 15 Days | Total Days Worked: 8 | Total Miles: 767 | Total Mileage Between: 292 |

According to MapQuest(<https://www.mapquest.com/directions/list/1/us/north-carolina/raleigh/27603-9530/1152-southern-meadows-dr-35.601544,-78.648374/to/us/nc/goldsboro/27530-1916/701-w-grantham-st-35.398165,-78.001753>) former Sgt. Devalle's residence in Wake County to the Troop C, District 2, District Office is 43.9 miles one way and 87.8 miles roundtrip. In that case and with him travelling to district office each day, he should have at a minimum logged 702 miles. (see attached MapQuest directions)

Former Sgt. Devalle's Wake County residence is approximately 35 miles from the Wayne County line. If he drove just to the Wayne County line each shift he should have at a minimum logged 560 miles.

Instead, in the eight (8) shifts he worked he only drove a total of 292 miles. (see attached SAP Fuel Log)



Respondent - 01229

YOUR TRIP TO:

701 W Grantham St

64 MIN | 43.8 MI

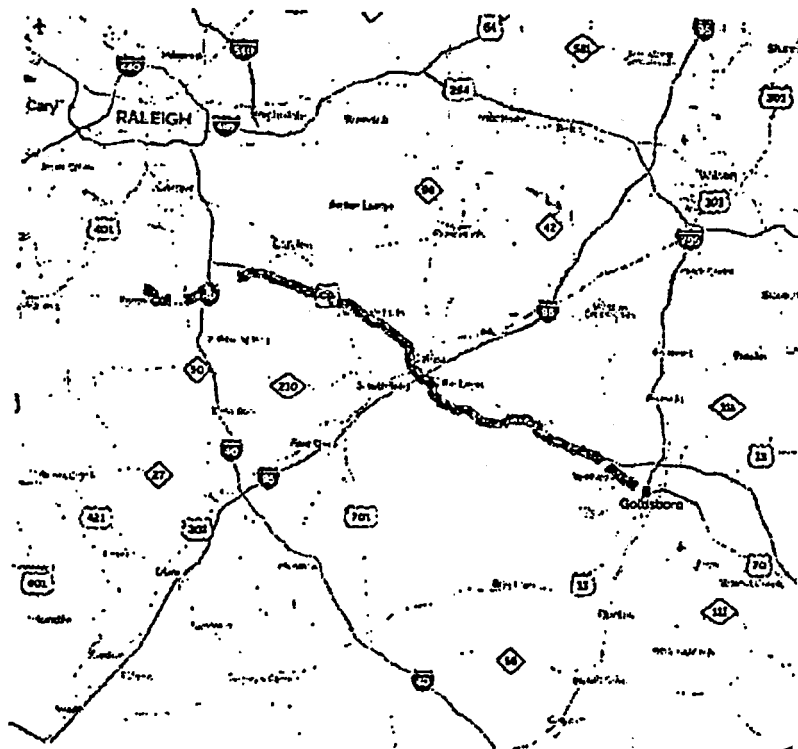
Est. fuel cost: \$2.60

Trip time based on traffic conditions as of 1:00 PM on July 4, 2017. Current Traffic: Light

mapquest

1. Start out going east on Southern Meadows Dr toward Southern Times Dr.
Then 0.31 miles
0.31 total miles
2. Turn right onto Mal Weathers Rd.
Then 0.53 miles
0.84 total miles
3. Turn right onto Saus Rd.
Then 0.52 miles
1.36 total miles
4. Turn left onto NC Highway 42 WNC-42.
Then 7.39 miles
8.75 total miles
5. Merge onto US-70 E toward Smithfield/Selma
Then 13.67 miles
22.42 total miles
6. Take US-70 Byp E toward Goldsboro.
Then 2.90 miles
25.32 total miles
7. US-70 Byp E becomes US-70 E.
Then 18.51 miles
43.83 total miles
8. Turn left onto Elizabeth St.
Then 0.03 miles
43.86 total miles
9. Take the 1st right onto W Grantham St.
If you reach Marygold St you've gone a little too far.
Then 0.21 miles
43.88 total miles
10. 701 W Grantham St, Goldsboro, NC 27530-1916. You have arrived at your destination.
Your destination is just past Paul St.
If you reach A St you've gone about 0.2 miles too far.

Use of directions and maps is subject to our [Terms of Use](#). We don't guarantee accuracy, route conditions or availability. You assume all risk of use.



701W
Granham St



| | | | |
|---|---|---|--|
|  | Book a hotel tonight and
save with some great deals!
(1-877-577-5766) |  | Car trouble mid-trip?
MapQuest Roadside
Assistance is here:
(1-888-462-3825) |
|---|---|---|--|

Exhibit 3 to MIL Response in DeValle v DPS, 18 OSP 07196

000001



North Carolina Department of Public Safety
State Highway Patrol

Roy Cooper, Governor
Erik A. Hooks, Secretary


Glenn M. McNeill, Jr.
Commander

Internal Affairs

20 April 2017

MEMORANDUM

TO: LIEUTENANT COLONEL C. V. WARD

FROM: CAPTAIN J. H. WINGO II 

RE: SUMMARY OF PRE-DISCIPLINARY CONFERENCE - SERGEANT MAURICE A. DEVALLE, REGISTRY #1966 (IA CASE #16-052)

On 20 April 2017, Pre-Disciplinary Conference was conducted by Major B.K. Regan with Sergeant M.A. Devalle at Patrol Headquarters, Raleigh, North Carolina. Below is a summary of that conference.

- Conference began at 9:44 am
- Major Regan reviewed with Sergeant Devalle the documents related to the investigation. Sergeant Devalle acknowledged he reviewed and received all documents given to him on Monday 17 April 2017 and Tuesday April 18 2017. This conference was stopped at 9:49 am due to Sgt. Devalle advising he did not have an opportunity and enough time to go over all the documents and audios provided. Sergeant Devalle was provided more time to go over some of those documents to prepare.
- Conference began back at 10:03 am and was stopped again at 10:07 am to confirm Sgt. Devalle had all documents that were on file.
- Sgt. Devalle was advised at 10:35 am he would be provided with more time and that the conference would resume around 11:00 am.
- Conference resumed at 11:05 am, Major Regan reviewed policy directive H.04, Dismissals and the requirement of giving twelve (12) hours advanced notice.
- Major Regan read to Sergeant Devalle the Personnel Charge Sheet (HP-343).
- Sergeant Devalle advised he wanted to start with the violation of Insubordination. Sergeant Devalle advised he was not insubordinate to Lieutenant Morton. Sergeant Devalle advised through their conversation Lieutenant Morton never asked him or gave him an order, he simply asked was I working, and I immediately told him "no, no sir, I am not on duty." Sergeant Devalle advised he never failed or refused an order from Lieutenant Morton. Sergeant Devalle advised Lieutenant Morton's transcripts stated, Lieutenant Morton didn't think he was insubordinate to him. Sergeant Devalle read the North Carolina State Personnel Law definition of insubordination. Sergeant Devalle

MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4059

Exhibit 3

Respondent - 01232

**RESPONDENT
EXHIBIT**

MEMORANDUM
20 APRIL 2017
PAGE 2

- advised Lieutenant Morton never gave an order and he never refused an order. Sergeant Devalle admitted neither he nor Lieutenant Morton, ever raised their voices, but it wasn't a kind conversation. Sergeant Devalle claimed the CAD showing him to be 10-41 at the time Lieutenant Morton was at his residence, also showed First Sergeant Burton was 10-41 and stated it was a common problem of human error and the CAD was not always an accurate reflection of the time a member worked.
- Sergeant Devalle advised on "Truthfulness" he was as forth coming and honest at the time about everything he could remember about the information he was being interviewed on. Sergeant Devalle advised the truthfulness charge "hurts." Sergeant Devalle advised when he was interviewed, if he couldn't be 100% sure where he was at, he advised he couldn't recall because he wanted to be honest and truthful about everything.
- Sergeant Devalle advised reference the day in question of 9-26-2016 the charge sheet claimed, he claimed ten hours of time for only eight hours worked. Sergeant Devalle indicated the CAD and HP-201 did not match. He advised his time on the HP-201 indicated 1p - 11p not 6am like being accused of. Sergeant Devalle advised, "there was an error with this sir, it's a mistake somewhere." Sergeant Devalle advised his HP-201 was accurate with what he claimed on his Beacon time.
- Sergeant Devalle advised one of the initial accusation's given by WRAL was of him being at his residence on 9-28-2016. Sergeant Devalle advised it was inaccurate; due to it being a day off as indicated on his HP-201. Sergeant Devalle advised we took what he put on his HP-201 on some days at face value, but not on the 26th of September. Sergeant Devalle advised on days if he couldn't remember something, it was turned around to make it sound like he was not denying it; and that he was admitting to it.
- Sergeant Devalle advised reference the alleged date of 9-30-2016; he couldn't tell exactly where he was on that day. Sergeant Devalle advised his HP-201 did not reflect the same as to what he had been charged. Sergeant Devalle advised "these are mistakes that the Internal Affairs made not to see this." Sergeant Devalle advised he was not reporting inaccurate times, he was reporting what he felt was honest and nothing intentional.
- Sergeant Devalle advised on the date of 10-01-2016 his HP-201 showed 3p - 3a but he only claimed 10 hours worked. Sergeant Devalle advised he was doing his job and at the beginning of his shift he had a complaint he was investigating when he came out at 5:00pm that took two hours to handle. Sergeant Devalle could not remember what the complaint referenced or the Trooper's name the complaint was filed against.
- Sergeant Devalle advised on 10-02-2016; it was not possible for him to drive (99 miles) all the way to Goldsboro to the office and do his paperwork and discuss district operations with the guys and then all the way back home in two hours. He advised the timelines did not add up. Sergeant Devalle adamantly denied the accusation.
- On 10-06-2016 Sergeant Devalle was at his residence preparing bi-annual reports. Sergeant Devalle advised WRAL failed to note how long he was at his residence. Sergeant Devalle advised he drove 114 miles on that day and noted it was because he was

MEMORANDUM
20 APRIL 2017
PAGE 3

- working. Sergeant Devalle did not dispute the fact his vehicle was at his residence that day and advised he must have stopped by to pick something up.
- Sergeant Devalle stated on 10-14-2016 he claimed on his HP-201 he had started work at 3:00pm and the CAD and HP-201 did not match. Sergeant Devalle claimed he was working on bi-annual inspections for C235 and C239 and also maintaining wrecker files. Sergeant Devalle claimed even though he was at home, he was working. Sergeant Devalle then explained his job description for a Sergeant.
- Sergeant Devalle advised on 11-11-2016 he and F/Sgt. Burton had always had a very clear understanding that if he was not able to respond or handle a call or situation he would handle it for him. Sergeant Devalle advised he and his daughter were both sick on this day and knew he could call F/Sgt. Burton if needed.
- Sergeant Devalle reiterated the work he completed during the days in question such as handling emails, bi-annual reports, district operations, and community relations. He also provided six emails he received and indicated he was working on during the days in question.
- Sergeant Devalle stated policy required him to be in Wayne County but when he was at his residence he was working and executing his duties. Sergeant Devalle advised, he did not agree with Neglect of Duty due to preventive patrol not being an option due to the hazardous conditions of the hurricane. Sergeant Devalle advised the southern part of the county was without gas and limited driving was necessary. Sergeant Devalle stated he never received any hurricane money. Sergeant Devalle advised he on several occasions went above the call of duty and he believes he is a salvageable employee.
- Sergeant Devalle advised Captain Holmes by his own admission, gave him a shot across the bow not a direct order regarding his residency. Sergeant Devalle advised Captain Holmes during their last line inspection stated he did not care where he lived, to just make sure the paperwork is filed indicating he is abiding by policy.
- Sergeant Devalle stated he had a conversation with Lieutenant Colonel West on 10-08-2016 and he was aware of where he resided.
- Sergeant Devalle made a request for any documents of any member who has been charged with sitting at home while on duty and then listed several current and former members.
- Sergeant Devalle advised he deeply apologized for how sorry and ashamed of what has occurred and hopes the Highway Patrol can give him an opportunity where he can be a leader, an outstanding Trooper and a positive representation of this organization and wishes for a reconsideration of dismissal and for another punishment deemed appropriate.
- Conference was concluded at 12:37 pm.

JHW:bts



North Carolina Department of Public Safety

Prevent. Protect. Prepare.

Roy Cooper, Governor

Erik A. Hooks, Secretary

August 7, 2017

Maurice A. DeValle
1152 Southern Meadows Drive
Raleigh, NC 27603

Re: Final Agency Decision

Dear Mr. DeValle:

On July 5, 2017, the North Carolina Department of Public Safety Employee Advisory Committee convened to hear the appeal regarding your dismissal from the State Highway Patrol. Management's decision was to dismiss you effective April 24, 2017, based on Unacceptable Personal Conduct.

You were dismissed from the Highway Patrol based on the following allegations of misconduct:

1. That you were insubordinate toward Lt. J.C. Morton on November 11, 2016; in violation of SHP Directive H.01, Section XVIII;
2. That you violated the Highway Patrol's residency policy; in violation of SHP Directive H.01, Section IV and SHP Directive E.09, Section IV;
3. That you were inattentive to and neglected your duties by remaining at your residence on several occasions between September 30, 2016 and November 11, 2016 in violation of SHP Directive H.01, Section XXVI; and
4. That you were untruthful in that you reported false, misleading and inaccurate information into the BEACON payroll system resulting in your being compensated for hours you did not work, in violation of SHP Directive H.01, Section VII.

I have reviewed all of the information available, including the current incident of Unacceptable Personal Conduct, the information you provided during the Pre-Disciplinary Conference, and information provided during the Employee Advisory Committee Hearing. Having done so, it is my decision to uphold your dismissal from the Highway Patrol.

The Employee Advisory Committee determined that the allegation of insubordination was not supported by the facts and I concur with that finding. Accordingly, my decision is not based on any finding of insubordination, nor is it based on a violation of the then existing Highway patrol residency policy. For the reasons as more fully described below, it is my decision to uphold your dismissal from the Highway Patrol based on your violations of the Highway Patrol's Truthfulness and Neglect of Duty policies.

MAILING ADDRESS:
4201 Mail Service Center
Raleigh, NC 27699-4201
Telephone: (919) 733-2126



www.ncdps.gov
An Equal Opportunity employer

OFFICE LOCATION:
512 N. Salisbury Street
Raleigh, NC 27604-1159
Fax: (919) 715-8477

RESPONDENT'S
EXHIBIT

12

Respondent - 01235

2 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

On November 11, 2016, the Highway Patrol received a tip from a WRAL news reporter that, on several occasions, you notified the Communications Center that you were 10-41 (beginning tour of duty) in Wayne County when in fact you were actually located at your Wake County residence. According to the reporter, WRAL had photographs and video of you being at your residence when you were supposed to be on duty. The reporter alleged further that you were at your residence at that time even though you checked 10-41 and were supposed to be in Wayne County. In response to that complaint, Lieutenant Morton drove to your Wake County residence at approximately 7:30 pm and, although you had checked 10-41 (beginning tour of duty) at approximately 3:00 pm, you were at your Wake County residence when Lt. Morton arrived. Your being caught at your Wake County residence after having checked 10-41 on this occasion was consistent with the allegation made by the WRAL reporter earlier that date. I find your excuse that you were home on that occasion because you were sick to be without any credibility whatsoever. If you were truly sick, as you contend, you should not have checked 10-41, especially since, as a matter of policy, you were not authorized to check 10-41 until you crossed the Wayne/Johnston county line. Furthermore, you did not inform your supervisor that you were sick or otherwise unable to report for duty and although you were assigned as the district duty officer on that date, you did not make any arrangements with another district supervisor to cover the Duty Officer Responsibilities for the district. Finally, you did not check 10-42 (ending tour of duty) until after Lt. Morton arrived at your residence and discovered you were not at your assigned duty station.

On November 14, 2016, the Highway Patrol initiated an investigation into the allegations made by the WRAL reporter. That investigation revealed that you reported false, misleading and inaccurate information and improperly obtained credit and subsequent payment for time worked on the following occasions when you were not actually working:

- On September 26, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 6:16 a.m. and checked 10-42 (ending tour of duty) at 1:56 p.m.

Assuming you actually arrived in Wayne County as 6:16 am and left Wayne County at 1:56 pm as claimed, you would have been entitled to not more than 8 hours of compensable work time. Yet, you falsely entered 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours "time worked" for pay purposes in the Beacon payroll system for which you were not entitled.

- On September 30, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 4:04 p.m. and checked 10-42 (ending tour of duty) at 2:02 a.m. on October 1, 2016.

Although you checked 10-41 and 10-42 and claimed 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours for "time worked" for pay purposes in the

3 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

Beacon payroll system for this date, you did not deny, during your internal affairs interview, that you never left your residence located in Wake County for the duration of your entire assigned 10 hour shift on this occasion.

- On October 1, 2016, although you never checked 10-41, and although your vehicle was observed at your Wake County residence from 4:00 p.m. to 7:00 pm on that date, you nonetheless claimed that you worked a 3:00 p.m. to 3:00 a.m. shift on your Weekly Report of Daily Activity, and you claimed 10 hours for "time worked" for pay purposes in the Beacon payroll system.

Accordingly, you falsely claimed hours of "time worked" for pay purposes in the Beacon payroll system for which you were not entitled on October 1, 2016..

- On October 2, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 12:50 p.m. and checked 10-42 (ending tour of duty) at 11:05 p.m.; when, in fact, you returned to your residence in Wake County after working for only a few hours.

Although you returned to your residence in Wake County after working for only a few hours, you falsely entered 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours "time worked" for pay purposes in the Beacon payroll system thereby claiming credit for time you did not in fact work.

- On October 6, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 1:02 p.m. and checked 10-42 (ending tour of duty) at 11:19 p.m. when, in fact, your patrol vehicle was observed parked in the driveway of your Wake County residence at approximately 6:45 p.m.

Although you either never left you residence or returned to your residence for some undetermined period of time, you falsely claimed 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours "time worked" for pay purposes in the Beacon payroll system thereby claiming credit for time you did not in fact work.

- On October 14, 2016, you checked 10-41 (beginning tour of duty) in Wayne County at 2:14 p.m. and checked 10-42 (ending tour of duty) at 12:57 a.m. when, in fact, your patrol vehicle was observed parked in the driveway of your Wake County residence at approximately 3:55 p.m.

Although you were still at your residence at 3:55 p.m., you falsely claimed 10 hours of "time worked" on your Weekly Report of Daily Activity and 10 hours "time worked" for pay purposes in the Beacon payroll system thereby claiming credit for time you did not in fact work.

4 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

SHP Directive H.01, Section VII (Truthfulness Policy) requires each member to be truthful and complete in all written and oral communications, reports, and testimony. No member shall willfully report any inaccurate, false, improper, or misleading information. Your above-described deliberate submissions of false, misleading, and inaccurate time records into the BEACON payroll system wherein you deliberately misrepresented the number of hours you worked on several occasions, thereby resulting in your being compensated for hours you did not work, is inconsistent with the expectations of the Highway Patrol and the taxpayers of the State of North Carolina. Because of your untruthfulness, your credibility has become impaired.

The Highway Patrol investigative report also establishes, by the greater weight of the evidence, that on or about September 30, 2016 through November 11, 2016, you neglected your duties as a supervisor assigned to Wayne County in violation of SHP Directive H.01, Section XXVI.

During your interview with Internal Affairs, you admitted that: "There has been days where I've checked on and been at my residence and should have been in Wayne County." You also admitted that there were times when you checked on for duty (10-41) and remained at your residence for extended periods of time before reporting to your duty station and that on at least one occasion you checked on for duty and remained at your residence in Raleigh for your entire assigned shift, and never reported to your duty station. Furthermore, you did not deny that you were at your residence while being checked on for duty (10-41) on the specific dates of September 30th, October 1st, October 2nd, October 6th, and October 14, 2016.

Although you were unable to substantiate which specific days you checked 10-41 and failed to report for duty, this admission is corroborated by the fact that you were scheduled to work and, in fact claimed work time, for eight (8) separate shifts between September 22, 2016 and October 6, 2016. The distance between your Wake County residence and the Wayne County district office is 43.9 miles. Accordingly, had you drove to and from the district office on each of those 8 days in which you claim to have worked, you would have driven not less than 702 miles. You indicated, on your weekly Activity Reports, that you in fact drove 767 miles. However, as evidenced by the actual mileage on your vehicle, as recorded by you in the SAP Fuel Log system, you only drove 292 miles. Mathematically, you could not have gone to the office on more than 3 occasions during this period of time.

As previously stated, I agree with the determination of the Employee Advisory Committee that the evidence of record does not support a finding that you were insubordinate to Lt. Morton on November 11, 2016. Accordingly, that allegation has no bearing on my decision. Additionally, I am not concerned that you were residing in Wake County in violation of SHP Directive E.09, Section IV (Procedures for Establishing Residence). I am very much concerned, however, that there were times when you were at your Wake County residence while you were "on the clock"

5 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

and supposed to physically be at your appointed place of duty, i.e. Wayne County and that you provided false, misleading and inaccurate information to the Highway Patrol thereby resulting in your receiving credit and payment for "time worked" to which you were not entitled and your being neglectful of your duties by claiming you were in your assigned county of responsibility (Wayne County) when, in fact, you were at your residence in Wake County. Your above-described pattern of deliberately misrepresenting information concerning your work activities has embarrassed the Highway Patrol and discredited you personally as a member of the Highway Patrol. Additionally, your demonstrated pattern of behavior demonstrates a willingness on your part to be deliberately untruthful, calls into question your credibility as a member of the Highway Patrol and severely impairs your ability to testify in court as a sworn law enforcement officer.

I have reviewed the record with an understanding that I have discretion in determining what, if any, level of punishment is most appropriate based on the facts and circumstances of this case and I have considered the entire range of disciplinary actions available under state law. I have considered that you had been employed by the Highway Patrol as a State Trooper for approximately nineteen (19) years prior to your dismissal and that your prior disciplinary actions for unsatisfactory conduct consists of a one (1) day Suspension without Pay in November 2011 for Neglect of Duty, a Written Warning in 2012 for Unbecoming Conduct and a Written Warning in 2015 for Abuse of Position. Pursuant to state personnel policy, each of these prior disciplinary actions, other than the Written Warning imposed on December 10, 2015 were inactive at all relevant times related to your misconduct as described herein. I have also reviewed your performance evaluations for 2015 & 2016.

For the reason as set out above, and as the Authorizing Agency Official for the N.C. Department of Public Safety and the N.C. State Highway Patrol this letter shall serve as notification of my decision to uphold the Department's action.

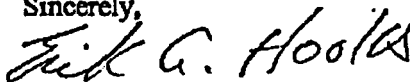
The Office of State Human Resources has reviewed and approved this final agency decision.

Should you disagree with this decision and wish to appeal this action, you may file a petition for a contested case hearing pursuant to G.S. 150B-23 with the Office of Administrative Hearings, (Physical Address) 1711 New Hope Church Road, Raleigh, N.C. 27609, (Mailing Address) 6714 Mail Service Center, Raleigh, NC 27699-6714, telephone number (919) 431-3000. A fee must be paid to OAH when the petition is filed, unless it is waived by OAH. A copy of the appeal must be served by certified mail on the Agency's registered agent Jane Gilchrist, General Counsel, North Carolina Department of Public Safety, (Mailing Address) MSC 4201, Raleigh, NC 27699-4201. Any appeal of this action must be filed within thirty (30) calendar days of receipt of this letter.

6 | Page Maurice A. DeValle
Beacon #1265297
Final Agency Decision
August 7, 2017

NCGS 126-23 (a) (11) provides that Dismissal letters are public information and must be released, if requested.

Sincerely,



Erik A. Hooks

EAH:tp/jd

CC: NC-SHP Management
Human Resources

Certified Mail Receipt # 7011 1150 0000 5331 9261

HP-343
Page 1 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|------------------------|--------------------------|----------------|
| Sergeant M. A. DeValle | 1966 / 01265297 | C/2 |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|---|-----------------|----------------|
| 4/24/2017 | Lieutenant Colonel Charles V. Ward <i>CVW</i> | 1946 | X/0 |

Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary):

It is charged that on or about October and November, 2016, at or near Raleigh, North Carolina, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section VII (Truthfulness), in that he/she:

Reported false, misleading and inaccurate information into the Beacon payroll system resulting in his being compensated for hours he did not work which is a criminal violation of law as follows:

- On September 26, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 6:16 a.m. and checked 10-42 (ending tour of duty) at 1:56 p.m. Sergeant DeValle claimed ten (10) hours of compensatory time worked for approximately eight (8) hours worked.
- On September 30, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 4:04 p.m. and checked 10-42 (ending tour of duty) at 2:02 a.m. on October 1, 2016. Sergeant DeValle claimed ten (10) hours of compensatory time worked for no hours worked. Sergeant DeValle does not deny that he never left his residence located in Wake County for the duration of his assigned ten (10) hour shift.
- On October 1, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at approximately 3:00 p.m., when, in fact, his patrol vehicle was observed parked in the driveway of his Wake County residence from 4:00 p.m. to 7:00 p.m. Sergeant DeValle claimed ten (10) hours of compensatory time worked for approximately six (6) hours worked.
- On October 2, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 12:50 p.m. and checked 10-42 (ending tour of duty) at 11:05 p.m. when, in fact, he returned to his residence in Wake County after working for only a few hours. Sergeant DeValle claimed ten (10) hours of compensatory time worked for only a few hours worked.
- On October 6, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 1:02 p.m. and checked 10-42 (ending tour of duty) at 11:19 p.m. when, in fact, his patrol vehicle was observed parked in the driveway of his Wake County residence at approximately 6:45 p.m. Sergeant DeValle claimed ten (10) hours of compensatory time worked for approximately six (6) hours worked.
- On October 14, 2016, Sergeant DeValle checked 10-41 (beginning tour of duty) in Wayne County at 2:14 p.m. and checked 10-42 (ending tour of duty) at 12:57 a.m. when, in fact, his patrol vehicle was observed parked in the driveway of his Wake County residence at approximately 3:55 p.m. Sergeant DeValle claimed ten (10) hours of compensatory time worked and did not work the entire ten (10) hour shift.

IA2016-052

| Type of Violation |
|--|
| <input checked="" type="checkbox"/> Personal Conduct <input type="checkbox"/> Grossly Inefficient Job Performance <input type="checkbox"/> Job Performance |

| Action Imposed |
|------------------------------------|
| See Page 4 of 5 for Action Imposed |

RESPONDENT'S
EXHIBIT

13

Respondent - 01241

HP-343
Page 2 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

| Action Administered By | BEACON Number | Date |
|---------------------------|---------------|-----------|
| Lt. VAN Eugene Burton VEB | 01148497 | 4-24-2017 |

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|------------------------|--------------------------|----------------|
| Sergeant M. A. DeValle | 1966 / 01265297 | C/2 |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|---|-----------------|----------------|
| 4/24/2017 | Lieutenant Colonel Charles V. Ward <i>CVW</i> | 1946 | X/0 |

| |
|---|
| <p>Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary)</p> <p>It is charged that on or about September 30, 2016 through November 11, 2016, at or near Raleigh, North Carolina, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section XXVI (Neglect of Duty), in that he/she:</p> <p>Was inattentive to and neglected his duties by remaining at his Wake County residence located at 1152 Southern Meadows Drive, Raleigh, North Carolina on numerous occasions when he was supposed to be performing supervisory and patrol duties in Wayne County. By his own admission: "There has been days where I've checked on and been at my residence and should have been in Wayne County." Although Sergeant DeValle stated he does not recall specific dates and times that this occurred, he does not deny that this occurred on the following dates in 2016: September 30th, October 1st, October 2nd, October 6th, and October 14th. Significantly, Wayne County was still under a state of emergency, the Neuse River was 10 feet above flood stage in Goldsboro and dozens of Wayne County roads were impassable on October 14, 2016. Yet Sergeant DeValle, although checked on duty, remained at his Wake County residence, thirty-five (35) miles away.</p> <p>On November 11, 2016, by his own admission, checked on for duty at 3:00 p.m. at his residence, located at 1152 Southern Meadows Drive, Raleigh, North Carolina, and remained at his residence and did not report to his duty station in Troop C, District 2. Sergeant DeValle admitted he did not inform his supervisor that he was not or was unable to report for duty, and made no arrangements with another district supervisor to cover Duty Officer responsibilities for the district.</p> <p>IA2016-052</p> |
|---|

| Type of Violation |
|--|
| <input checked="" type="checkbox"/> Personal Conduct <input type="checkbox"/> Grossly Inefficient Job Performance <input type="checkbox"/> Job Performance |

| Action Imposed |
|------------------------------------|
| See Page 4 of 5 for Action Imposed |

| Action Administered By | BEACON Number | Date |
|---------------------------|---------------|-----------|
| Lt. VAN Eugene Burton VEB | 01148497 | 4-24-2017 |

HP-343
Page 3 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|------------------------|--------------------------|----------------|
| Sergeant M. A. DeValle | 1966 / 01265297 | C/2 |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|---|-----------------|----------------|
| 4/24/2017 | Lieutenant Colonel Charles V. Ward <i>CVW</i> | 1946 | X/0 |

Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary.)

It is charged that on or about 11 November 2016, at or near 1152 Southern Meadows Drive, Raleigh, North Carolina, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section XVIII (Insubordination), in that he/she:

By his own admission, when being questioned by Lieutenant J. C. Morton as to being at his residence while checked on for duty (10-41), was insubordinate to Lieutenant Morton by:

- Accusing Lieutenant Morton of "riding around" and "checking on people," and also congratulated Lieutenant Morton on leaving such a "legacy."
- Questioning Lieutenant Morton's authority and duty to supervise certain members of the Patrol, to include himself.
- Accusing Lieutenant Morton of having a poor leadership style.
- Speaking to Lieutenant Morton with a defensive and disrespectful tone of voice.

By his own admission, Sergeant DeValle's comments and attitude towards Lieutenant Morton was "unacceptable" and constituted insubordination.

IA2016-052

| Type of Violation |
|--|
| <input checked="" type="checkbox"/> Personal Conduct <input type="checkbox"/> Grossly Inefficient Job Performance <input type="checkbox"/> Job Performance |

| Action Imposed |
|------------------------------------|
| See Page 4 of 5 for Action Imposed |

| Action Administered By | BEACON Number | Date |
|----------------------------------|---------------|-----------|
| Lt. VAN Eugene Burton <i>yes</i> | 01148497 | 4-24-2017 |

HP-343
Page 4 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|------------------------|--------------------------|----------------|
| Sergeant M. A. DeValle | 1966 / 01265297 | C/2 |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|--|-----------------|----------------|
| 4/24/2017 | Lieutenant Colonel Charles V. Ward <i>CW</i> | 1946 | X/0 |

Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary):

It is charged that on or about September 2016 through November 2016, at or near Raleigh, North Carolina, Sergeant M. A. DeValle did violate State Highway Patrol Policy Directive H.01, Section IV (Violations of Rules) to wit: Directive E.09, Section IV (Procedures for Establishing Residence), in that he/she:

On 11 November 2016;

- By his own admission, checked on for duty at 3:00 p.m. at his residence, located at 1152 Southern Meadows Drive, Raleigh, North Carolina, and remained at his residence and did not report to his duty station in Troop C, District 2. Sergeant DeValle admitted he did not inform his supervisor that he was not or was unable to report for duty, and made no arrangements with another district supervisor to cover Duty Officer Responsibilities for the district.
- Lieutenant J. C. Morton, after traveling to Sergeant DeValle's residence, found Sergeant DeValle to be at his residence at approximately 7:30 p.m. At this time, the CAD reflected that Sergeant DeValle was checked on (10-41) for duty.

By his own admission, had on previous occasions;

- Checked on for duty (10-41) and remained at his residence for extended periods of time before reporting to his duty station. Sergeant DeValle admitted on one occasion, he checked on for duty and remained at his residence for his entire assigned shift, and never reported to his duty station. Sergeant DeValle did not deny that he was at his residence while being checked on for duty (10-41) on the specific dates of 30 September, 1 October, 2 October, 6 October, and 14 October 2016
- Left his duty station and returned to his residence during his shift for his meal hour.

By his own admission, met with Captain J. O. Holmes in early 2016, and was counselled on his being in compliance with the Patrol's residency policy. As a result of that meeting, Sergeant DeValle admitted he understood that he was to report for duty as assigned, and be "where he was supposed to be, when he was supposed to be."

IA2016-052

Type of Violation

☒ Personal Conduct ☐ Grossly Inefficient Job Performance ☐ Job Performance

Action Imposed

Dismissal from the North Carolina Highway Patrol.

| Action Administered By | BEACON Number | Date |
|---------------------------|---------------|-----------|
| Lt. VAN Eugene Burton VEG | 011484447 | 4-24-2017 |

HP-343
Page 5 of 5
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

COPY

Rights of Employee

I acknowledge that I am aware of the provisions of Directive H.04 of the Highway Patrol Rules and Regulations relating to disciplinary actions and have read and understand North Carolina State Human Resources Manual section 7 (Employee Grievance Policy) which establishes principles of administration to ensure a prompt, orderly, and fair response to an employee's grievance or complaint. I further acknowledge that I have read and understand the following

- Written Warnings may not be appealed or grieved.
- The above procedures must be followed unless I allege that I was disciplined because of my age, sex, race, color, political affiliation, handicapped condition, or in retaliation for opposition to such discrimination. In such cases, an appeal can be made directly to the State Personnel Commission by filing a petition as provided above.
- I have been informed, in writing, of the specific acts or omissions that are the reason for the disciplinary action taken and have been given the opportunity to be heard by the Patrol. I have been informed of my right to appeal this imposed action.

| | |
|-----------------|-------------|
| Employee | Date |
| | |

| | |
|----------------|-------------|
| Witness | Date |
| | |

HP-343
Page 1 of 2
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

IDENTIFICATION INFORMATION

| Employee | Registry / BEACON Number | Troop/District |
|----------------------------|--------------------------|----------------|
| Sergeant Maurice A. DeVall | 1868 / 01265297 | CZ |

| Principal Investigator | Registry Number | Troop/District |
|------------------------|-----------------|----------------|
| Lieutenant P. T. Clark | 1908 | X/4 |

| Date Charge(s) Drawn | Charge(s) Drawn By | Registry Number | Troop/District |
|----------------------|-------------------------------------|-----------------|----------------|
| 7 December 2015 | Colonel William Grey <i>W. Grey</i> | 2084 | X/0 |

| |
|---|
| Charge(s): Specific Acts or Omissions (Attach additional sheets if necessary.) |
| It is charged that on or about 19 October 2015, at or near NC 65 in Wayne County, Sergeant M. A. DeVall did violate State Highway Patrol Policy Directive H.01, Section IX (Abuse of Position), in that he/she:

Used his position as a North Carolina State Trooper in obtaining privileges not otherwise available to other persons by:

1. By his own admission, did access the Division of Criminal Information (DCI) database to obtain information on Wake County Assistant District Attorney Colleen Janssen.

2. By his own admission, did access DCI and conduct an inquiry on Ms. Colleen Janssen for personal reasons, and not in the scope of his official duties.

IA 2015-080 |

| | | |
|--|--|--|
| Type of Violation | | |
| <input checked="" type="checkbox"/> Personal Conduct | <input type="checkbox"/> Grossly Inefficient Job Performance | <input type="checkbox"/> Job Performance |

| |
|-----------------------|
| Action Imposed |
| Written Warning |

| | | |
|-------------------------------|----------------------|-------------|
| Action Administered By | BEACON Number | Date |
| <i>Sgt. M.A. DeVall</i> | 00713017 | 12/10/2015 |

Sgt. M.A. DeVall

RECEIVED

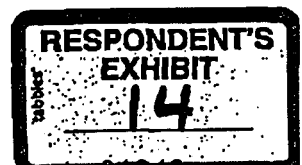
DEC 11 2015

NCOPS HUMAN RESOURCES
EMPLOYEE RELATIONS

D. [Signature]

1.27.15ohh

Respondent 01210



HP-343
Page 2 of 2
Rev. 07/2014

North Carolina
State Highway Patrol
PERSONNEL CHARGE SHEET / DISPOSITION

Rights of Employee

I acknowledge that I am aware of the provisions of Directive H.04 of the Highway Patrol Rules and Regulations relating to disciplinary actions and have read and understand North Carolina State Human Resources Manual section 7 (Employee Grievance Policy) which establishes principles of administration to ensure a prompt, orderly, and fair response to an employee's grievance or complaint. I further acknowledge that I have read and understand the following

- Written Warnings may not be appealed or grieved.
- The above procedures must be followed unless I allege that I was disciplined because of my age, sex, race, color, political affiliation, handicapped condition, or in retaliation for opposition to such discrimination. In such cases, an appeal can be made directly to the State Personnel Commission by filing a petition as provided above.
- I have been informed, in writing, of the specific acts or omissions that are the reason for the disciplinary action taken and have been given the opportunity to be heard by the Patrol. I have been informed of my right to appeal this imposed action.

| | |
|----------------------------|-------------------|
| Employee | Date |
| <i>Sgt. M. L. D. N. O.</i> | <i>12-10-2015</i> |
| Witness | Date |
| <i>P/Sgt. J. S. Lewis</i> | <i>12-10-2015</i> |

Capt. J. H. [Signature]

12/10/2015



North Carolina Department of Public Safety
State Highway Patrol

Pat McCrory, Governor
Frank L. Perry, Secretary

Colonel William Grey
Commander

Internal Affairs Section

7 December 2015

MEMORANDUM

TO: SERGEANT M. A. DEVALLE

FROM: CAPTAIN W. T. EVANS WTE

RE: WRITTEN WARNING AGAINST SERGEANT M. A. DEVALLE, REGISTRY #1966, TROOP C, DISTRICT 2, GOLDSBORO, NORTH CAROLINA

Pursuant to Directive H.02, the above-captioned complaint has been investigated by the Internal Affairs Unit. All facts and statements pertinent to the complaint are contained in the Report of Investigation.

The Report of Investigation substantiates that you were in violation of Directive H.01, Section IX (Abuse of Position). In accordance with Directive H.04, Section XII, you have been disciplined in the form of a Written Warning as noted on the attached Personnel Charge Sheet/Disposition (HP-343). This is a Personal Conduct violation.

In a private discussion, you were informed that this is a Written Warning, not some other non-disciplinary process such as counseling. You must correct the Unsatisfactory Personal Conduct immediately.

This is a Written Warning and it may not be appealed.

Failure to make the required improvements could result in a more severe form of disciplinary action up to and including dismissal.

| | |
|---------------------------|------------|
| Member Signature | Date |
| <i>Sgt. M. A. Devalle</i> | 12-10-2015 |

| | |
|---------------------------|------------|
| Witness Signature | Date |
| <i>E. Sgt. J. Haskins</i> | 12-10-2015 |

Capt. W. T. Evans

12/10/2015

MAILING ADDRESS:
4231 Mail Service Center
Raleigh, NC 27699-4231
www.ncdps.gov
www.ncshp.org



An Equal Opportunity Employer

OFFICE LOCATION:
512 N. Salisbury St.
Raleigh, NC 27604
Telephone: (919) 733-7952
Fax: (919) 715-4039

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

MAURICE A. DEVALLE,
Petitioner,

v.

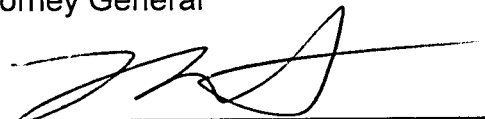
NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,
Respondent

RESPONDENTS' VERIFIED
EXHIBITS

COMES NOW Respondent, North Carolina Sheriffs' Education and Training Standards Commission, by and through the undersigned counsel, and hereby verifies and certifies that **Exhibits 1-11, 13, 15-17, 20-22, 32-36, and 38** filed in the Office of Administrative Hearings this date are true and accurate copies of the exhibits introduced at the hearing of this matter and moved into evidence. The undersigned further verifies and certifies that Petitioner was provided with copies of the same documents.

This is the 17th day of December, 2019.

JOSHUA H. STEIN
Attorney General



Ryan Haigh
Special Deputy Attorney General
N.C. Department Justice
9001 Mail Service Center
Raleigh, North Carolina 27699
Telephone: (919) 716-6572
State Bar No: 43456
Email: rhaigh@ncdoj.gov
COUNSEL TO THE COMMISSION

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
08/14/2019 3:10 PM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
18 OSP 07196

| | |
|---|-----------------------|
| Maurice A Devalle
Petitioner,

v.

North Carolina Department of Public Safety,
North Carolina State Highway Patrol
Respondent. | FINAL DECISION |
|---|-----------------------|

The contested case of Maurice A. Devalle, Petitioner herein, was heard before Administrative Law Judge Donald W. Overby on April 8-9, 2019, in Bolivia, North Carolina.

APPEARANCES

For Petitioner: Barry K. Henline
P.O. Box 15862
Wilmington, NC 28484

For Respondent: Corrine Lusic
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27609

Alan McInnes
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27609

WITNESSES

The following people testified for the Petitioner:

Maurice A Devalle
Ahmad El-Amin
Kenneth McCray
Michael Baker



The follow people testified for the Respondent:

Jeffrey Holmes
Gerald Burton
John C. Morton
Rodney Sawyer
James Wingo
Brian Regan
Erik Hooks
Paul T. Clark

EXHIBITS

Petitioner's exhibits ("P. Exs.") 3-5, 9, 13, 15, 16, 18, 19, 23, and 24 were admitted into evidence.

Respondent's exhibits ("R. Exs.") 1-8, 8A-8L, 8N-8O, 9-14 were admitted into evidence.

PARTY REPRESENTATIVES

The Petitioner's party representative was Petitioner, Maurice Devalle. The Respondent's party representative was Lieutenant Paul T. Clark.

ISSUE

Whether Respondent had just cause to dismiss Petitioner, a career status State employee subject to the State Human Resources Act, for Unacceptable Personal Conduct related to allegations of untruthfulness and neglect of duty.

PROCEDURAL HISTORY

A contested case petition was filed by Petitioner Maurice Devalle on August 31, 2017 alleging termination from his employment with the North Carolina State Highway Patrol without just cause. On February 23, 2018, Petitioner entered a voluntary dismissal without prejudice, and the contested case was dismissed.

On November 27, 2018, this instant contested case was filed by Petitioner Maurice Devalle again alleging termination without just cause. The refiling of this petition was statutorily timely having been refiled before the expiration of one year.

Prior to the contested case hearing of this matter, Petitioner filed pretrial motions. Petitioner filed a Motion for Summary Judgment as to an issue of insubordination as grounds for just cause for Petitioner's termination.

Respondent answered Petitioner alleging the issue of insubordination was moot. The Final Agency Decision determination was not based on insubordination as a basis for termination and Respondent did not intend to rely on insubordination as a ground to uphold the agency's decision.

The Petitioner's Motion for Summary Judgment was denied, and it was established that insubordination was not an issue, but that the issues to be addressed would be neglect of duty and untruthfulness as set out in the Final Agency Decision.

Petitioner also filed a Motion in Limine seeking to prohibit Respondent from presenting evidence and testimony as to the actual mileage driven that Petitioner had recorded on his HP-201 (weekly Activity Report), SAP gas log evidence, and the use of the HP-201 (weekly Activity Report) to support that Petitioner had violated Respondent's policies on February 14, 2019. Petitioner's Motion in Limine was denied.

EXTRAORDINARY CAUSE

The circumstances of this contested case, as reflected by the record, constitute extraordinary cause to allow this Final Decision to be issued beyond 180 days after commencement under N.C. Gen. Stat. § 126-34.02(a) and 26 NCAC 03 .0118(b).

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, and the entire record in this proceeding, the Undersigned makes the following Findings of Fact and Conclusions of Law. In making the Findings of Fact, the Undersigned has weighed all the evidence and assessed the credibility of the witnesses. The Undersigned has taken into account the appropriate factors for judging credibility of witnesses, including but not limited to the demeanor of the witness, any interests, bias, or prejudice the witness may have. Further, the Undersigned has carefully considered the opportunity of the witness to see, hear, know, or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case. After careful consideration of the sworn witness testimony presented at the hearing, the documents and exhibits admitted into evidence, and the entire record in this proceeding, the Undersigned makes the following:

FINDINGS OF FACT

1. Petitioner Maurice A. Devalle was employed with Respondent, North Carolina Department of Public Safety ("Respondent" or "DPS") in Wayne County, North Carolina. At the time of his dismissal, Petitioner was a Sergeant having been promoted from Master Trooper. Petitioner had been employed with DPS since May of 1998.

2. In his nearly 19 years of employment with DPS, Petitioner had received 1 prior active disciplinary action in the form of a written warning in 2015 for abuse of position.

3. At the time of his dismissal, Petitioner's chain of command was First Sergeant Jerry Burton (now retired), Troop C Lieutenants Chris Morton and Steve Finney, and Captain Jeffrey O'Neill Holmes (now retired).

4. As a sergeant, Petitioner was in a supervisory position in which he supervised a squad of troopers that were in his district. There was one other sergeant assigned to the Wayne County District and Petitioner shared supervisory duties with that other sergeant. The two sergeants were assigned to supervise different squads.

5. As a sergeant, Petitioner's duties included the following:

- a. He was the first level of supervision within the Patrol's chain of command and played an important role in guiding and mentoring new and young troopers.
- b. He was responsible for addressing questions and complaints from the public, including when enforcement actions were taken or at wreck scenes.
- c. He was responsible for preventative patrol, which means being out in the assigned area looking for hazardous moving violations, disabled motorists, and responding to calls. This duty was equally as important as his administrative duties.
- d. He was responsible for responding to calls during high call volume periods. High call volume periods are not known in advance but require a sergeant to be in the assigned area monitoring the radio and responding as necessary by taking calls or calling in troopers that are not on duty.
- e. He was expected to go to the wreck scene of serious collisions, such as when a death or serious injury occurred.
- f. He had administrative paperwork duties. These duties included inspecting records such as fatal collision files.

6. It is recognized and acknowledged that the job of sergeant is a very difficult and demanding position. It is also acknowledged that Petitioner had a reputation for being a diligent and very hard worker.

7. While recognizing exceptions, Captain Holmes expected that supervisors, including Petitioner, would be on duty with their trooper squads. He expected that they would be available as a resource to the troopers to assist them, answer questions, and handle issues such as complaints.

8. It was expected that there would be a supervisor on duty to the extent possible with the understanding that the Patrol did not have enough supervisors to ensure around the clock supervisor coverage. If a supervisor was not assigned to a shift, then a supervisor would be on-call and available for troopers to contact and respond if necessary. On-call is when a supervisor is responsible for taking emergency calls when there is no other supervisor on duty at the time.

9. The First Sergeant Jerry Burton was Petitioner's immediate supervisor. Sgt. Burton felt it was important for his sergeants to be in Wayne County. It was his position that sergeants should not work from home.

10. Petitioner never asked First Sgt. Burton if he could work from home on his assigned shifts and never informed First Sgt. Burton that he was working from his home in Wake County. In contrast, Petitioner had asked his prior commanding officer in Durham, First Sgt. Cain, if he could work from home.

11. After Captain Holmes became Troop C Captain, he heard rumors that Petitioner was not present in his assigned district while on duty but was instead in Wake County where he resided.

12. Captain Holmes met with Petitioner and informed him that he needed to be in his assigned duty county when on duty. First Sgt. Burton and Lieutenant Finney were present during this conversation. Neither First Sergeant Burton nor Captain Holmes could remember exactly when the conversation took place.

13. Captain Holmes did not engage in conversation about the issue and did not ask if the rumors were true. He purposely was not being accusatory. He was stating very directly that if the rumors were true, then the actions must cease; if the rumors were not true then there was no problem.

14. Following that conversation, First Sgt. Burton discussed the issue with Petitioner. Based on that conversation it was clear that Petitioner understood that he should be in Wayne County at the beginning of his assigned shift and not leave the county until his shift ended.

15. Without question Petitioner could not fulfill all of his duties from his residence in Wake County.

16. The term 10-41 is the check-in code used by Patrol members to designate that they are in uniform and on duty in their assigned duty station. The term 10-42 is the check-in code used by Patrol members to designate that they are no longer on duty.

17. It was expected that Petitioner's administrative duties would be performed in the District Office when he was on duty. It was known that sergeants could access and complete paperwork remotely by use of a mobile data computer ("MDC"). The purpose of the remote access was so that sergeants would be able to complete paperwork while on duty in a sergeant patrol vehicle in the field and not at home.

18. The Patrol's Computer Assisted Dispatch system ("CAD") tracks when members are checked in for duty (10-41) and checked off from duty (10-42).

19. There are multiple ways to check-in or check-off duty on the CAD system. A Patrol member could radio the communications center, which would enter the member into the CAD system as check-in. Or a member could use a mobile data computer ("MDC") to check into the CAD system directly. They also could use their car radios.

20. According to First Sergeant Rodney Sawyer with the Internal Affairs Unit, while recognizing human error and general mistakes, it is up to the individual trooper to make sure they properly sign on and sign off from duty, or any change in status while on duty.

21. It was Petitioner's practice to check 10-41 and 10-42 using his MDC.

22. There is some mild disagreement about the accuracy of CAD entries; however, the CAD entries are only occasionally incorrect. The inaccuracies are usually due to errors made by the communications center in keying in information provided by members that call in. There was no evidence that CAD errors were incorrect when entered through an MDC.

23. On November 11, 2016, the Patrol received an external complaint that Petitioner was at his home in Wake County when he was checked 10-41, as being on duty in Wayne County. The external complaint also included that Petitioner had been at home when checked 10-41 on several occasions including on September 26, 2016, September 30, 2016, October 1, 2016, October 2, 2016, October 6, 2016 and October 14, 2016.

24. Captain John Morton, who was a lieutenant at the time, was contacted by Lieutenant Colonel Billy Clayton who directed Captain Morton to determine if Petitioner was at his residence on November 11, 2016.

25. Captain Morton went to Petitioner's residence in Wake County. Petitioner's patrol car was in the driveway. He spoke with Petitioner at approximately 7:35 pm. Petitioner came to the door in shorts and a t-shirt. He claimed to be sick at this time and that he tried to check off duty at 5:00 pm in the Computerized Automated Dispatch ("CAD") system.

26. Petitioner told Capt. Morton he checked in 10-41 (beginning tour of duty) around 3:00 p. m., and that he had tried to check off around 5:00 p.m. by his mobile data computer (MDC). Petitioner told Capt. Morton that he had not left his house that day.

27. Capt. Morton checked the CAD later that day and noticed Petitioner had checked 10-42 at 7:35 p.m.

28. Captain Morton filed a HB-307 complaint to initiate an Internal Affairs investigation regarding Petitioner's presence at his residence while on duty on November 11, 2016, and the other dates alleged in the external complaint.

29. Internal Affairs began an investigation of Petitioner's conduct on November 11, 2016, and the other dates provided in the external complaint. First Sergeant Rodney Sawyer and Lt. Paul Clark were assigned to investigate the complaint for the Internal Affairs Unit.

30. Patrol Directive H.01, Section VII (Truthfulness Policy) requires each member to be truthful and complete in all written and oral communications, reports, and testimony. No member shall willfully report any inaccurate, false, improper, or misleading information.

31. At the contested case hearing, First Sergeant Sawyer discussed the "Truthfulness Policy" and stated that every cadet entering patrol school understands that an offense of not being truthful will lead to dismissal. Patrol members are aware that being untruthful is a basis for dismissal.

32. Petitioner acknowledged that he was aware that a lack of truthfulness could lead to his dismissal.

33. The United States Supreme Court case of *Giglio v. United States*, 405 U.S. 150, 154, 92 S. Ct. 763, 766, 31 L. Ed. 2d 104 (1972) stated: "When the 'reliability of a given witness may well be determinative of guilt or innocence,' nondisclosure of evidence affecting credibility falls within [the] general rule" that suppression of material evidence justifies a new trial. *Giglio*, 405 U.S. at 154, 92 S. Ct. at 766, 31 L. Ed. 2d 104 (internal citation omitted).

34. Thus, the truthfulness of witnesses is especially critical for due process and the conduct of criminal trials. Truthfulness is particularly important to the Patrol because they have a responsibility to maintain the public trust and because they are expected to testify in court proceedings. Documented untruthfulness compromises a member's integrity and ability to testify and therefore prevents them from being able to perform their essential job functions.

35. Testifying in court is an essential job function for all members of the Patrol. If a law enforcement officer's integrity is compromised, a prosecutor may determine that the law enforcement officer is *Giglio* impaired and cannot testify in court.

36. First Sergeant Sawyer addressed *Giglio* issues, which were considered by Respondent in the determination of the appropriate level of discipline to impose on Petitioner. First Sergeant Sawyer acknowledged that he was not aware of any individual reporting Petitioner's conduct to the Wayne County District Attorney or any other judicial official.

37. If a prosecutor requested information on Petitioner, the Patrol would have an affirmative duty to give the prosecutor the documented untruthfulness of the Petitioner. That information could lead to Petitioner being declared *Giglio* impaired. There is no evidence that has happened.

38. The Patrol does not wait until it gets a *Giglio* impairment determination to act on documented untruthfulness. Instead, the Patrol proactively ensures that *Giglio* impairment is not

an issue by acting on a Patrol member's documented untruthfulness. It is rare for a prosecutor to actually declare an officer or trooper to be *Giglio* impaired.

39. First Sergeant Sawyer testified that in his experience from working in Internal Affairs that if a member of the Highway Patrol has a case of substantiated untruthfulness they are terminated.

40. On November 14, 2016, Petitioner was informed of the complaint and the Internal Affairs investigation.

41. Internal Affairs investigated the complaint by interviewing Captain Holmes, First Sgt. Burton, Lt. Morton, and Petitioner. They also collected documentation of Petitioner's CAD entries, Beacon entries, Weekly Reports of Daily Activity, emails, and SAP fuel logs.

42. The Beacon system is the method most state employees use to report their time worked for purposes of being paid. Petitioner's time is kept in the Beacon system.

43. Petitioner had requested emails from the Patrol's technology staffer, Paul Nelson, from the alleged dates that he was at his residence while on duty to confirm that he was working on the days in question. The only email that Mr. Nelson provided to Petitioner from this search was one email to troop headquarters and another regarding Petitioner's fantasy football league.

44. Petitioner's SAP fuel logs show the dates and locations that he acquired fuel for his patrol car, which he drove to work. The car's mileage is recorded each time when filling up with gas. Accurate SAP fuel logs were important because they are used to determine when patrol cars require maintenance.

45. First Sergeant Burton explained the fuel problem associated with Hurricane Matthew. However, he still expected the supervisors to remain at the District Office unless responding to a call. They were not to work from home. The problems with gas during Hurricane Matthew do not explain the discrepancies with Petitioner's gas logs.

46. Hurricane Matthew made landfall in North Carolina on October 8 and 9, 2016. Petitioner admitted at the hearing that there were times when Wayne County was still affected by Hurricane Matthew that he checked 10-41 but remained at his residence in Wake County.

47. Petitioner also admitted that there were times when he was assigned for duty and checked 10-41 but stayed at his Wake County residence the entire time and did not go to Wayne County. Petitioner could not remember the specific dates that this occurred. Petitioner could not deny that he checked 10-41 but did not go into Wayne County on September 26, 2016, September 30, 2016, October 1, 2016, October 2, 2016, October 6, 2016 and October 14, 2016.

48. In Petitioner's interviews with Internal Affairs, he admitted that he did not notify First Sgt. Burton that he was sick and unable to report for duty on November 11, 2016.

49. Capt. James Wingo, now retired, was Captain with the Internal Affairs Unit beginning in March 2017.

50. Capt. Wingo identified Respondent's Exhibit #10 as a chart he and Ret. Major Brian Regan created using Petitioner's HP-201s, SAP fuel logs, and Beacon time entries. According to Capt. Wingo, the document demonstrated that Petitioner's "mileage is off."

51. According to Capt. Wingo, Google Maps show the milcage from Sgt. Devalle's residence to the Wayne County District office to be 43.9 miles one way and 87.8 miles round trip. Petitioner should have driven a minimum of 702 miles just going from his home to the District Office once each day of the fifteen days charted in Respondent's Exhibit #10. It is 35 miles one way from Petitioner's residence to the Wayne County line, and Petitioner should have accumulated a minimum of 560 miles during this period of time. For the same period of time, Petitioner's SAP fuel logs show the mileage Petitioner entered indicated the patrol car had actually been driven 292 miles.

52. Respondent's Exhibit #10 actually shows Petitioner worked eight days between September 22, 2016 and October 6, 2016. During that time, Petitioner indicated he drove 767 miles on his HP-201. Petitioner's SAP gas logs indicate Petitioner entered mileage into the SAP gas log system that indicated he had actually driven 292 miles during the eight-day period.

53. While Petitioner never made any claim or statement as to the actual number of times he drove to the Wayne County line or to the District Office during these times, it is of no consequence since the numbers in the chart demonstrate the minimum number of times he should have driven to the Wayne County line or to the District Office according to the dates he claimed to have worked.

54. Exhibit #10 is demonstrative of the fact that Petitioner could not have been going to work each day for which he was claiming time worked. Petitioner has not offered any sufficient explanation as to why the mileage on his patrol car was so low during this time.

55. Petitioner speculated, without proof, that problems arose from CAD error, or MSD error, or Beacon administrator error as well as the problem of flooding from Hurricane Matthew. Hurricane Matthew came after the majority of the dates in issue. Even if all of these things are taken as true, it does not explain the mileage discrepancy from the gasoline logs.

56. Internal Affairs completed a Report of Investigation and a Supplementary Report of Investigation setting forth the evidence collected. These reports were reviewed by Major Brian Regan. Major Regan (now retired) concluded that the investigation substantiated untruthfulness, neglect of duty, insubordination, and a residency violation. It was Major Regan's job to make a recommendation, not the ultimate decision of discipline.

57. Major Regan had difficulty recalling specifics of his review and ultimately his recommendation. He was not aware of the *Wetherington* case wherein the North Carolina Supreme Court established discretionary matters for consideration in issuing discipline. However, Major

Regan remembered that he considered prior discipline, tenure with the organization, and Petitioner's prior performance records, but nothing else, in mitigation.

58. Based on violations of untruthfulness, neglect of duty, insubordination, and a residency violation, Major Regan recommended to Lt. Col. Vic Ward that Petitioner be dismissed. Lt. Col. Ward was responsible for determining whether Petitioner should be disciplined and how. Lt. Col. Ward agreed with Major Regan's recommendation and directed that Petitioner be dismissed.

59. Petitioner was given a pre-disciplinary conference and was provided the Reports of Investigation and supporting materials prior to that conference.

60. In his pre-disciplinary conference, Petitioner again admitted that he was working from home on unspecified dates, and specifically that he worked from home on October 6, 2016.

61. At his pre-disciplinary conference, Petitioner was provided with an opportunity to explain himself based on the allegations made. Petitioner did not provide any explanation of his motivation for repeatedly working from home without authorization and without notifying his supervisor.

62. On April 24, 2017, Petitioner was dismissed for substantiated untruthfulness, neglect of duty, insubordination, and a residency violation.

63. Petitioner filed an internal grievance of his dismissal, which was heard by the Employee Advisory Committee ("EAC"). Captain James Wingo was the agency representative before the EAC. He used the evidence from the Internal Affairs investigation and compiled a chart to more clearly explain it.

64. That chart showed that Petitioner was scheduled to work, and in fact claimed work time for eight (8) separate shifts between September 22, 2016 and October 6, 2016. As discussed above, during this same period, Petitioner's Weekly Reports of Daily Activity document that he drove 767 miles, however, Petitioner's SAP gas logs show that he, in fact, only drove 292 miles. (See Findings of Fact ¶¶ 50, 51, and 52 *supra*).

65. At the EAC hearing, Petitioner was provided with an opportunity to explain himself based on the allegations made. Petitioner did not provide any explanation of his motivation for repeatedly working from home without authorization and without notifying his supervisor.

66. On August 7, 2017, Secretary of Public Safety, Erik Hooks, upheld Petitioner's dismissal in a Final Agency Decision. Secretary Hooks' decision to uphold the dismissal was based solely on Petitioner's untruthfulness and neglect of duty. He did not rely on or substantiate the issues of insubordination or violations of the residency policy.

67. Secretary Hooks determined that the evidence supported finding that Petitioner was untruthful in that he falsely reported time worked and was falsely reporting checked-in for duty (10-41) when, in fact, he was not reporting to his assigned duty station in Wayne County.

68. Patrol Directive H.01, Section XXVI (Neglect of Duty Policy) states that members shall not be inattentive to duty nor neglect their duties and that members shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty or which would impair their ability to perform such duty.

69. Secretary Hooks found that Petitioner had engaged in Neglect of Duty by failing to report for duty in Wayne County as he had indicated he was doing by falsely checking in 10-41, by neglecting to provide oversight and supervision to his subordinates, by failing to provide supervisory and back-up support for his subordinates, and particularly during a state of emergency that existed during Hurricane Matthew. (Trial Tr. Pg. 284, 285, Apr. 9, 2019)

70. Secretary Hooks expressed his opinion that Petitioner could not appropriately supervise his subordinates from his home in Wake County.

71. Secretary Hooks found that Petitioner's actions seriously undermined the public's trust in the Patrol and undermined the Petitioner's credibility.

72. Petitioner has an active written warning based on his documented abuse of power for accessing the Division of Criminal Information database to obtain information on a Wake County District Attorney, which access was made for personal reasons. Secretary Hooks considered this prior discipline in his decision to uphold Petitioner's dismissal.

73. Secretary Hooks considered Petitioner's 19 years of service with the Patrol and his work performance reviews in determining whether dismissal was appropriate.

74. Petitioner's performance reviews document that he needed to improve his proficiency with policy, especially as it dealt with his duties as supervisor. Petitioner's performance reviews document that he needed to spend more time with his subordinates and give them direct supervision.

75. Secretary Hooks considered other forms of discipline besides dismissal, including demotion, suspension, and written warning. He decided that dismissal was appropriate considering the seriousness of the violations.

76. Petitioner's contention that Respondent should have inquired of Petitioner's motivation for being at home and/or not reporting to his duty station as required is of no consequence. His motivation is closely akin to "motive" in a criminal trial—everyone may be interested in the motive, but it is not an essential element of the offense. In this instance, Petitioner had several opportunities to provide motive if he felt it was warranted but chose not to. It was not the Respondent's position to have to show motive.

77. First Sergeant Kenneth McCray is a member of the patrol who was demoted for neglect of duty when he was found to have checked 10-41 in his assigned county, but was watching his children for a portion of his shift to ensure that they got on the bus for school when his wife was out of town for a week-long period. Trooper McCray had requested and received prior permission from this First Sergeant for this limited deviation from duty. Then Trooper McCray

never spent an entire duty shift at this house. Trooper McCray resided in his assigned county and was in his assigned county when he checked 10-41. As with Petitioner, the media was interested in this issue and investigated this member of the Patrol.

78. Petitioner offered to call as a character witness criminal defense lawyer Rusty DeMent. The Undersigned informed the parties in open court that Mr. DeMent and I are former law partners, that Mr. DeMent and I are very close friends and that his father was one of my very best friends until his death. I offered that I would take official notice that Petitioner enjoyed a good reputation among criminal defense lawyers and prosecutors in Wake County. This is based upon the fact that I served as a District Court Judge during Petitioner's service in Wake County and had his cases assigned to my court room periodically. To the best of my knowledge, he enjoyed a good reputation among court officers, including judges.

CONCLUSIONS OF LAW

BASED UPON careful consideration of the parties' briefs, oral arguments, Findings of Fact, and the entire record in this proceeding, the Undersigned makes the following Conclusions of Law. To the extent that the Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels.

1. All parties are properly before the Office of Administrative Hearings and jurisdiction and venue are proper.

2. Petitioner is a Career State Employee entitled to the protections of the North Carolina Human Resources Act, N.C. Gen. Stat. § 126-1 *et seq.*, and specifically the provisions found in Sections 126-34.02(b)(1) and 126-34.02(b)(4).

3. A court need not make findings as to every fact that arises from the evidence and need only find those facts which are material to the settlement of the dispute. *Flanders v. Gabriel*, 110 N.C. App. 438, 440, 429 S.E.2d 611,612, *aff'd*, 335 N.C. 234, 436 S.E.2d 588 (1993).

4. Pursuant to N.C. Gen. Stat. § 126-34.02(d) of the North Carolina General Statutes, in an appeal of a disciplinary action, the employer bears the burden of proving that "just cause" existed for the disciplinary action.

5. To demonstrate just cause, a State employer may show "unacceptable personal conduct." 25 NCAC 01J .0604(b)(2).

6. The dismissal letter and final agency action specified that Petitioner was being dismissed for Unacceptable Personal Conduct, specifically violating the Patrol's Truthfulness and Neglect of Duty policies.

7. Respondent complied with the procedural requirements for dismissal for Unacceptable Personal Conduct set forth in 25 NCAC 01J .0606, .0608, and .0613.

8. It is well-settled that judgment should be rendered in favor of the State agency when the evidence presented establishes that the employee committed at least one of the acts for which

he was disciplined. *Hilliard v. Dept. of Correction*, 173 N.C. App. 594, 597, 620 S.E.2d 14, 17 (2005). An employer may discipline an employee for just cause based upon one instance of Unacceptable Personal Conduct. (25 NCAC 01J .0604(b)).

9. N.C. Gen. Stat. § 126-35 does not define “just cause,” however the words are to be accorded their ordinary meaning. *Amanini v. Dep’t of Human Resources*, 114 N.C. App. 668, 678-79, 443 S.E.2d 114, 120 (1994) (defining “just cause” as, among other things, good and adequate reason).

10. Just cause is a “flexible concept embodying notions of equity and fairness that can only be determined upon an examination of the facts and circumstances of each individual case.” *NC Dep’t. of Env’t & Natural Res. v. Carroll*, 358 N.C. 649, 669, 599 S.E.2d 888, 900 (2004). In other words, a determination of whether disciplinary action taken was “just” requires “an irreducible act of judgment that cannot always be satisfied by the mechanical application of rules and regulations.” *Id.* at 669, 599 S.E.2d 901.

11. The North Carolina Court of Appeals articulated a three-part “analytical approach” for determining where there is just cause for discipline. *Warren v. North Carolina Dep’t of Crime Control & Public Safety, N. Carolina Highway Patrol*, 726 S.E.2d 920, 924-25 (N.C. Ct. App. 2012), *review denied*, 735 S.E.2d 175 (N.C. 2012). Under this approach, a court must answer the following inquiries to establish the existence of just cause:

- (a) did the employee engage in the conduct the employer alleges;
- (b) does the employee’s conduct fall within one of the categories of unacceptable personal conduct provided in the Administrative Code; and
- (c) if the employee’s actions amount to unacceptable personal conduct, did the misconduct amount to just cause for the disciplinary action taken?

Id.

12. Just cause must be determined based upon an examination of the facts and circumstances of each individual case. *Id.*

Inquiry 1: Did Petitioner Engage in the Conduct?

13. Respondent has met its burden of proof and has established by a preponderance of the evidence that Petitioner engaged in the alleged unacceptable conduct by being untruthful and neglecting his duty.

14. Respondent’s policy on Truthfulness states:

Members shall be truthful and complete in all written and oral communications, reports, and testimony. No member shall willfully report any inaccurate, false, improper, or misleading information.

North Carolina Highway Patrol Policy Manual H.01, Section VII.

15. Respondent's policy on Neglect of Duty states:

Members shall not be inattentive to duty nor neglect their duties. Members shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty or which would impair their ability to perform such duty.

A supervisor's failure to take appropriate action when he/she has personal knowledge of violations of the Rules of Personal Conduct and Job Performance by subordinates shall be considered serious neglect of duty.

North Carolina Highway Patrol Policy Manual H.01, Section XXVI.

16. Respondent has established that Petitioner violated the Truthfulness and Neglect of Duty policies by repeatedly checking in (10-41) for duty and claiming time worked when, in fact, he remained at his residence in Wake County instead of reporting for duty in Wayne County. On no occasion did he contact his supervisor to tell him that he was working from home. His supervisor did not approve of working from home. On the day he was actually confronted while at home, Petitioner stated that he was sick. Taking him at his word on that day, still he had checked on for the day's duty and again did not inform his supervisor that he was sick.

17. While Petitioner could not remember the specific days, Petitioner admitted to the conduct in general that he had checked in but not actually driven to Wayne County. His fuel logs document that between September 22, 2016 and October 6, 2016, he claimed time worked for eight shifts, but based on the actual mileage of his patrol car he could not have reported for duty in Wayne County on more than three occasions. He could not adequately or fully perform the duties of his position as a line sergeant from his home in Wake County when he was assigned to Wayne County.

Inquiry 2: Did the conduct constitute Unacceptable Personal Conduct?

18. The next step in the *Warren* analytical process is whether the behavior falls into one of the categories of unacceptable personal conduct defined by North Carolina Administrative Code, 25 NCAC 01J .0614(8).

19. Petitioner's violation of the Patrol's Truthfulness and Neglect of Duty policies constitute unacceptable personal conduct within the meaning of the North Carolina Administrative Code. This conduct constitutes: conduct for which no reasonable person should expect to receive prior warning; the willful violation of known or written work rules; conduct unbecoming an employee that is detrimental to the agency's service; and conduct unbecoming a state employee that is detrimental to state service. 25 NCAC 01J .0614(8).

20. Any one of the types of unacceptable personal conduct identified above is sufficient to constitute just cause.

21. The Respondent has met its burden and demonstrated that Petitioner's conduct as detailed in the final agency decision constitutes unacceptable personal conduct.

Inquiry 3: Was Dismissal the Appropriate Disciplinary Action?

22. A State employee may only be disciplined for "just cause." Pursuant to the Administrative Code, the only forms of discipline are written warning, suspension without pay, demotion and dismissal. 25 NCAC 01J .0604(a).

23. An employee may be dismissed for unacceptable personal conduct without prior written warning. 25 NCAC 01J .0614(7).

24. The Patrol's decision to dismiss Petitioner was based upon all the information available to it.

25. Untruthfulness is a serious violation of the Patrol's policy that compromises a member's ability to perform their job functions. .

26. Petitioner's conduct reflects poorly on the agency and impairs the public's confidence in the Patrol's ability to carry out its mission.

27. Historically, the Patrol has uniformly terminated employees found to have been untruthful, with some exceptions based on the particular facts and circumstances.

28. Petitioner's Neglect of Duty was a serious one. Patrol members, such as Kenneth McCray, have been disciplined with demotions, obviously lesser sanctions than termination. The facts and circumstances of his case presented lesser forms of Neglect of Duty.

29. In this instant case, Petitioner's actions of untruthfulness and neglect of duty show a pattern of conduct where Petitioner is emboldened to continue to remain at home at times after he has checked on for duty and without informing his supervisor. Petitioner's conduct is especially egregious because he is a supervisor. Petitioner's conduct demonstrates that he willfully violated Patrol policy.

30. Petitioner had received a prior oral warning from the Troop C Captain that he needed to be in his assigned county while on duty. Even after receiving this warning, Petitioner continued his course of conduct ignoring this warning.

31. Petitioner had received a prior performance review stating that he needed to spend more time with his troopers. Petitioner ignored this review and instead chose to work from home and not spend time with his troopers.

32. To his credit, Petitioner had had a nineteen-year career with the Patrol with only one previous discipline, the written warning. Generally, his performance evaluations were good. He was recognized as being a diligent and hardworking trooper.

33. Petitioner fails to appreciate the seriousness of his conduct, which is another factor that supports dismissal.

34. Petitioner's prior written warning for abuse of power is an aggravating factor when weighing the appropriate level of discipline imposed. The prior warning to Petitioner from his Troop Commander is particularly relevant because it represents prior incidences of unacceptable personal conduct, which evidences a willingness to disregard the Patrol's policies.

35. Based upon the facts and circumstances of this case, a lesser form of discipline is not warranted.

36. Respondent met its burden of proof and established by substantial evidence in the record that it had just cause to dismiss Petitioner for unacceptable personal conduct.

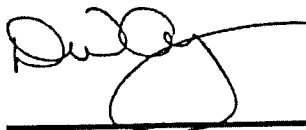
FINAL DECISION

Respondent had just cause for this disciplinary action pursuant to Section 126-35 of the North Carolina General Statutes and no lesser disciplinary action would have been appropriate. Respondent's dismissal of Petitioner is **AFFIRMED**.

NOTICE OF APPEAL

This Final Decision is issued under the authority of N.C.G.S. § 150B-34. Pursuant to N.C.G.S. § 126-34.02, any party wishing to appeal the Final Decision of the Administrative Law Judge may commence such appeal by filing a Notice of Appeal with the North Carolina Court of Appeals as provided in N.C.G.S. § 7A-29 (a). The appeal shall be taken within 30 days of receipt of the written notice of final decision. A notice of appeal shall be filed with the Office of Administrative Hearings and served on all parties to the contested case hearing.

SO ORDERED, this the 14th day of August, 2019.

A handwritten signature in black ink, appearing to read 'D. Overby', written over a horizontal line.

Donald W Overby
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

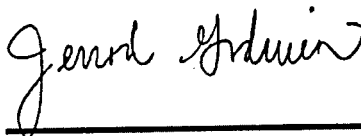
Barry Keith Henline
The Law Offices of Barry K. Henline, PLLC
barrykhenline@outlook.com
Attorney For Petitioner

Alan D McInnes
NC Department of Justice
amcinnnes@ncdoj.gov
Attorney For Respondent

Tammera S Hill
North Carolina Department of Justice - Public Safety Section
thill@ncdoj.gov
Attorney For Respondent

Corrine Lenore Lusic
North Carolina Department of Justice
clusic@ncdoj.gov
Attorney For Respondent

This the 14th day of August, 2019.



Jerrod Godwin
Administrative Law Judge Assistant
Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6700
Telephone: 919-431-3000

12 NCAC 10B .0204 SUSPENSION; REVOCATION; OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a felony; or
- (2) a crime for which the authorized punishment could have been imprisonment for more than two years.

(b) The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a one year time period as specified by the rules in this Subchapter;
- (2) fails to meet or maintain any of the employment or certification standards required by 12 NCAC 10B .0300;
- (3) fails to satisfactorily complete the in-service training requirements as presented in 12 NCAC 10B .2000 and .2100 or 12 NCAC 09E .0100;
- (4) has refused to submit to the drug screen as required by the rules in this Chapter or the rules of the Criminal Justice Education and Training Standards Commission or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the employing agency through which the officer is certified;
- (5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer, a corrections officer as defined in 12 NCAC 09G .0102 or a criminal justice officer as defined in 12 NCAC 09A .0103(6), unless the positive result is due to a medically indicated cause.

(c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
- (2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
- (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Subparagraph also applies to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100;
- (4) has been removed from office by decree of the Superior Court in accordance with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230; or
- (5) has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission, or a similar North Carolina, out-of-state or federal approving, certifying or licensing agency.

(d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor and which occurred after the date of appointment;
- (2) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment;
- (3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(b) as Class B misdemeanors regardless of the date of commission or conviction;
- (4) an accumulation of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor, regardless of the date of commission or conviction except the applicant

RESPONDENT'S
EXHIBIT

7

- shall be certified if the last conviction or commission occurred more than two years prior to the date of appointment; or
- (5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor regardless of the date of commission or conviction.
- (e) Without limiting the application of G.S. 17E, a person who has had his certification suspended or revoked shall not exercise the authority or perform the duties of a justice officer during the period of suspension or revocation.
- (f) Without limiting the application of G.S. 17E, a person who has been denied certification revoked shall not be employed or appointed as a justice officer or exercise the authority or perform the duties of a justice officer.
- (g) If the Commission does revoke, suspend, or deny the certification of a justice officer pursuant to this Rule, the period of such sanction shall be as set out in 12 NCAC 10B .0205.

*History Note: Authority G.S. 17E-7;
Eff. January 1, 1990;
Amended Eff. July 1, 1990;
Recodified from 12 NCAC 10B .0204 Eff. January 1, 1991;
Amended Eff. April 1, 1991; January 1, 1991;
Recodified from 12 NCAC 10B .0207 Eff. January 1, 1992;
Amended Eff. January 1, 2009; January 1, 2008; January 1, 2007; January 1, 2006; March 1, 2005; January 1, 2005; August 1, 1998; January 1, 1996; January 1, 1995; January 1, 1994; January 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

12 NCAC 10B .0103 DEFINITIONS

In addition to the definitions set forth in G.S. 17E-2, the following definitions apply throughout this Chapter, unless the context requires otherwise:

- (1) "Appointment" as it applies to a deputy sheriff means the date the deputy's oath of office is administered; and as it applies to a detention officer means either the date the detention officer's oath of office was administered, if applicable, or the detention officer's actual date of employment as reported on the Report of Appointment (Form F-4) by the employing agency, whichever is earlier; and as it applies to a telecommunicator, the telecommunicator's actual date of employment as reported on the Report of Appointment (Form F-4T).
- (2) "Convicted" or "Conviction" means for purposes of this Chapter, the entry of:
 - (a) a plea of guilty;
 - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body, tribunal, or official, either civilian or military; or
 - (c) a plea of no contest, nolo contendere, or the equivalent.
- (3) "Department Head" means the chief administrator of any criminal justice agency or communications center. Department head includes the sheriff or a designee appointed in writing by the Department head.
- (4) "Director" means the Director of the Sheriffs' Standards Division of the North Carolina Department of Justice.
- (5) "Division" means the Sheriffs' Standards Division.
- (6) "High School Graduation" means successful completion of all requirements for either public or non-public schools, including passing any required competency tests, established by the State Board of Education or other entity having jurisdiction where the student graduated at the time the student finished high school. A certificate or diploma reflecting the person accomplished some but not all graduation requirements is not sufficient. The high school must meet the compulsory attendance requirements in the jurisdiction in which the school is located.
- (7) "Enrolled" means that an individual is currently participating in an on-going presentation of a commission-certified basic training course which has not been concluded on the day probationary certification expires.
- (8) "Essential Job Functions" means those tasks deemed by the agency head to be necessary for the proper performance of a justice officer.
- (9) "Lateral Transfer" means certification of a justice officer when the applicant for certification has previously held general or grandfather certification as a justice officer or a criminal justice officer as defined in G.S. 17C-2(3) excluding state correctional officers, state probation/parole officers, and state youth services officers, provided the applicant has been separated from a sworn law enforcement position for no more than one year, or has had no break in service.
- (10) "Misdemeanor" means those criminal offenses not classified by the North Carolina General Statutes, the United States Code, the common law, or the courts as felonies. Misdemeanor offenses are classified by the Commission as follows:
 - (a) "Class A Misdemeanor" means:
 - (i) an act committed or omitted in violation of any common law, duly enacted ordinance or criminal statute of this state which is not classified as a Class B Misdemeanor pursuant to Sub-item (10)(b) of this Rule. Also specifically included herein as a Class A Misdemeanor is the offense of driving while impaired, if the offender was sentenced under punishment level three [G.S. 20-179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. All other traffic offenses under Chapter 20 (motor vehicles) are not classified as Class A Misdemeanors.
 - (ii) acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months. Also specifically included herein as a Class A Misdemeanor is the offense of driving while impaired, if the offender was sentenced under punishment level three [G.S. 20-179(i)], level four [G.S. 20-179(j)], or level five [G.S. 20-179(k)]. All other

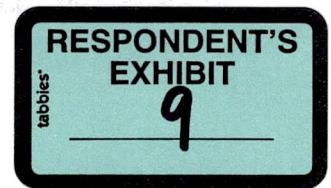


traffic offenses under Chapter 20 (motor vehicles) are not classified as Class A Misdemeanors.

- (iii) any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Specifically excluded from this grouping of "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions, or duly enacted ordinances of an authorized governmental entity with the exception of the offense of driving while impaired which is expressly included herein as a class A misdemeanor, if the offender could have been sentenced for a term of not more than six months.
- (b) "Class B Misdemeanor" means:
 - (i) an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state which is classified as a Class B Misdemeanor as set forth in the "Class B Misdemeanor Manual" as published by the North Carolina Department of Justice and shall automatically include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. Copies of the publication may be obtained from the North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602. There is no cost per manual at the time of adoption of this Rule.
 - (ii) acts committed or omitted in North Carolina prior to October 1, 1994 in violation of any common law, duly enacted ordinance, or criminal statute, of this state for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years. Specifically excluded from the grouping of "Class B misdemeanors" committed or omitted in North Carolina prior to October 1, 1994 are motor vehicle or traffic offenses designated as being misdemeanors under G.S. 20 (motor vehicles), with the following exceptions: "Class B misdemeanors" committed or omitted in North Carolina prior to October 1, 1994 expressly include, either first or subsequent offenses of G.S. 20-138(a) or (b), G.S. 20-166 (duty to stop in the event of an accident), G.S. 20-138.1 (impaired driving) if the defendant was sentenced under punishment level one [G.S. 20-179(g)] or punishment level two [G.S. 20-179(h)] for the offense, and shall also include a violation of G.S. 20-28(b) [driving while license permanently revoked or suspended].
 - (iii) any act committed or omitted in violation of any common law, duly enacted ordinance, or criminal statute of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Specifically excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor does expressly include, either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years, and driving while license permanently revoked or permanently suspended.
- (11) "Felony" means any offense designated a felony by the laws, statutes, or ordinances of the jurisdiction in which the offense occurred.
- (12) "Dual Certification" means that a justice officer holds probationary, general, or grandfather certification in two or more of the following positions with the same agency:
 - (a) deputy sheriff;

- (b) detention officer;
- (c) telecommunicator.
- (13) "Detention Officer" means any person performing responsibilities, either on a full-time, part-time, permanent or temporary basis, which includes the control, care, and supervision of any inmates incarcerated in a county jail or other confinement facility under the direct supervision and management of the sheriff. "Detention Officer" shall also mean the administrator and the other custodial personnel of district confinement facilities as defined in G.S. 153A-219.
- (14) "Deputy Sheriff" means any person who has been duly appointed and sworn by the sheriff and who is authorized to exercise the powers of arrest in accordance with the laws of North Carolina.
- (15) "Telecommunicator" means any person performing responsibilities, either on a full-time, part-time, permanent or temporary basis, for communication functions to include receiving calls or dispatching for emergency and law enforcement services.
- (16) "Commission" as it pertains to criminal offenses means a finding by the North Carolina Sheriffs' Education and Training Standards Commission or an administrative body, pursuant to the provisions of G.S. 150B, that a person performed the acts necessary to satisfy the elements of a specified criminal offense.
- (17) "Sworn Law Enforcement Position" means a position with a criminal justice agency of the United States, any state, or a political subdivision of any state which, by law, has general power of arrest and requires each of the following:
 - (a) successful completion of the Basic Law Enforcement Training curriculum offered by the respective state or federal entity; and
 - (b) an independent oath of office providing for the execution of the laws of the respective state or federal jurisdiction.
- (18) "General Powers of Arrest" means the authority to enforce the state or federal laws within the officer's territorial and subject matter jurisdiction to include the authority to arrest and cite offenders under the laws of the jurisdiction. These powers must be conferred on the officer by virtue of occupying a sworn law enforcement position. General powers of arrest means those powers, even though limited by subject matter jurisdiction, which may be exercised as a routine responsibility of the office. General powers of arrest does not mean those powers of arrest conferred by virtue of a special appointment or those granted as an incidental, as opposed to a primary, function of the office.
- (19) "In-Service Training Coordinator" means the person designated by the Department Head to administer the agency's in-service training program.
- (20) "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when justification of demonstrated need has been provided to the Division.
- (21) "Unprofessional Personal Conduct" means an act that is:
 - (a) conduct for which no reasonable person should expect to receive prior warning;
 - (b) job-related conduct which constitutes a violation of State or federal law;
 - (c) conviction or commission of a criminal offense as set out in 12 NCAC 10B .0204;
 - (d) the willful violation of Rules of this Chapter;
 - (e) conduct that is detrimental to instruction in the Commission's mandated courses;
 - (f) the abuse of client(s), student(s) or person(s) over whom the instructor has charge; or
 - (g) falsification of an instructor application or in other employment documentation.

History Note: Authority G.S. 17E-7;
Eff. January 1, 1989;
Amended Eff. January 1, 1994; January 1, 1993;
Temporary October 1, 1994 for a period of 180 days or until the permanent rule become effective whichever is sooner;
Amended Eff. January 1, 1996; March 1, 1995;
Temporary Amendment Eff. March 1, 1998;
Amended Eff. February 1, 2009; January 1, 2008; January 1, 2006; August 1, 2000; August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.



N.C. Gen. Stat. Section 14-230

Current through Session Laws 2019-227 of the 2019 Regular Session of the General Assembly. The final official version of Statutes through Session Laws 2019-227 will appear on Lexis Advance in December 2019.

NC - General Statutes of North Carolina Annotated > CHAPTER 14. CRIMINAL LAW > SUBCHAPTER 08 . OFFENSES AGAINST PUBLIC JUSTICE > ARTICLE 31. MISCONDUCT IN PUBLIC OFFICE

Section 14-230. Willfully failing to discharge duties

(a) If any clerk of any court of record, sheriff, magistrate, school board member, county commissioner, county surveyor, coroner, treasurer, or official of any of the State institutions, or of any county, city or town, shall willfully omit, neglect or refuse to discharge any of the duties of his office, for default whereof it is not elsewhere provided that he shall be indicted, he shall be guilty of a Class 1 misdemeanor. If it shall be proved that such officer, after his qualification, willfully and corruptly omitted, neglected or refused to discharge any of the duties of his office, or willfully and corruptly violated his oath of office according to the true intent and meaning thereof, such officer shall be guilty of misbehavior in office, and shall be punished by removal therefrom under the sentence of the court as a part of the punishment for the offense.

(b) No magistrate recusing in accordance with G.S. 51-5.5 may be charged under this section for recusal to perform marriages in accordance with Chapter 51 of the General Statutes.

History

1901, c. 270, s. 2; Rev., s. 3592; C.S., s. 4384; 1943, c. 347; 1973, c. 108, s. 5; 1993, c. 539, s. 142; 1994, Ex. Sess., c. 24, s. 14(c); 2009-107, s. 1; 2015-75, s. 2.

Annotations

Notes

EDITOR'S NOTE. --

Session Laws 2015-75, s. 5, provides: "Any magistrate who resigned, or was terminated from, his or her office between October 6, 2014, and the effective date of this act [June 11, 2015] may apply to fill any vacant position of magistrate. Notwithstanding any other provision of law, with respect to any magistrate who resigned his or her office between October 6, 2014, and the effective date of this act, and who is subsequently reappointed as a magistrate within 90 days after the effective date of this act:

"(1) For the period of time between that magistrate's resignation and his or her resumption of service upon reappointment, the magistrate shall not receive salary or other compensation and shall not earn leave. However, the magistrate shall be considered to have been serving as a magistrate during that period for purposes of determining continuous service, length of aggregate service, anniversary date, longevity pay rate, and the accrual of vacation and sick leave.

"(2) For purposes of the Teachers' and State Employees' Retirement System and the calculation of benefits under that System, (i) the magistrate shall be considered to have been an employee under G.S. 135-1(10) during the break in service, (ii) the period of the break in service shall be counted as membership service under G.S. 135-1(14), and (iii) the magistrate shall be deemed to have earned compensation under G.S. 135-1(7a) during the break in service at the rate of compensation that would have applied had there been no break in service.

N.C. Gen. Stat. Section 14-230

"(3)The Judicial Department shall pay and submit both the employee and employer contributions to the Retirement Systems Division on behalf of the magistrate as though that magistrate had been in active service during the period in question. Those contributions shall be submitted within 90 days of the magistrate's resumption of service and shall not be subject to penalties or interest if submitted within that 90-day period."

EFFECT OF AMENDMENTS. --

Session Laws 2009-107, s. 1, effective December 1, 2009, inserted "school board member" near the beginning of the first sentence.

Session Laws 2015-75, s. 2, effective June 11, 2015, added the subsection (a) designation and added subsection (b).

Case Notes

IN GENERAL. --The law will not countenance or condone any attempt to defy its mandates. The private citizen must obey the law, and the public officer is not exempt from this duty by any special privilege appertaining to his office. He is not wiser than the law, nor is he above it. The truth is, that if he willfully neglects or omits to perform a public duty, he is liable to indictment at common law. State v. Commissioners, 4 N.C. 419 (1816); State v. Williams, 34 N.C. 172 (1851); State v. Ferguson, 76 N.C. 197 (1877). If the neglect, omission, or refusal to discharge any of his official duties is willful and corrupt, it is criminal misbehavior, and subjects him to indictment for a misdemeanor and punishment by fine or imprisonment, and, as a part of the penalty, to removal from office. State ex rel. Battle v. City of Rocky Mount, 156 N.C. 329, 72 S.E. 354 (1911).

HISTORY OF SECTION. --See State v. Hord, 264 N.C. 149, 141 S.E.2d 241 (1965).

SECTIONS 7A-173 AND 7A-376 ARE NOT IRRECONCILABLY IN CONFLICT WITH THIS SECTION. State v. Greer, 308 N.C. 515, 302 S.E.2d 774 (1983).

EFFECT OF SECTION ON COMMON-LAW CRIME OF OFFICIAL OPPRESSION. --It is futile to attempt to mark the extent, if any, the common-law crime of official oppression has been modified or superseded by this section, as there is no exact common-law definition of official oppression, and the possible acts which may constitute the crime are as many and varied as the forms of corruption that may exist in public office. State v. Lackey, 271 N.C. 171, 155 S.E.2d 465 (1967).

AN ESSENTIAL DIFFERENCE BETWEEN A PUBLIC OFFICE AND MERE EMPLOYMENT is the fact that the duties of the incumbent of an office shall involve the exercise of some portion of the sovereign power. State v. Hord, 264 N.C. 149, 141 S.E.2d 241 (1965).

FAILURE TO ESTABLISH DEFENDANT WAS AN OFFICIAL. --Where the State failed to show any instance where the defendant could exercise sovereign power at any time in the course of his employment and failed to show that the defendant's position of senior administrator at school for the blind was created by statute, constitution, or delegation of state authority, the State failed to establish he was an official of a state institution. State v. Eastman, 113 N.C. App. 347, 438 S.E.2d 460 (1994).

ELEMENTS OF OFFENSE. --The offense described in this section has two components: (1) That the defendant be an official of a State institution, and (2) that he willfully fail to discharge the duties of his office; additionally, injury to the public is a judicially recognized element of the crime. State v. Birdsong, 325 N.C. 418, 384 S.E.2d 5 (1989).

INJURY TO THE PUBLIC must occur as a consequence of the omission, neglect or refusal. State v. Rhome, 120 N.C. App. 278, 462 S.E.2d 656 (1995).

WILLFUL NEGLECT AND INJURY TO PUBLIC REQUIRED. --It is to be observed that the essentials of the crime as prescribed are first, a willful neglect in the discharge of official duty, and second, injury to the public. State v. Anderson, 196 N.C. 771, 147 S.E. 305 (1929).

N.C. Gen. Stat. Section 14-230

WARRANT FALLING SHORT OF ALLEGING MALFEASANCE IN OFFICE IN VIOLATION OF SECTION. --See Hawkins v. Reynolds, 236 N.C. 422, 72 S.E.2d 874 (1952).

APPLIED in State v. Hucks, 264 N.C. 160, 141 S.E.2d 299 (1965); State v. Stanley, 60 N.C. App. 568, 299 S.E.2d 464 (1983); Structural Components Int., Inc. v. City of Charlotte, 154 N.C. App. 119, 573 S.E.2d 166 (2002).

CITED in Moffitt v. Davis, 205 N.C. 565, 172 S.E. 317 (1934); State v. Davis, 45 N.C. App. 72, 262 S.E.2d 827 (1980); State v. Davis, 48 N.C. App. 526, 269 S.E.2d 291 (1980); State v. Jarvis, 50 N.C. App. 679, 274 S.E.2d 852 (1981); Blakeley v. Town of Taylortown, 233 N.C. App. 441, 756 S.E.2d 878 (2014).

Research References & Practice Aids

CROSS REFERENCES. --

As to failure of sheriff to make return, see G.S. 14-242. As to prosecution of officers failing to discharge duties, see G.S. 128-16 et seq.

LEGAL PERIODICALS. --

For article, "Removing Local Elected Officials From Office in North Carolina," see 16 Wake Forest L. Rev. 547 (1980).

For article, "A Primer on North Carolina and Federal Use of Force Law: Trends in Fourth Amendment Doctrine, Qualified Immunity, and State Law Issues," see 31 Campbell L. Rev. 431 (2009).

General Statutes of North Carolina

Copyright 2019 by Matthew Bender & Company, Inc. a member of the LexisNexis Group. All rights reserved

End of Document

Rules of Personal Conduct and Job Performance

CALEA Chapters 12; 26; 35

Directive H.1

Revised 04/08/08
Effective 08/27/99

I. POLICY

This policy establishes policies and rules for governing the conduct and performance of Patrol members. (CALEA 12.2.1; 35.1.9)

II. GENERAL POLICIES AND PROCEDURES (CALEA 26.1.1; 35.1.9)

The Highway Patrol Rules of Personal Conduct and Job Performance shall govern the official and unofficial actions of each uniformed member of the Patrol. All members shall conduct themselves, both on and off duty, in a manner which will not in any way reflect negatively upon the professional image of the Patrol or of any of its members.

Each member charged with a violation of the rules of conduct or job performance should be charged with a violation under a specific section, when applicable. Any member against whom a charge is filed shall be given notice of the specific section he/she is alleged to have violated. A member charged with violating one of the specific subsections in this directive shall not also be charged with violating Sections III (Conformance to Laws), IV (Violation of Rules), V (Unbecoming Conduct), or VI (Unsatisfactory Job Performance) for the same conduct.

If an investigation reveals that a member has not violated the subsection under which he/she is charged but has instead violated some other subsection, or that the member should be charged with a different type of violation, the investigator shall contact the Unit Commander of Internal Affairs for directions as to how to proceed.

An accumulation of disciplinary actions taken against a member may be deemed sufficient cause for dismissal, demotion, or other disciplinary or administrative action as provided in this manual.

III. CONFORMANCE TO LAWS (CALEA 26.1.1)

Each member shall obey the laws of the United States, the State of North Carolina and of local jurisdictions. If facts revealed by a thorough investigation indicate there is substantial evidence that a member has committed acts which constitute a violation of a civil or criminal law, ordinance, or infraction other than a parking ordinance, then the member may be deemed to have violated this subsection, even if the member is not prosecuted or is found not guilty in court.

The reporting provisions located in Directive H.2, Section V, "Employee Criminal Charges / Arrest Notification Procedures" shall be adhered to.



IV. VIOLATION OF RULES (CALEA 26.1.1)

Members shall not commit any act or fail to perform any act which would constitute a violation of any of the rules, regulations, directives, orders, or policies of the Patrol, whether or not they are stated in this directive. Ignorance of Patrol rules, regulations, directives, orders, or policies shall not justify any such violation. Members shall be responsible for their own acts, and they shall not unjustly attempt to shift to others the responsibility for executing or for failing to execute a lawful order or a Patrol duty.

V. UNBECOMING CONDUCT (CALEA 26.1.1; 35.1.9)

Members shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably upon the Highway Patrol and in keeping with the high standards of professional law enforcement. Unbecoming conduct shall include any conduct that constitutes unacceptable personal conduct pursuant to State Personnel Policy and any conduct which tends to bring the Patrol into disrepute, or which reflects discredit upon any member(s) of the Patrol, or which tends to impair the operation and efficiency of the Patrol or of a member, or which violates Patrol policy.

VI. UNSATISFACTORY JOB PERFORMANCE (CALEA 26.1.1; 35.1.9)

Members shall maintain sufficient competency to properly perform their duties and to assume the responsibilities of their positions. Members shall perform their duties in a manner, which will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the Patrol.

Examples of unsatisfactory performance include but are not limited to the following:

- Failure to properly supervise subordinates
- Lack of knowledge of the proper application of laws the member is required to enforce
- Unwillingness or inability to perform assigned tasks
- Failure to conform to work standards established for the member's rank, grade, or position
- Failure to take appropriate enforcement action at any time
- Absence without leave
- Unnecessary absence from assigned duty

The following will be considered prima-facie evidence of unsatisfactory performance:

- Repeated poor job performance evaluations
- Repeated infractions of policy, regulations, manuals, or directives

VII. TRUTHFULNESS (CALEA 26.1.1)

Members shall be truthful and complete in all written and oral communications, reports, and testimony. No member shall willfully report any inaccurate, false, improper, or misleading information.

VIII. COURTESY (CALEA 26.1.1; 61.1.8,)

Members shall be as courteous to the public as possible. Members shall be tactful in the performance of their duties. They shall exercise the utmost patience and discretion in performing their duties and shall be as polite as possible with the public. While in uniform, members shall not use coarse, violent, profane, obscene, or insolent language or gestures and shall not publicly express any prejudice concerning race, religion, politics, national origin, life style, or similar personal characteristics.

IX. ABUSE OF POSITION (CALEA 26.1.1)

Members are prohibited from using their official positions or their official identification cards and badges for:

- Intimidating or harassing of anyone for personal reasons
- Obtaining privileges not otherwise available to them or to someone else
- Avoiding the consequences of illegal acts

Members are prohibited from lending their identification cards or badges or any replica thereof to another person or permitting these items to be photographed or reproduced.

X. SEEKING OR ACCEPTING GIFTS, FAVORS, OR BRIBES (CALEA 26.1.1)

Except as authorized by Directive H.3, members shall neither solicit nor accept from any person, business, or organization any gift, favor, or bribe.

XI. USE OF ALCOHOLIC BEVERAGES (CALEA 26.1.1)

Members shall not ingest any intoxicant while in uniform.

Members shall not appear for duty or be on duty while under the influence of intoxicants to any degree whatsoever, nor shall they have any odor of intoxicants on their breath.

Members shall not bring or allow to be brought into or store alcoholic beverages in any Patrol facility or vehicle, except alcoholic beverages which are being held as evidence, and then only in conformance with Patrol procedures.

XII. USE OF ALCOHOLIC BEVERAGES WHILE OFF DUTY (CALEA 26.1.1)

While off duty, members shall refrain from ingesting any intoxicants to the extent that such ingestion results in appreciable impairment which would tend to discredit the member or the Patrol or to render the member unfit to report for his/her next regular tour of duty, including having any amount of intoxicant in his/her system.

XIII. USE OF DRUGS (CALEA 26.1.1)

Members shall not ingest any illegal controlled substance that is illegal under State or federal law.

Members shall not ingest any controlled substance without a prescription.

Members shall not ingest any prescribed drug(s) in amounts above prescribed dosage.

Members shall not possess any illegal controlled substance or any controlled substance without a prescription other than for evidentiary purposes and then only in conformance with Patrol procedures.

Members shall not knowingly use performance enhancing drugs (Anabolic-Androgenic Steroids, Testosterone, Human Growth Hormone) or any other controlled substance that may be used for the purpose of performance enhancement, unless prescribed for use as a medical necessity by a board certified physician who is licensed by the State that he/she generally practices medicine. Except in emergency, life and death circumstances, members who have a prescription for any performance enhancing drug must consult with the Patrol's Medical Director prior to using the drug. Members who are prescribed any performance enhancing drug will not be allowed to report for duty without prior approval of the Medical Director.

XIV. CONFIDENTIALITY OF INFORMATION (CALEA 26.1.1)

Members shall treat the official business of the Patrol as confidential. Information regarding official business shall be disseminated only to those persons for whom it is intended and only in accordance with established Patrol procedures. Members may remove and/or copy official records or reports from Patrol files or from Patrol installations only in accordance with established State Personnel, Departmental, and Patrol procedures. Members shall not divulge the identity of persons giving confidential information except when properly authorized for the performance of Patrol duties.

XV. REPORTING FOR DUTY (CALEA 26.1.1)

Members shall report for duty at the time and place required by assignment or orders and shall be capable of performing their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they can immediately assume their duties. A subpoena or order to appear in court or at an administrative hearing shall constitute an order to appear for duty as provided in this section.

XVI. FICTITIOUS ILLNESS OR INJURY (CALEA 26.1.1)

Members shall not feign illness or injury, falsely report themselves ill or injured or otherwise deceive or attempt to deceive any official of the Patrol as to the condition of their health.

XVII. HIGHWAY PATROL REPORTS (CALEA 26.1.1)

Members shall submit all necessary reports on time and in accordance with established Patrol procedures.

XVIII. INSUBORDINATION (CALEA 12.1.3; 26.1.1)

Members shall promptly obey any lawful order of a superior officer. This will include orders relayed from a superior officer by an employee of the same or lesser rank. Any disrespectful, mutinous, insolent or abusive language, conduct, or attitude directed toward a superior officer or the authority or the position shall be considered insubordination.

XIX. CONFLICTING OR ILLEGAL ORDERS (CALEA 12.1.3; 26.1.1)

Members who are given an order, which is in conflict with a previous order, rule, regulation, directive or manual shall respectfully point out the conflict to the officer issuing the order. If the superior officer issuing the order does not alter or retract the conflicting order, the order shall stand. Under these circumstances, the responsibility for issuing and carrying out a conflicting order shall rest upon the superior officer. Members shall obey the conflicting order and shall not be held responsible for disobedience of the order previously issued. Members shall not obey any order that would require them to commit any illegal act. If in doubt as to the legality of the order, members shall request the issuing officer to clarify the order or shall confer with a higher authority.

XX. OPERATION OF VEHICLES AND AIRCRAFT (CALEA 26.1.1)

Members shall operate official vehicles and aircraft in a careful and prudent manner and shall obey all laws of the State, Federal Regulations, and all Patrol policy pertaining to such operation.

XXI. USE OF PATROL EQUIPMENT (CALEA 26.1.1)

Members shall utilize Patrol equipment only for its intended purpose in accordance with established Patrol procedures and shall not deliberately or through carelessness, abuse, damage, or lose Patrol equipment. All Patrol equipment issued to members, including manuals, shall be maintained in proper order.

Members shall immediately notify the Director of Support Services Section via chain-of-command of any Patrol equipment that is lost or damaged.

A member may receive disciplinary action for lost, damaged, or stolen equipment when caused by negligence of the member. The member's immediate supervisor shall investigate and make recommendations to the appropriate Section Director/Troop Commander. The appropriate Section Director/Troop Commander, with the advice and assistance of the Unit Commander of Internal Affairs will determine whether to conduct a further investigation.

If it is determined that a member was negligent, disciplinary action may be imposed against the member for lost, damaged or stolen equipment. In appropriate circumstances, the State Highway Patrol may take or seek additional appropriate action against the negligent member to obtain restitution.

XXII. REQUESTS FOR ASSISTANCE (CALEA 26.1.1)

When any person applies for assistance or advice, either by telephone or in person, members while on duty or in uniform shall accept all pertinent information in an official and courteous manner and will properly and judiciously act upon such information in a manner consistent with established Patrol procedures.

XXIII. IDENTIFICATION (CALEA 26.1.1)

Members while on duty, while in uniform, or while acting in the capacity of a law enforcement officer shall furnish their names and other identification to any person requesting that information except when the withholding of such information is necessary for the performance of Patrol duties.

XXIV. CITIZEN COMPLAINTS (CALEA 26.1.1; 35.1.9)

Members shall courteously and promptly accept and record complaints made by citizens against any member or any Patrol policy or procedure in accordance with Patrol policy.

XXV. CONDUCT WHILE UNDER INVESTIGATION (CALEA 26.1.1)

Any member being investigated for any reason shall cooperate with investigating officers and shall be subject to the policy set forth in this manual.

XXVI. NEGLECT OF DUTY (CALEA 26.1.1)

Members shall not be inattentive to duty nor neglect their duties. Members shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty or which would impair their ability to perform such duty.

A supervisor's failure to take appropriate action when he/she has personal knowledge of violations of the Rules of Personal Conduct and Job Performance by subordinates; shall be considered serious neglect of duty.

XXVII. ASSOCIATIONS (CALEA 26.1.1)

Members shall avoid regular or continued association or dealings with persons whom they know, or should know, are under criminal investigation or indictment or who have a reputation for ongoing involvement in felonious or criminal behavior, except as necessary in the performance of official duties.

XXVIII. VISITING PROHIBITED ESTABLISHMENTS (CALEA 26.1.1)

Members shall not willfully visit, enter, or frequent a house of prostitution, gambling house, or establishment wherein the laws of the United States, the State of North Carolina, or the local jurisdiction are regularly violated or reputed to be regularly violated, except in the performance of duty or while acting under proper and specific orders from a superior officer.

XXIX. GAMBLING (CALEA 26.1.1)

Members shall not engage in any form of gambling which is in violation of federal, State, or local laws.

XXX. PAYMENT OF DEBTS (CALEA 26.1.1)

Members shall not undertake any financial obligations which they know or should know they will be unable to meet and shall pay all just debts promptly. An isolated instance of financial irresponsibility will not be grounds for discipline except in unusually severe cases. However, repeated instances of financial irresponsibility shall be cause for disciplinary action.

Financial difficulty stemming from unforeseen medical expenses or personal disaster shall not be cause for discipline, provided that the member is making a reasonable, good faith effort to settle all accounts.

Members shall not become financially obligated to subordinates or supervisors.

XXXI. ENDORSEMENTS AND REFERRALS (CALEA 26.1.1)

Members shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service such as an attorney, ambulance service, towing service, bondsman or mortician.

In the case of ambulance or towing service, when such service is necessary and the person needing the service is unable or unwilling to procure it or requests assistance, members shall proceed in accordance with established Patrol policy.

XXXII. PUBLIC APPEARANCES AND STATEMENTS (CALEA 26.1.1)

Members shall not publicly criticize or ridicule the Patrol, its policies, or other members by speech, writing, or other expression when such criticism or ridicule directly or visibly affects or would reasonably be expected to directly or visibly affect the operation of the Patrol.

Without official approval, members shall not address gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or periodical, or release or divulge investigative information or any other matters pertaining to the Patrol while holding themselves out as having an official capacity in such matters. Official approval may be given to conduct highway safety programs and otherwise release information concerning highway safety matters so long as this activity does not conflict with the official position of the Highway Patrol.

XXXIII. LABOR ACTIVITIES (CALEA 26.1.1)

Members shall have the right to join labor organizations, but nothing shall compel the Patrol to recognize or to engage in collective bargaining with any such labor organizations except as provided by law.

Members shall not engage in any strike. Strike includes the concerted failure by more than one member to report to duty, willful absence from one's position, unauthorized holidays, feigned sickness, the stoppage of work, and improper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of employment.

XXXIV. SEEKING PREFERENTIAL TREATMENT (CALEA 26.1.1)

Members shall not solicit petitions, influence, or intervene with any person outside the Highway Patrol for purposes of preferential treatment, advantage, transfer, advancement, promotion, or change of duty or duty station for themselves or for another member. Members should not knowingly encourage others to take such action on their behalf.

XXXV. OBSTRUCTION OF INVESTIGATION (CALEA 26.1.1)

Patrol members shall not intentionally delay or obstruct the Patrol's response to a complaint or minimize the importance of a problem being complained against or obstruct the proper investigation of a problem which is the subject of a complaint. Patrol members shall not refuse to answer any question which is narrowly and directly related to any matter under investigation.

**Assignments, Transfers, Retirements,
Resignations, and Residence Requirements**

Directive E.9

Revised 12/14/2010

Effective 11/10/2004

CALEA Chapters 16; 22; 41; 81

I. POLICY

This policy sets forth procedures in reference to transfers, retirements, resignations, and residence requirements of members on the Highway Patrol. All assignments and transfers shall be in the best interest of the Patrol as determined by the Commander's Office.

A member's residence must be established to ensure members can respond in a timely manner on a 24-hour basis to calls for service. Members shall reside in the State of North Carolina and shall reside in the county of their assigned duty station.

II. ASSIGNMENT OF DUTY STATIONS WITHIN THE PATROL BY THE COMMANDER'S OFFICE (CALEA 41.1.1)

The Commander's Office shall assign members to duty stations in such a manner that will allow the Patrol to best fulfill its responsibilities to the entire state. Patrol members or civilian employees who are immediate family members shall not be stationed within the same troop or other unit in which one may have direct supervision over the other. Members must be willing to live and work in any section of the state and may be reassigned / transferred at the discretion of the Commander's Office.

A newly promoted Sergeant, at the discretion of the Commander's Office, may be allowed to remain in his/her current duty station or assigned to a duty station where he/she has served as a member within two years of the date of promotion.

Cadets will be assigned a duty station other than the county in which the cadet resided at the time of his/her employment and at the discretion of the Commander's Office.

III. TRANSFER TO ANOTHER DUTY STATION WITHIN THE PATROL AT THE REQUEST OF THE MEMBER (CALEA 16.2.1)

Requests for transfer to a duty station located in the county in which the member resided at the time of his/her initial employment shall be refused if they are made within a period of five (5) years of the date the member was sworn in unless, in the discretion of the Commander's Office, extenuating circumstances permit an exception to this rule.

Each member holding the rank of Trooper, Sergeant, or First Sergeant who wishes to transfer to a different duty station within the Patrol shall request permission for such transfer in writing by completing a Request for Transfer (HP-205) and submitting it to the Director of Field Operations. Troopers'



requests for transfer of duty stations within two (2) years following the date a member is sworn in shall be denied unless:

- In the discretion of the Commander's Office, extenuating circumstances warrant an exception to this policy. He/She should attach a memorandum stating any extenuating circumstances.
- Members who are assigned to a multi-county district who wish to transfer to another county within that district may do so without being required to meet the two (2) years minimum time in duty station requirement.

Requests for transfer shall follow the procedure as outlined below:

- Administrative Services posts the "Trooper and Motor Carrier Allocation" report on internal website the 10th of each month or the first workday after the 10th of the month to each section, troop, and district. Vacant supervisor positions for the rank of Sergeant and First Sergeant will also be listed.
- Sections, troops, and districts will immediately make the report available to all personnel assigned to their section, troop, and district.
- Members shall submit transfer requests (HP-205) to their District Supervisor or the appropriate supervisor in their chain-of-command on a bi-monthly basis (during the months of January, March, May, July, September, and November). The HP-205s must be received on or before the 20th of the month or on the first workday after the 20th.
- District Supervisors or the appropriate supervisor in the chain-of-command shall make a recommendation as to whether the member's request should be granted or denied, state the reasons therefore, and shall forward the request to the Section Director/Troop Commander no later than the 21st of the month or the first workday after the 21st.
- Troop Commanders or their designees shall approve or deny the request, state the reason therefore, and fax the request to Field Operations no later than the 22nd of the month or the first workday after the 22nd. Section Directors other than those assigned to Field Operations shall approve or deny requests for employees in their chain-of-command and state the reason therefore.
- Section Directors shall forward all transfer requests to the Director of Administrative Services and they should be received no later than the 23rd of the month or the first workday after the 23rd. Transfer requests shall be forwarded to the Commander's Office no later than the 24th or the first workday after the 24th.
- The Commander's Office shall respond to all requests for transfer in writing prior to the end of the month in which the transfer was submitted.

Members wishing to transfer to a specialized unit must follow the transfer guidelines established by that unit. The Commander's Office shall approve all guidelines or amendments to the guidelines. The director of each specialized unit shall maintain approved guidelines that shall include selection criteria, vacancy announcement procedures, selection procedures, duration of assignment, and post-selection training requirements. (CALEA 16.2.2)

The Director of Administrative Services shall be responsible for conducting an annual documented review of each specialized and temporary assignment for the purpose of determining whether it should be continued. The Command Staff shall review the list of agency's specialized assignments, statement of purpose for each specialized assignment and evaluate the initial problem that required the specialized assignment to determine a continued need. The Command Staff's recommendation concerning specialized and temporary assignments shall be forwarded to the Commander's Office for approval. The Director of Administrative Services shall forward a decision concerning the specialized and temporary positions during the second quarter of each year to the Accreditation Unit. (CALEA 16.2.1)

In considering the member's request for transfer, the District Supervisor, Section Director/Troop Commander, Director of Field Operations, Commander's Office shall first consider the best interest of the Patrol but shall also give consideration to the reason given by the member for requesting the transfer, the living conditions of the member and his/her family, and any special family circumstances which would justify the transfer. The Commander's Office in his/her discretion may grant or deny the request for transfer.

When members are transferred to another duty station pursuant to their own request, they shall be responsible for all moving expenses.

Supervisor Transfers

- Patrol supervisors who request to transfer to another duty station after **1 July 2008**, will be required to make a two (2) year commitment to remain in that duty station. The only exceptions to the two (2) year commitment in duty station requirement are:
 - If extenuating circumstances warrant an exception to this policy, the Commander's Office may choose to waive the two (2) years time in duty station requirement. The supervisor requesting the transfer shall be required to submit a memorandum which addresses the extenuating circumstances to be considered. The memorandum shall be forwarded to the Commander's Office, via the chain of command, when the request for transfer is made.
 - District Supervisors who are assigned to a multi-county district may be allowed to transfer to another county within that district without being required to meet the two (2) years time in duty station requirement. Each District Supervisor shall request permission for such transfer in writing by

completing a Request for Transfer (HP-205). The request shall be forwarded to the Director of Field Operations, via the chain-of-command, when the request is made for consideration. It shall be documented in the "Comments" section on the HP-205 that the transfer being requested is within a multi-county district.

- As referenced in Section I and Section II of this policy, members, who are assigned to a Patrol Section / Troop Headquarters, at the discretion of the Commander's Office, may be reassigned or transferred within that Section or Troop Headquarters if the reassignment or transfer is in the best interest of the Patrol, without being required to meet the two (2) years in duty station requirement.
- The two (2) years in duty station requirement mentioned in the aforementioned does not prohibit a supervisor from being eligible for promotion.

IV. **PROCEDURES FOR ESTABLISHING RESIDENCE AT ASSIGNED DUTY STATION (CALEA 81.2.5)**

Members shall, within 180 days of initial assignment or transfer, establish their residences within their assigned duty station as indicated in the Duty Station section of the Employee Roster Inquiry Screen in the CAD. In extenuating circumstances, a 90-day extension may be granted by the Section Director/Troop Commander. The Section Director/Troop Commander may grant an additional 90-day extension; however, the members must establish their residence within twelve months. The affected Section Director/Troop Commander shall submit a written report to the Director of Administrative Services stating the reason granting or denying each extension and describe the progress being made to solve the problem.

Moving and relocation procedures and expenses are governed by the Office of State Budget and Management. Directive E.5 (Expenditures) outlines State budget and management guidelines regarding the moving of household goods, requests for extensions, or other authorized expenses.

Section Directors/Troop Commanders are responsible for determining compliance with this policy. Any request for exception to this policy shall be submitted, in memorandum form, via the chain-of-command to the Commander's Office for approval.

A member's supervisor is responsible for ensuring that personnel under his/her supervision have a correct physical address and telephone number listed on the Computer Assisted Dispatch (CAD) System. If a member has a separate mailing address different from his/her current physical address, it shall be listed in the comments section on the first page of the personnel information page.

Members shall report any change of address and/or telephone number in writing to their immediate supervisor within twenty-four (24) hours.

Change of Residence Due to Promotion or Transfer

- A member that accepts a promotion into a specialized position must remain in that position for a minimum of two (2) years.
- A member shall establish a residence, as defined in this policy, upon the effective date of the transfer, promotion, or as outlined above.

V. TRANSFER TO OTHER STATE AGENCIES

Each member who wishes to transfer to another State agency shall follow the mandates of the State Personnel Manual. Members shall include in their request the following information:

- Reasons for the request
- Name of the agency to which the member desires to transfer
- Description of the position which the member desires
- Name of the supervisor for that position
- Desired effective date of the transfer

VI. RETIREMENT SYSTEM (CALEA 22.2.2)

All Highway Patrol personnel automatically become members of the Teachers' and State Employees' Retirement System of North Carolina upon full-time employment.

VII. RETIREMENT (CALEA 22.2.2; 22.3.1; 22.3.2)

The mandatory retirement age for all law enforcement personnel, regardless of rank, shall be 62.

Regardless of position held or type of work performed, all Highway Patrol enforcement personnel shall retire at age 62 at the end of the month in which their 62nd birthday falls. Earlier retirement may be required if a member does not meet the standards established by the Highway Patrol Medical Director.

VIII. RECOGNITION OF RETIRED MEMBERS (CALEA 22.2.2)

The recognition of a member retiring from the Highway Patrol shall be allowed when one (1) of the following criteria has been met as defined by the state retirement system:

- "Service Retirement," being not less than 55 years of age and completing 5 or more years of service as a sworn law enforcement officer or, at any age, having completed 30 or more years of credible service; or
- "Early Retirement," being not less than 50 years of age and completing 15 or more years of credible service as a law enforcement officer; or

After meeting one (1) of the criteria mentioned above, any honorably retiring member may request a retirement ceremony to be conducted in the Commander's Office or at a place designated by the affected retiring member.

A commemorative plaque approved by the Commander's Office will be presented to each honorably-retired member who meets one (1) of the criteria mentioned in this directive. The member's name, highest rank, and dates of service with the Patrol will be inscribed on the plaque.

Honorably-retired members will be furnished an identification card which identifies him/her as a retired member of the Highway Patrol, and will be periodically informed of Patrol operations and progress.

Upon the death of a retired member, the Patrol Headquarters staff will assist the member's dependents in all matters pertaining to Patrol related benefits and a Patrol funeral may be provided if requested by the family. The Commander's Office or his/her designee shall determine the feasibility of providing a Patrol funeral for a retired member.

IX. BADGES AND SERVICE SIDE ARMS

Upon request and at no cost to them, a retiring member shall receive the badge he/she wore or carried while a member of the Patrol.

At the discretion of the Secretary of the Department of Crime Control and Public Safety (CCPS) and upon request, a retiring member may purchase his/her service side arm at a price determined by the Secretary.

To be eligible to purchase his/her current service side arm, a retiring member must meet one (1) of the criteria outlined in this directive, as defined by the state retirement system and must have carried the current side arm for not less than twelve (12) months prior to retirement. A member who does not meet the twelve (12) month criteria may elect to purchase his/her previous side arm provided he/she notified the Commander's Office of his/her intent to retire at the time his/her current side arm was issued.

The twelve (12) month rule may be waived for a retiring member at the discretion of the Commander's Office, along with consultation with the Secretary of the Department of Crime Control and Public Safety (CCPS).

A retiring member making a request for his/her current or previously issued service side arm must complete form HP-500 and obtain a permit as required by

N.C.G.S. § 14-402 and N.C.G.S. § 20-187.2, unless the side arm shall have been rendered incapable of being fired, in which event no permit is required.

X. RESIGNATION

Members who intend to resign should notify the Commander's Office in writing via chain-of-command at least two (2) weeks prior to the date of resignation.

HP-740
Rev. 04/2013

North Carolina
State Highway Patrol

REQUEST TO RESIDE OUTSIDE COUNTY OF ASSIGNED DUTY STATION

I, Maurice A. DeValle, request permission to reside outside my county of
First Name M.I. Last Name

assigned duty station. I understand if this request is approved, I must adhere fully with the provisions set forth in Directive E.9 (Residence Requirements) of the North Carolina Highway Patrol Policy and Procedures Manual. I am also aware that should this request be approved, the State will bear no expense.

Sgt. M.A. DeValle 1966 C/2 1/7/15
Rank / Signature of Member Registry Troop / District Date

Current Duty Station: Goldsboro

County Requesting to Reside: Johnston

Physical Address of Residence Member Will Reside: 400 Hillside Drive

Smithfield NC 27577
City State Zip Code

SUPERVISOR FINDINGS

I, F/Sgt. / Gerald L. Burton have personally driven the most direct public
Rank / First Name M.I. Last Name

highway route to the member's proposed residence. The route traveled, with exact mileage to the county line of assigned duty station from proposed residence, is as follows:

Travel north on Hillside Drive to Longview Drive, turn left and travel west on Longview Drive to Park Avenue. Turn right on Park Avenue and travel north to US 70 (Business). Turn right and travel east on US 70 (Business) to US 70 and continue east on US 70 to Wayne County. Total Distance 15.5 Miles

The member's proposed residence (☒ is / ☐ is not) within the 20-mile distance set forth in Directive E.9.

[Signature]
Supervisor's Signature

January 7, 2015
Date

AUTHORIZATION

- ☒ Approval is made with the understanding that the requesting member is in full compliance with Directive E.9.
☐ Permission to reside outside the county of assigned duty station is denied. Member's proposed residence is outside the 20-mile distance set forth in Directive E.9. (Forward to Patrol Commander)

[Signature]
Section Director / Troop Commander's Signature

2/4/2015
Date

PATROL COMMANDER

- ☐ Permission is denied in accordance with previous recommendations / findings.
☐ Permission is granted; the denial has been overturned by order of the Patrol Commander

Patrol Commander's Signature

Date

**RESPONDENT'S
EXHIBIT
13**

Respondent - 01252

Page: 1 Document Name: Untitled

- 1610081250310G657 UNIT ACTIVITY BROWSE BY PARAMETER 11/14/2016 15:06 HPCS146
030-MAX-RECORDS READ, PRESS ENTER

SEARCH ARGUMENT DATES(START/END): 160926/161114

| DATE | HHMMSS | UNIT | NAME | 10- | SIG | HIWAY | LOCATION | STAT | MT:# | DATE | RADIO | ASGN |
|-------------------|--------|------|---------------|-----|-----|--------|----------|------|------|-------------|-------|------|
| PARMS>**** | | C223 | ***** | ** | ** | ***** | ***** | ** | **** | | | ** |
| 1609260618180C223 | | | DEVALLE, M 41 | | | 10-41 | | | | 1966 160926 | CA | C2 |
| 1609261356400C223 | | | DEVALLE, M 42 | | | SIGNOF | | | | 1966 160926 | CA | C2 |
| 1609301604320C223 | | | DEVALLE, M 41 | | | 10-41 | | | | 1966 160930 | CA | C2 |
| 1610020424390C223 | | | DEVALLE, M 42 | | | SIGNOF | | | | 7487 161002 | CA | C2 |
| 1610021250580C223 | | | DEVALLE, M 41 | | | 10-41 | | | | 1966 161002 | CA | C2 |
| 1610022305220C223 | | | DEVALLE, M 42 | | | SIGNOF | | | | 1966 161002 | CA | C2 |
| 1610051257000C223 | | | DEVALLE, M 41 | | | 10-41 | | | | 1966 161005 | CA | C2 |
| 1610052318110C223 | | | DEVALLE, M 42 | | | SIGNOF | | | | 1966 161005 | CA | C2 |
| 1610061302330C223 | | | DEVALLE, M 41 | | | 10-41 | | | | 1966 161006 | CA | C2 |
| 1610062319510C223 | | | DEVALLE, M 42 | | | SIGNOF | | | | 1966 161006 | CA | C2 |
| 1610070742190C223 | | | DEVALLE, M 41 | | | 10-41 | | | | 1966 161007 | CA | C2 |
| 1610070852450C223 | | | DEVALLE, M 07 | | | | EM SIG 9 | | | 7056 161007 | CA | C2 |
| 1610071721360C223 | | | DEVALLE, M 08 | | | | | | | 7056 161007 | CA | C2 |
| 1610071923010C223 | | | DEVALLE, M 42 | | | SIGNOF | | | | 1966 161007 | CA | C2 |

P = PARAMETER ENTRY SCREEN----- (F11) I = INQUIRY (CURSOR)----- (F5)
F = NEXT PAGE----- (F8) R/S = UNIT ACTIVITY/SYSTEM MENU- (F2/F1)



Page: 1 Document Name: Untitled

- 1610161156030C648 UNIT ACTIVITY BROWSE BY PARAMETER 11/16/2016 14:51 HPCS146
030-MAX-RECORDS READ, PRESS ENTER

SEARCH ARGUMENT DATES(START/END): 161014/161116

| DATE HHMMSS | UNIT NAME | 10- SIG HIWAY | LOCATION | STAT MT:# | DATE | RADIO | ASGN |
|-------------------|---------------|---------------|-----------------|-----------|-------------|-------|------|
| PARMS>**** | C223 | ***** | ** | ** ***** | ***** | ** | ** |
| 1610141455570C223 | DEVALLE, M 41 | 10-41 | | | 1966 161014 | CA | C2 |
| 1610150057410C223 | DEVALLE, M 42 | SIGNOF | | | 1966 161015 | CA | C2 |
| 1610151555200C223 | DEVALLE, M 41 | 10-41 | | | 1966 161015 | CA | C2 |
| 1610151655520C223 | DEVALLE, M 50 | F SR2014 | 300 ROLLINGW BU | 7874 | 161015 | CA | C2 |
| 1610151822470C223 | DEVALLE, M 08 | | | 7271 | 161015 | CA | C2 |
| 1610151823490C223 | DEVALLE, M 07 | OFFICE | | | 1966 161015 | CA | C2 |
| 1610160444360C223 | DEVALLE, M 42 | SIGNOF | | | 1966 161016 | CA | C2 |
| 1610161145150C223 | DEVALLE, M 41 | 10-41 | | | 1966 161016 | CA | C2 |

P = PARAMETER ENTRY SCREEN----- (F11) I = INQUIRY (CURSOR)----- (F5)
F = NEXT PAGE----- (F8) R/S = UNIT ACTIVITY/SYSTEM MENU- (F2/F1)

*1966 - Damm
RHH #*

P 161111 UNIT ACTIVITY BROWSE BY PARAMETER 11/14/2016 09:01 HPC3146
012-UNTLOG END-OF-FILE REACHED

SEARCH ARGUMENT DATES(START/END): 161111,161114

| DATE HHMMSS | UNIT NAME | 10- SIG HIWAY | LOCATION | STAT | MT:# | DATE | RADIO | ASGN |
|-------------|-----------|---------------|----------|-------------|---------|-------------|-------|-------|
| PARIS>**** | C223 | ***** | ** | ***** | ***** | ***** | ***** | ***** |
| 1611110153 | 090C223 | DEVALLE, M 41 | 10-41 | | | 1966 161111 | CA | C2 |
| 1611110935 | 10C223 | DEVALLE, M 42 | SIGNOF | | | 1966 161111 | CA | C2 |
| 1611121354 | 280C223 | DEVALLE, M 41 | 10-41 | | | 1966 161112 | CA | C2 |
| 1611121515 | 370C223 | DEVALLE, M 07 | | CELL | | 1966 161112 | CA | C2 |
| 1611121543 | 270C223 | DEVALLE, M 08 | | | | 1966 161112 | CA | C2 |
| 1611130141 | 170C223 | DEVALLE, M 42 | SIGNOF | | | 1966 161113 | CA | C2 |
| 1611131600 | 240C223 | DEVALLE, M 41 | 10-41 | | | 1966 161113 | CA | C2 |
| 1611131609 | 200C223 | DEVALLE, M 07 | | CELL | | 1966 161113 | CA | C2 |
| 1611131609 | 420C223 | DEVALLE, M 08 | | | | 1966 161113 | CA | C2 |
| 1611132140 | 540C223 | DEVALLE, M 50 | F SR1575 | BARTLETT RD | BU 7271 | 161113 | CA | C2 |
| 1611132345 | 180C223 | DEVALLE, M 08 | | | | 7804 161113 | CA | C2 |
| 1611140217 | 580C223 | DEVALLE, M 42 | SIGNOF | | | 1966 161114 | CA | C2 |

P = PARAMETER ENTRY SCREEN- -----(F1) I = INQUIRY (CURSOR)----- (F5)
F = NEXT PAGE----- (F8) R/S = UNIT ACTIVITY/SYSTEM MENU-(F2/F1)

4-© § 1 Sess-1 192.168.200.2 HPT6036 1/2

- Doc. Ex. 772 -
WEEKLY REPORT OF DAILY ACTIVITY

| #/M/D/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 9/26/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|--|--------|-------|-----|-----|-------|-------|--------|-------|
| Assigned Shift | 1P-12A | AL | DO | DO | 5P-4A | 5P-4A | 3P-2A | |
| Shift Worked | 1P-11P | AL | DO | DO | 4P-3A | 3P-3A | 1P-11P | |
| 9500 Time Worked | 10.00 | | | | 10.00 | 10.00 | 10.00 | 40.00 |
| 9000 Approved Leave (Vacation, K-Time) | | 10.00 | | | | | | 10.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 50.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weigh Sta. Admin. | Civilian Admin. | Collision Investigation | Court | Special Assignment | Public Disturbance | Natl/State Disaster | Event Train. Control | Equipment | Training | | Comm. Policing | Recruiting | Patrol | Calls for Service | Escorts | Post Coll. Inspection | Inspection Hours | TSI / MC Presentation | Edu. Audits New Entrant Comp. Rev. | TOTAL |
|-------------|---------|-----------|----------------|-------------------|-------------------|-----------------|-------------------------|-------|--------------------|--------------------|---------------------|----------------------|-----------|----------|-------|----------------|------------|--------|-------------------|---------|-----------------------|------------------|-----------------------|------------------------------------|-------|
| | | | | | | | | | | | | | | Received | Given | | | | | | | | | | |
| Mon | 116.00 | | | 5.00 | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Tue | | 10.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | 87.00 | | | 7.00 | | | | | | | | | | | | | | 3.00 | | | | | | | 10.00 |
| Sat | 99.00 | | | 6.00 | | | | | | | | | | | | | | 4.00 | | | | | | | 10.00 |
| Sun | 71.00 | | | 7.00 | | | | | | | | | | | | | | 3.00 | | | | | | | 10.00 |
| TOTAL | 373.00 | | | 25.00 | | | | | | | | | | | | | | 15.00 | | | | | | | 40.00 |

CASES MADE

| Passenger Vehicles | Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
|---------------------------|-------------|-----------------|---------------------|------------|-----------|---------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|
| | | DWI | Provisional License | Other I.C. | Drugs | Para-pharmale | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial Motor Vehicles | Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV |
| | | DWI | Provisional License | Other I.C. | Drugs | Para-pharmale | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | | |

| CMV SEAL ISSUED | |
|-----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| CVSA DECALS ISSUED | |
|--------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| ENF-505 OUT-OF-SERVICE | |
|------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| AFFIDAVITS AND WARRANTS ISSUED | |
|--------------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| VOIDED ENF-001 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-024 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-507 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED AFFIDAVITS AND WARRANTS | |
|--------------------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |



Doc Ex 773
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 9/26/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of Week | Work Zone | | | | | | | Work Zone PV | | | | Work Zone CMV | | | | | |
|-------------|-----------|----------|-------|-------|--------------------------|--------------------|-----|------------------------|-----|-------|---------|---------------|--------|-------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of Vehicles Towed | DMV-349 Reportable | | DMV-349 Non-Reportable | | Speed | Alcohol | Other | HP-308 | Speed | Alcohol | Other | HP-308 |
| | | | | | | PV | CMV | PV | CMV | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSI / MC
Presentations | | Calls &
Service | Beacon | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|--------------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | Port & Perm | |
|---------------------------|-------------|-------------------|---------------|---------|---------|---------|---------|---------|---------|---------|--------------------|----------------------------------|---------|---------|---------|---------|---------|---------|--------------------|--------------------|------------------------|
| | | Total Stops | Total Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | Total ENF Activity | Total ENF-500 Activity |
| | Mon | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|----------------|---------------|---|---|---|---|--------------|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews (CR) | | | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | Permanent Checks | | | |
|----------------|----------------------------|---|---|---|---|----------------------------|----------------|----------------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|------------------|--------------|---------------|-------------------|
| | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | Educ.
Audit | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

| Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews (CR) | | | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | Permanent Checks | | | |
|----------------|----------------------------|---|---|---|---|----------------------------|----------------|----------------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|------------------|--------------|---------------|-------------------|
| | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | Educ.
Audit | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

Member's Signature
Sgt. M. L. DeValle

Supervisor's Signature
☒ Approved

- Doc. Ex. 774 -
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/3/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|-------------------------|-----|-----|--------|--------|-------|-----|-----|-------|
| Assigned Shift | DO | DO | 1P-12A | 1P-12A | 8A-7P | DO | DO | |
| Shift Worked | DO | DO | 1P-11P | 1P-11P | 6A-5P | DO | DO | |
| 9500 Time Worked | | | 10.00 | 10.00 | 10.00 | | | 30.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 30.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weight Sta. Admin. | Civilian Admin. | Collision Investigation | Court | Special Assignment | Public Disturbance | Nazi/Harm. Disaster | Event Traff. Control | Equipment | Training | Received | Given | Compa. Poling | Recruiting | Patrol | Calls for Service | Escorts | Post Coll. Inspection | Inspection Hours | TSI / MC Presentation | Edu. Audits New Entrant Comp. Rev. | TOTAL |
|-------------|---------|-----------|----------------|-------------------|--------------------|-----------------|-------------------------|-------|--------------------|--------------------|---------------------|----------------------|-----------|----------|----------|-------|---------------|------------|--------|-------------------|---------|-----------------------|------------------|-----------------------|------------------------------------|-------|
| Mon | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | 95.00 | | | 5.00 | | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Thu | 114.00 | | | 5.00 | | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Fri | 87.00 | | | 5.00 | | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Sat | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | 296.00 | | | 15.00 | | | | | | | | | | | | | | | 15.00 | | | | | | | 30.00 |

CASES MADE

| Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
|-------------|-----------------|---------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|----------|
| | DWI | Provisional License | Other I.C. | Drugs | Para-pharmalia | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |

| Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV |
|-------------|-----------------|---------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|
| | DWI | Provisional License | Other I.C. | Drugs | Para-pharmalia | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

CMV SEAL ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-001

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

CVSA DECALS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-024

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

ENF-505 OUT-OF-SERVICE

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-507 -

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

AFFIDAVITS AND WARRANTS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED AFFIDAVITS AND WARRANTS

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

- Doc. Ex 775 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/3/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of Week | Work Zone | | | | | | Work Zone PV | | | | Work Zone CMV | | | | | | |
|-------------|-----------|----------|-------|-------|--------------------------|--------------------|--------------|------------------------|-----|-------|---------------|-------|--------|-------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of Vehicles Towed | DMV-349 Reportable | | DMV-349 Non-Reportable | | Speed | Alcohol | Other | HP-308 | Speed | Alcohol | Other | HP-308 |
| | | | | | | PV | CMV | PV | CMV | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSI / MC
Presentations | | Calls &
Service | Escort | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|--------------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | Port & Perm | |
|---------------------------|-------------|-------------------|---------------|---------|---------|---------|---------|---------|---------|---------|--------------------|----------------------------------|---------|---------|---------|---------|---------|---------|--------------------|--------------------|------------------------|
| | | Total Stops | Total Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | Total ENF Activity | Total ENF-500 Activity |
| | Mon | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|----------------|---------------|---|---|---|---|--------------|---|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews (CR) | | Educ.
Audit | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | Permanent Checks | | | |
|----------------|----------------------------|---|---|---|---|----------------------------|----------------|----------------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|------------------|--------------|---------------|-------------------|
| | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Member's Signature
Sgt. M.A. DeValle

Supervisor's Signature
☒ Approved *[Signature]*

- Doc Ex 776 -
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 11/7/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|--|--------|-----|-----|-------|-------|-------|-------|-------|
| Assigned Shift | 1P-12A | DO | DO | 7A-6P | 5P-4A | 5P-4A | 3P-2A | |
| Shift Worked | 1P-12A | DO | DO | 7A-6P | AL | 2P-1A | 4P-2A | |
| 9500 Time Worked with 01 Shift Premium | 10.00 | | | 10.00 | | 11.00 | 10.00 | 41.00 |
| 9000 Approved Leave (Vacation, K-Time) | | | | | 9.00 | | | 9.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 50.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours On | Trooper Admin | Supervisor Admin | Weigh Sta. Admin | Civilian Admin | Collision Investigation | Court | Special Assignment | Public Disturbance | Ref/Warrant Disaster | Event Traff. Control | Equipment | Training | | Comm. Policing | Recruiting | Ratrol | Calls for Service | Events | Post Coll. Inspection | Inspection Hours | TSU / MC Presentation | Educ. Audits New Entrant Comp. Rev. | TOTAL |
|-------------|---------|----------|---------------|------------------|------------------|----------------|-------------------------|-------|--------------------|--------------------|----------------------|----------------------|-----------|----------|-------|----------------|------------|--------|-------------------|--------|-----------------------|------------------|-----------------------|-------------------------------------|-------|
| | | | | | | | | | | | | | | Received | Given | | | | | | | | | | |
| Mon | 111.00 | | | 7.00 | | | | | | | | | | | | | | 3.00 | | | | | | | 10.00 |
| Tue | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | 2.00 | | | | | | | | | 8.00 | | | | | | | | | | | | 10.00 |
| Fri | | 10.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | 87.00 | | | 9.00 | | | | | | | | | | | | | | 2.00 | | | | | | | 11.00 |
| Sun | 133.00 | | | 6.00 | | | 2.00 | | | | | | | | | | | 2.00 | | | | | | | 10.00 |
| TOTAL | 331.00 | | | 24.00 | | | 2.00 | | | | | | 8.00 | | | | | 7.00 | | | | | | | 41.00 |

CASES MADE

| Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
|-------------|-----------------|---------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|----------|
| | DUI | Provisional License | Other I.C. | Drugs | Para-pharmalia | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |

| Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV |
|-------------|-----------------|---------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|
| | DUI | Provisional License | Other I.C. | Drugs | Para-pharmalia | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

| CMV SEAL ISSUED | |
|-----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| CVSA DECALS ISSUED | |
|--------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| ENF-605 OUT-OF-SERVICE | |
|------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| AFFIDAVITS AND WARRANTS ISSUED | |
|--------------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| VOIDED ENF-001 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-024 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-607 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED AFFIDAVITS AND WARRANTS | |
|--------------------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

Doc Ex 777
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 11/7/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of Week | Work Zone | | | | | | Work Zone PV | | | | Work Zone CMV | | | | | | |
|-------------|-----------|----------|-------|-------|--------------------------|--------------------|--------------|------------------------|-----|-------|---------------|-------|--------|-------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of Vehicles Towed | DMV-349 Reportable | | DMV-349 Non-Reportable | | Speed | Alcohol | Other | HP 308 | Speed | Alcohol | Other | HP 308 |
| | | | | | | PV | CMV | PV | CMV | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of Week | Vehicle(s) Recovered | | Value of Property Recovered | Chemical Tests | | DMV-349 Reportable | | DMV-349 Non-Reportable | | Process Served | | Driver License Check | | Felony Charges | | TSI / MC Presentations | | Calls & Service | | Escort | | HP-308 | |
|-------------|----------------------|-----|-----------------------------|----------------|-----|--------------------|-----|------------------------|-----|----------------|-----|----------------------|-----|----------------|-----|------------------------|-----|-----------------|-----|--------|-----|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|---------------------------|-------------|-------------------|---------------|---------|---------|---------|---------|---------|---------|---------|--------------------|----------------------------------|---------|---------|---------|---------|---------|---------|--------------------|--------------------|------------------------|--------------------|------------------------|
| | | Total Stops | Total Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | Total ENF Activity | Total ENF-500 Activity | Total ENF Activity | Total ENF-500 Activity |
| | Mon | | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of Week | Standard CVSA | | | | | HazMat (Haz) | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|---------------------------|-------------|---------------|---|---|---|---|--------------|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| | Mon | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of Week | Other Bulk Packaging (OBP) | | | | | Compliance Reviews (CR) | | Educ. Audit | New Entrant | | Post Coll. Insp. | Portable Checks | | | | Permanent Checks | | | |
|---------------------------|-------------|----------------------------|---|---|---|---|-------------------------|-------------|-------------|-------------|-------------|------------------|-----------------|-----------|------------|----------------|------------------|-----------|------------|----------------|
| | | 1 | 2 | 3 | 4 | 5 | Inter State | Intra State | | Inter State | Intra State | | Total Stops | Dyed Fuel | Other Fuel | Total Activity | Total Stops | Dyed Fuel | Other Fuel | Total Activity |
| | Mon | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

| Commercial Motor Vehicles | Day of Week | Other Bulk Packaging (OBP) | | | | | Compliance Reviews (CR) | | Educ. Audit | New Entrant | | Post Coll. Insp. | Portable Checks | | | | Permanent Checks | | | |
|---------------------------|-------------|----------------------------|---|---|---|---|-------------------------|-------------|-------------|-------------|-------------|------------------|-----------------|-----------|------------|----------------|------------------|-----------|------------|----------------|
| | | 1 | 2 | 3 | 4 | 5 | Inter State | Intra State | | Inter State | Intra State | | Total Stops | Dyed Fuel | Other Fuel | Total Activity | Total Stops | Dyed Fuel | Other Fuel | Total Activity |
| | Mon | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | |

Member's Signature
Sgt. M.A. DeValle

Supervisor's Signature
☒ Approved *[Signature]*

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | MI | Last | Duty Station | Range/District | Example
Officer |
|---------------------------------------|--------|-------------|---------|----|---------|--------------|----------------|--------------------|
| 8/1/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of Week | Work Zone | | | | | DMV - 4H Reportable | | DMV - 4H Non-Reportable | | Work Zone P.V. | | | | | Work Zone CMV | | | | |
|-------------|-----------|----------|-------|-------|--------------------------|---------------------|-----|-------------------------|-----|----------------|---|---|---|---|---------------|---|---|---|---|
| | County | Location | Hours | Miles | Number of Vehicles Towed | P.V. | CMV | P.V. | CMV | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of Week | Vehicle(s) Recovered | | Vehicle(s) Property Recovered | | Chemical Spills | | DMV - 4H Reportable | | DMV - 4H Non-Reportable | | Traffic Citations | | Other Citations | | Other Data | |
|-------------|----------------------|-----|-------------------------------|-----|-----------------|-----|---------------------|-----|-------------------------|-----|-------------------|-----|-----------------|-----|------------|-----|
| | P.V. | CMV | P.V. | CMV | P.V. | CMV | P.V. | CMV | P.V. | CMV | P.V. | CMV | P.V. | CMV | P.V. | CMV |
| Mon | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Day of Week | Portable Activity | | | | | | | | Permanent Weight Station Activity | | | | | | | | Total Weight | |
|-------------|-------------------|---------------|---------|---------|---------|---------|---------|---------|-----------------------------------|---------|---------|---------|---------|---------|---------|---------|--------------|---------|
| | Total Stops | Total Weights | ENT-001 | ENT-002 | ENT-003 | ENT-004 | ENT-005 | ENT-006 | ENT-007 | ENT-008 | ENT-009 | ENT-010 | ENT-011 | ENT-012 | ENT-013 | ENT-014 | ENT-015 | ENT-016 |
| Mon | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of Week | Standard OVSAT | | | | Hazmat (H) | | | | 911 Dispatch (C/F) | | | | Mobile 25 - 311 (V/C) | | | |
|-------------|----------------|---|---|---|------------|---|---|---|--------------------|---|---|---|-----------------------|---|---|---|
| | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 |
| Mon | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of Week | Other Bulk Packaging (QBR) | | | | Compliance Reviews (CR) | | New Entrant | | Commercial Bulk Check | | | | Permanent CMV | | | |
|-------------|----------------------------|---|---|---|-------------------------|-------------|-------------|-------------|-----------------------|---|---|---|---------------|---|---|---|
| | 1 | 2 | 3 | 4 | Inter State | Inter State | Inter State | Inter State | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 |
| Mon | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

| Day of Week | Other Bulk Packaging (QBR) | | | | Compliance Reviews (CR) | | New Entrant | | Commercial Bulk Check | | | | Permanent CMV | | | |
|-------------|----------------------------|---|---|---|-------------------------|-------------|-------------|-------------|-----------------------|---|---|---|---------------|---|---|---|
| | 1 | 2 | 3 | 4 | Inter State | Inter State | Inter State | Inter State | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 |
| Mon | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | |

Member's Signature
Sgt. M.A. DeValle

Approved 

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID# | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|------------|---------|------|---------|--------------|------------------|--------------------|
| 8/8/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of
Week | County | Location | Work Zone | | Number of
Vehicles
Towed | DMV 349
Reportable | | DMV 349 Non-
Reportable | | Work Zone PV | | | | Work Zone CMV | | | |
|----------------|--------|----------|-----------|-------|--------------------------------|-----------------------|-----|----------------------------|-----|--------------|---------|-------|--------|---------------|---------|-------|--------|
| | | | Hours | Miles | | PV | CMV | PV | CMV | Speed | Alcohol | Other | HP-308 | Speed | Alcohol | Other | HP-308 |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV 349
Reportable | | DMV 349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TBI / MC
Presentations | | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | 1 | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | 1 | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Day of
Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|----------------|-------------------|------------------|---------|---------|---------|---------|---------|---------|---------|-----------------------|----------------------------------|---------|---------|---------|---------|---------|---------|-----------------------|-----------------------|---------------------------|-------------|--|
| | Total
Stops | Total
Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF
Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF
Activity | Total ENF
Activity | Total ENF
500 Activity | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Standard OVSA | | | | | HazMat (Haz) | | | | | Cargo Tank (CT) | | | | | Motor Coach (MC) | | | | |
|----------------|---------------|---|---|---|---|--------------|---|---|---|---|-----------------|---|---|---|---|------------------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | RECORDED PERFORMANCES (INSPECTION REPORT) | | | | | | | | | | | RECORDED PERFORMANCES (FUEL) | | | | | | | | | | |
|---------------------------|---|----------------------------|---|---|---|---|-------------------------|-------------|------------|-------------|-------------|------------------------------|-----------------|-------------|------------|----------------|-------------|------------------|------------|----------------|--|--|
| | Day of Week | Other Bulk Packaging (OBP) | | | | | Compliance Reviews (CR) | | | New Entrant | | Post Coll Insp | Portable Checks | | | | | Permanent Checks | | | | |
| | | 1 | 2 | 3 | 4 | 5 | Inter State | Intra State | Educ Audit | Inter State | Intra State | | Total Stops | Diesel Fuel | Other Fuel | Total Activity | Total Stops | Diesel Fuel | Other Fuel | Total Activity | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Member's Signature
Sgt. M.A. DeValle

Supervisor's Signature
[Signature]
☒ Approved

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg # | BEACON ID # | First | M.I. | Last | Day Station | Troop / District | Exempt
Civilian |
|---------------------------------------|-------|-------------|---------|------|---------|-------------|------------------|--------------------|
| 8/15/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of
Week | Work Zone | | | | | DMV-343
Reportable | | | | DMV-343 Non-
Reportable | | | | Work Zone PV | | | | Work Zone CMV | | | |
|----------------|-----------|----------|-------|-------|--------------------------------|-----------------------|-----|----|-----|----------------------------|-----|----|-----|--------------|---------|-------|--------|---------------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of
Vehicles
Towed | PV | CMV | PV | CMV | PV | CMV | PV | CMV | Speed | Alcohol | Other | HP-305 | Speed | Alcohol | Other | HP-305 |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-343
Reportable | | DMV-343 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSA/PMC
Presentations | | HP-305 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|--------------------------|-----|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Day of
Week | Portable Activity | | | | | | | | | | Permanent/Weigh Station Activity | | | | | | | | | | Port & Perm | |
|----------------|-------------------|------------------|---------|---------|---------|---------|---------|---------|---------|------------------------|----------------------------------|---------|---------|---------|---------|---------|------------------------|------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| | Total
Stops | Total
Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-005 | ENF-006 | ENF-007 | Total IENF
Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-005 | ENF-007 | Total IENF
Activity | Total IENF
Activity | Total IENF
500 Activity | Total IENF
500 Activity | Total IENF
500 Activity | Total IENF
500 Activity |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|----------------|---------------|---|---|---|---|--------------|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | COMPLIANCE (POST-ENTRY REPORT) | | | | | | | | | | | RECORDED PERFORMANCES (FUEL) | | | | | | | | | |
|---------------------------|--------------------------------|---|---|---|---|-------------------------|--------------|--------------|--------------|------------------|-----------------|------------------------------|-------------|-----------|------------|------------------|-------------|-----------|------------|----------------|--|
| | Other Bulk Packaging (OBP) | | | | | Compliance Reviews (CR) | | New Entrant | | Post Coll. Insp. | Portable Checks | | | | | Permanent Checks | | | | | |
| | Day of Week | 1 | 2 | 3 | 4 | 5 | Inter. State | Intra. State | Equip. Audit | | Inter. State | Intra. State | Total Stops | Dyed Fuel | Other Fuel | Total Activity | Total Stops | Dyed Fuel | Other Fuel | Total Activity | |
| | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Members Signature
Sgt. M.A. DeValle

☒ Approved
[Signature]

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Rep. # | BEACON ID # | First | M. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|----|---------|--------------|------------------|--------------------|
| 8/22/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

| DUTY HOURS WORKED | | | | | | | | |
|-------------------------|-----|-----|-----|-------|--------|-------|-----|-------|
| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
| Assigned Shift | DO | DO | DO | 5P-4A | 5P-4A | 5P-4A | DO | |
| Shift Worked | DO | DO | DO | 5P-3A | 10P-5A | 5P-5A | DO | |
| 9500 Time Worked | | | | 10.00 | 7.00 | 11.00 | | 28.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 28.00 |

| ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS) | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---------|----------|---------------|------------------|-------------------|----------------|-------------------------|-------|--------------------|--------------------|--------------------------|-----------------------|-----------|----------|--|-----------------|------------|--------|------------------|--------|----------------------|------------------|----------------------|--------------------------------------|-------|--|
| Day of Week | Mileage | Hours ON | Trooper Admin | Supervisor Admin | Weight/Size Admin | Civilian Admin | Collision Investigation | Court | Special Assignment | Public Disturbance | Natural/Manmade Disaster | Event Traffic Control | Equipment | Training | | County Policing | Recruiting | Parade | Calls On Service | Events | Post Call Inspection | Inspection Notes | TSR/ACC Presentation | Educ. Audits New/Expiring Comp. Rev. | TOTAL | |
| Mon | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | 172.00 | | | 4.00 | | | | | | | | | | | | | | 5.00 | 1.00 | | | | | | 10.00 | |
| Fri | 157.00 | | | | | | 2.00 | | | | | | | | | | | 5.00 | | | | | | | 7.00 | |
| Sat | 133.00 | | | 1.00 | | | | | | | | | | | | | | 10.00 | | | | | | | 11.00 | |
| Sun | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | 462.00 | | | 5.00 | | | 2.00 | | | | | | | | | | | 20.00 | 1.00 | | | | | | 28.00 | |

| CASES MADE | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---------------------------|-----------------|---------------------|----------|-----------|-------------|------------------|------------------|-------------------|----------------|-------------|---------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|--|--|
| Passenger Vehicles | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seabell | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License/Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV | | |
| Day of Week | DWI | Provisional License | Other IC | Drugs | Para-pharm. | | 1-15 Over Posted | 16-25 Over Posted | 26 Over Posted | Other Speed | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial Motor Vehicles | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seabell | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License/Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV | | |
| Day of Week | DWI | Provisional License | Other IC | Drugs | Para-pharm. | | 1-15 Over Posted | 16-25 Over Posted | 26 Over Posted | Other Speed | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| CMV REAL ISSUED | | CVSA DECALS ISSUED | | ENF 504 OUT OF SERVICE | | AFFIDAVITS AND WARRANTS ISSUED | |
|-----------------|--|--------------------|--|------------------------|--|--------------------------------|--|
| First Serial # | | First Serial # | | First Serial # | | First Serial # | |
| Last Serial # | | Last Serial # | | Last Serial # | | Last Serial # | |
| First Serial # | | First Serial # | | First Serial # | | First Serial # | |
| Last Serial # | | Last Serial # | | Last Serial # | | Last Serial # | |
| First Serial # | | First Serial # | | First Serial # | | First Serial # | |
| Last Serial # | | Last Serial # | | Last Serial # | | Last Serial # | |
| First Serial # | | First Serial # | | First Serial # | | First Serial # | |
| Last Serial # | | Last Serial # | | Last Serial # | | Last Serial # | |
| Grand Total | | Grand Total | | Grand Total | | Grand Total | |
| VOIDED ENF 001 | | VOIDED ENF 024 | | VOIDED ENF 507 | | VOIDED AFFIDAVITS AND WARRANTS | |
| Serial # | | Serial # | | Serial # | | Serial # | |
| Serial # | | Serial # | | Serial # | | Serial # | |
| Serial # | | Serial # | | Serial # | | Serial # | |
| Serial # | | Serial # | | Serial # | | Serial # | |

North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEAGON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 8/22/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of
Week | Work Zone | | | | | | | | Work Zone PV | | | | Work Zone CMV | | | | |
|----------------|-----------|----------|-------|-------|--------------------------------|-----------------------|-----|----------------------------|--------------|-------|---------|-------|---------------|-------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of
Vehicles
Towed | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Speed | Alcohol | Other | HP-308 | Speed | Alcohol | Other | HP-308 |
| | | | | | | PV | CMV | PV | CMV | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicles
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSA / MC
Presentations | | HP-308 | |
|----------------|-----------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | 1 | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | 1 | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of
Week | Portable Activity | | | | | | | | Permanent Weigh Station Activity | | | | | | | | Port & Perm | |
|---------------------------|----------------|-------------------|------------------|---------|---------|---------|---------|---------|---------|----------------------------------|-----------------------|---------|---------|---------|---------|---------|---------|-------------|-----------------------|
| | | Total
Stops | Total
Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-022 | ENF-500 | ENF-507 | Total ENF
Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-022 | ENF-500 | ENF-507 | Total ENF
Activity |
| | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|---------------------------|----------------|---------------|---|---|---|---|--------------|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews (CR) | | New Entrant | | Post
Call
Insp. | Portable Checks | | | | Permanent Checks | | | |
|---------------------------|----------------|----------------------------|---|---|---|---|----------------------------|-----------------|----------------|-----------------|-----------------------|-----------------|--------------|---------------|-------------------|------------------|--------------|---------------|-------------------|
| | | 1 | 2 | 3 | 4 | 5 | Inter-
State | Intra-
State | Educ.
Audit | Inter-
State | Intra-
State | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity |
| | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Member's Signature

Supervisor's Signature

☒ Approved

- Doc Ex 786 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Rep. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 8/29/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|-------------------------|--------|--------|-----|-----|-------|-------|---------|-------|
| Assigned Shift | 1P-12A | 1P-12A | DO | DO | 5P-4A | 5P-4A | 3P-2A | |
| Shift Worked | 2P-12A | 1P-12A | | | 4P-3A | 2P-2A | 11A-10P | |
| 9500 Time Worked | 10.00 | 10.00 | | | 11.00 | 11.00 | 10.00 | 52.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 52.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weigh Sta. Admin. | Civilian Admin. | Collision Investigation | Count | Special Assignment | Public Disturbance | Narrated Incident | Event Train Control | Equipment | Training | Comm. Policing | Recruiting | Patrol | Call for Service | Escort | Post Conf. Inspection | Inspection Hours | TSI / MG Presentation | Edu. Audits New Entrant Comp. Rev. | TOTAL |
|-------------|---------|-----------|----------------|-------------------|-------------------|-----------------|-------------------------|-------|--------------------|--------------------|-------------------|---------------------|-----------|----------|----------------|------------|--------|------------------|--------|-----------------------|------------------|-----------------------|------------------------------------|-------|
| Mon | 91.00 | | | 7.00 | | | | | | | | | | | | | 3.00 | | | | | | | 10.00 |
| Tue | 87.00 | | | 7.00 | | | | | | | | | | | | | 3.00 | | | | | | | 10.00 |
| Wed | | 8.00 | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | 8.00 | | | | | | | | | | | | | | | | | | | | | | |
| Fri | 166.00 | | | 2.00 | | | | | | | | | | | | | 6.00 | 3.00 | | | | | | 11.00 |
| Sat | 99.00 | | | 7.00 | | | | | | | | | | | | | 4.00 | | | | | | | 11.00 |
| Sun | 79.00 | | | 6.00 | | | | | | | | | | | | | 4.00 | | | | | | | 10.00 |
| TOTAL | 522.00 | | | 29.00 | | | | | | | | | | | | | 20.00 | 3.00 | | | | | | 52.00 |

CASES MADE

| Day of Week | Implied Consent | | | Drug Vio. | | Speeding | | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
|------------------|-----------------|----------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|
| | DWI | Provisional Licensee | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |
| Day of Week | Implied Consent | | | Drug Vio. | | Speeding | | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV |
| | DWI | Provisional Licensee | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | |

CMV SEAL ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-001

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

CVSA DECALS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-024

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

ENF-505 OUT-OF-SERVICE

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-507

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

AFFIDAVITS AND WARRANTS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED AFFIDAVITS AND WARRANTS

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

- Doc Ex 787 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 8/29/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of
Week | Work Zone | | | | | | Work Zone PV | | | | Work Zone CM | | | |
|----------------|-----------|----------|-------|-------|--------------------------------|-----------------------|----------------------------|-------|---------|-------|--------------|-------|---------|-------|
| | County | Location | Hours | Miles | Number of
Vehicles
Towed | DMV-349
Reportable | DMV-349 Non-
Reportable | Speed | Alcohol | Other | HP-306 | Speed | Alcohol | Other |
| | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSB/MC
Presentations | | Gill-4
Service | Escort | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of
Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|---------------------------|----------------|-------------------|------------------|---------|---------|---------|---------|---------|---------|---------|-----------------------|----------------------------------|---------|---------|---------|---------|---------|---------|-----------------------|-----------------------|---------------------------|-------------|--|
| | | Total
Stops | Total
Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-000 | ENF-007 | Total ENF
Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-000 | ENF-007 | Total ENF
Activity | Total ENF
Activity | Total ENF
680 Activity | | |
| | Mon | | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | | |
|---------------------------|----------------|---------------|---|---|---|---|--------------|---|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | Mon | | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews(CR) | | Educ.
Audit | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | | Permanent Checks | | | | |
|---------------------------|----------------|----------------------------|---|---|---|---|---------------------------|----------------|----------------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|----------------|------------------|---------------|-------------------|--|--|
| | | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| | Mon | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

| Commercial Motor Vehicles | Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews(CR) | | Educ.
Audit | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | | Permanent Checks | | | | |
|---------------------------|----------------|----------------------------|---|---|---|---|---------------------------|----------------|----------------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|----------------|------------------|---------------|-------------------|--|--|
| | | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| | Mon | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | |

Member's Signature
Sgt. M.A. DeValle

Supervisor's Signature
☒ Approved *[Signature]*

- Doc Ex 788 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| M/M/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|--|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 9/5/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|-------------------------|--------|-----|--------|--------|-----|-----|-----|-------|
| Assigned Shift | 1P-12A | DO | 1P-12A | 1P-12A | DO | DO | DO | |
| Shift Worked | 1P-12A | DO | 2P-12A | 1P-12A | DO | DO | DO | |
| 9500 Time Worked | 10.00 | | 10.00 | 10.00 | | | | 30.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 30.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weigh Sta. Admin. | Civilian Admin. | Collision Investigation | Court | Special Assignment | Public Disturbance | Nad/Mand. Disaster | Event Traff. Control | Equipment | Training | | Comm. Policing | Recruiting | Patrol | Call for Service | Escorts | Post Coll. Inspection | Inspection Hours | TSI / MC Presentation | Edn. Audits / New Entrant Comp. Rev. | TOTAL |
|-------------|---------|-----------|----------------|-------------------|-------------------|-----------------|-------------------------|-------|--------------------|--------------------|--------------------|----------------------|-----------|----------|-------|----------------|------------|--------|------------------|---------|-----------------------|------------------|-----------------------|--------------------------------------|-------|
| | | | | | | | | | | | | | | Received | Given | | | | | | | | | | |
| Mon | 94.00 | | | 6.00 | | | | | | | | | | | | | | 4.00 | | | | | | | 10.00 |
| Tue | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | 143.00 | | | 2.00 | | | 2.00 | | | | | | | | | | | 4.00 | 2.00 | | | | | | 10.00 |
| Thu | 122.00 | | | 5.00 | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Fri | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | 359.00 | | | 13.00 | | | 2.00 | | | | | | | | | | | 13.00 | 2.00 | | | | | | 30.00 |

CASES MADE

| Commercial Motor Vehicles | | Day of Week | | Implied Consent | | | Drug Vio. | | Speeding | | | | | SAFETY VIOLATIONS | | | | | | | | | | TOTAL CMV | |
|---------------------------|--|-------------|--|-----------------|----------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|-------------------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|-----------|--|
| | | | | DWI | Provisional Licensee | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | | |
| Passenger Vehicles | | Day of Week | | | | | | | | | | | | | | | | | | | | | | TOTAL PV | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |

CMV SEAL ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

CVSA DECALS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

ENF-605 OUT-OF-SERVICE

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

AFFIDAVITS AND WARRANTS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-001

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

VOIDED ENF-024

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

VOIDED ENF-607

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

VOIDED AFFIDAVITS AND WARRANTS

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

- Doc. Ex. 789 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 9/5/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of
Week | Work Zone | | | | | Work Zone PV | | | | Work Zone CM | | | |
|----------------|-----------|----------|-------|-------|--------------------------------|-----------------------|-----|----------------------------|-----|--------------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of
Vehicles
Towed | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Speed | Alcohol | Other | HP-306 |
| | | | | | | PV | CMV | PV | CMV | | | | |
| Mon | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSI / MC
Presentations | | Chis 4
Service | Escort | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|-------------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | 1 | | | | | | | | | | | | 3 | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | 1 | | | | | | | | | | | | 3 | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Day of
Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|----------------|-------------------|------------------|---------|---------|---------|---------|---------|---------|---------|-----------------------|----------------------------------|---------|---------|---------|---------|---------|---------|-----------------------|-----------------------|----------------------------|-----------------------|----------------------------|
| | Total
Stops | Total
Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF
Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF
Activity | Total ENF
Activity | Total ENF-
500 Activity | Total ENF
Activity | Total ENF-
500 Activity |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

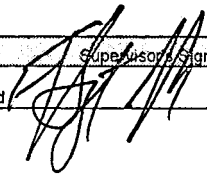
| Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|----------------|---------------|---|---|---|---|--------------|---|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of Week | Other Bulk Packaging (OBP) | | | | | Compliance Reviews(CR) | | | New Entrant | | Post Coll. Insp. | Portable Checks | | | | | Permanent Checks | | | | |
|---------------------------|-------------|----------------------------|---|---|---|---|------------------------|-------------|-------------|-------------|-------------|------------------|-----------------|-----------|------------|----------------|-------------|------------------|------------|----------------|--|--|
| | | 1 | 2 | 3 | 4 | 5 | Inter State | Intra State | Educ. Audit | Inter State | Intra State | | Total Stops | Dyed Fuel | Other Fuel | Total Activity | Total Stops | Dyed Fuel | Other Fuel | Total Activity | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Member's Signature
Sgt. M.A. DeValle

Approved  Supervisor's Signature

- Doc. Ex. 790 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 9/12/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|--------------------------------|---------|---------|-----|-----|-------|-------|-------|-------|
| Assigned Shift | 1P-12A | 11A-10P | DO | DO | 5P-4A | 5P-4A | 3P-2A | |
| Shift Worked | 11A-10P | 11A-9P | DO | DO | 1P-2A | 2P-2A | 1P-6P | |
| 9500 Time Worked | 10.00 | 10.00 | | | 13.00 | 11.00 | 7.00 | 51.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 51.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weigh Sta. Admin. | Civilian Admin. | Collision Investigation | Court | Special Assignment | Public Disturbance | Nad/Marand. Disaster | Event Traff. Control | Equipment | Training | | Comm. Policing | Recruiting | Patrol | Calls for Service | Escorts | Post Conf. Inspection | Inspection Hours | TSI / MC Presentation | Edu. Audits New Entrant Comp. Rev. | TOTAL |
|--------------|---------------|-----------|----------------|-------------------|-------------------|-----------------|-------------------------|-------|--------------------|--------------------|----------------------|----------------------|-------------|----------|-------|----------------|------------|--------------|-------------------|---------|-----------------------|------------------|-----------------------|------------------------------------|--------------|
| | | | | | | | | | | | | | | Received | Given | | | | | | | | | | |
| Mon | 103.00 | | | 5.00 | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| Tue | 122.00 | | | | | | | | | | | | 5.00 | | | | | 3.00 | 2.00 | | | | | | 10.00 |
| Wed | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | 137.00 | | | 5.00 | | | | | | | | | 2.00 | | | | | 6.00 | | | | | | | 13.00 |
| Sat | 171.00 | | | 3.00 | | | | | | | | | 2.00 | | | | | 6.00 | | | | | | | 11.00 |
| Sun | 87.00 | | | 5.00 | | | | | | | | | | | | | | 2.00 | | | | | | | 7.00 |
| TOTAL | 620.00 | | | 18.00 | | | | | | | | | 9.00 | | | | | 22.00 | 2.00 | | | | | | 51.00 |

CASES MADE

| Day of Week | Implied Consent | | | Drug Via. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
|--------------|-----------------|---------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|----------|
| | DUI | Provisional License | Other I.C. | Drugs | Para-pharmalia | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |

| Day of Week | Implied Consent | | | Drug Via. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV |
|--------------|-----------------|---------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|
| | DUI | Provisional License | Other I.C. | Drugs | Para-pharmalia | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | | | | | | | | | | |
|-------------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | |
|-------------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

| CMV SEAL ISSUED | |
|-----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| CVSA DECALS ISSUED | |
|--------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| ENF-505 OUT-OF-SERVICE | |
|------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| AFFIDAVITS AND WARRANTS ISSUED | |
|--------------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| VOIDED ENF-001 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-024 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-507 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED AFFIDAVITS AND WARRANTS | |
|--------------------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

- Doc. Ex. 791 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 9/12/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of Week | Work Zone | | | | | | Work Zone PV | | | | Work Zone CMV | | | | | | |
|-------------|-----------|----------|-------|-------|--------------------------|--------------------|--------------|------------------------|-----|-------|---------------|-------|--------|-------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of Vehicles Towed | DMV-349 Reportable | | DMV-349 Non-Reportable | | Speed | Alcohol | Other | HP-308 | Speed | Alcohol | Other | HP-308 |
| | | | | | | PV | CMV | PV | CMV | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSI / MC
Presentations | | Calls &
Service | Escort | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|--------------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of
Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|---------------------------|----------------|-------------------|------------------|---------|---------|---------|---------|---------|---------|---------|-----------------------|----------------------------------|---------|---------|---------|---------|---------|---------|-----------------------|-----------------------|----------------------------|-------------|--|
| | | Total
Stops | Total
Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF
Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF
Activity | Total ENF
Activity | Total ENF-
500 Activity | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|---------------------------|----------------|---------------|---|---|---|---|--------------|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews (CR) | | Educ. | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | Permanent Checks | | | |
|---------------------------|----------------|----------------------------|---|---|---|---|----------------------------|----------------|-------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|------------------|--------------|---------------|-------------------|
| | | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity |
| | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

| Commercial Motor Vehicles | Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews (CR) | | Educ. | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | Permanent Checks | | | |
|---------------------------|----------------|----------------------------|---|---|---|---|----------------------------|----------------|-------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|------------------|--------------|---------------|-------------------|
| | | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity |
| | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | |

Member's Signature
Sgt. M.A. DeValle

Approved ☒ Supervisor's Signature
[Signature]

- Doc. Ex. 792 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 9/19/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|--------------------------------|-----|-----|--------|--------|-------|-----|-----|-------|
| Assigned Shift | DO | DO | 1P-12A | 1P-12A | 8A-7P | DO | DO | |
| Shift Worked | DO | DO | 1P-12A | 6A-5P | 7A-5P | DO | DO | |
| 9500 Time Worked | | | 10.00 | 10.00 | 10.00 | | | 30.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 30.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weigh Sta. Admin. | Civilian Admin. | Collision Investigation | Court | Special Assignment | Public Disturbance | Hazardous Material/Disaster | Event Traffic Control | Equipment | Training | | Contin. Policing | Recruiting | Patrol | Calls for Service | Escorts | Post Coll. Inspection | Inspection Hours | TBI / MC | Presentation | Educ. Audits
New Entrant
Comp. Rev. | TOTAL |
|-------------|---------|-----------|----------------|-------------------|-------------------|-----------------|-------------------------|-------|--------------------|--------------------|-----------------------------|-----------------------|-----------|----------|-------|------------------|------------|--------|-------------------|---------|-----------------------|------------------|----------|--------------|---|-------|
| | | | | | | | | | | | | | | Received | Given | | | | | | | | | | | |
| Mon | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | 126.00 | | | 5.00 | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 | |
| Thu | 161.00 | | | 2.00 | | | | | | | | | 5.00 | | | | | 3.00 | | | | | | | 10.00 | |
| Fri | 105.00 | | | 5.00 | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 | |
| Sat | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | 392.00 | | | 12.00 | | | | | | | | | 5.00 | | | | | 13.00 | | | | | | | 30.00 | |

CASES MADE

| Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
|--------------|-----------------|----------------------|------------|-----------|---------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|----------|
| | DUI | Provisional Licensee | Other I.C. | Drugs | Paraphernalia | | 1-16 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |

| Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV |
|--------------|-----------------|----------------------|------------|-----------|---------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|
| | DUI | Provisional Licensee | Other I.C. | Drugs | Paraphernalia | | 1-16 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |

Total PV and CMV

| | | | |
|---|--|--|--|
| CMV SEAL ISSUED
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total | CVSA DECALS ISSUED
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total | ENF-505 OUT-OF-SERVICE
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total | AFFIDAVITS AND WARRANTS ISSUED
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
First Serial #
Last Serial #
Grand Total |
| VOIDED ENF-001
Serial #
Serial #
Serial #
Serial # | VOIDED ENF-024
Serial #
Serial #
Serial #
Serial # | VOIDED ENF-507
Serial #
Serial #
Serial #
Serial # | VOIDED AFFIDAVITS AND WARRANTS
Serial #
Serial #
Serial #
Serial # |

- Doc. Ex 793 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 9/19/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of Week | Work Zone | | | | | | | | Work Zone PV | | | | Work Zone Ch | | | | |
|-------------|-----------|----------|-------|-------|--------------------------|--------------------|-----|------------------------|--------------|-------|---------|-------|--------------|-------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of Vehicles Towed | DMV-349 Reportable | | DMV-349 Non-Reportable | | Speed | Alcohol | Other | HP-308 | Speed | Alcohol | Other | HP-308 |
| | | | | | | PV | CMV | PV | CMV | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of Week | Vehicle(s) Recovered | | Value of Property Recovered | Chemical Tests | | DMV-349 Reportable | | DMV-349 Non-Reportable | | Process Served | | Driver License Check | | Felony Charges | | TSI / MC Presentations | | Calls 4 Service | Escort | HP-308 | |
|-------------|----------------------|-----|-----------------------------|----------------|-----|--------------------|-----|------------------------|-----|----------------|-----|----------------------|-----|----------------|-----|------------------------|-----|-----------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|---------------------------|-------------|-------------------|---------------|---------|---------|---------|---------|---------|---------|---------|--------------------|----------------------------------|---------|---------|---------|---------|---------|---------|--------------------|--------------------|------------------------|------------------------|------------------------|
| | | Total Stops | Total Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | Total ENF Activity | Total ENF-500 Activity | Total ENF-500 Activity | Total ENF-500 Activity |
| | Mon | | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of Week | Standard CVSA | | | | | HazMat (Haz) | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|---------------------------|-------------|---------------|---|---|---|---|--------------|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| | Mon | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | RECORDED PERFORMANCES (INSPECTION REPORT) | | | | | | | | | | | | RECORDED PERFORMANCES (FUEL) | | | | | | | | | |
|---------------------------|---|----------------------------|---|---|---|---|------------------------|-------------|-------------|-------------|------------------|-----------------|------------------------------|-------------|-----------|------------|------------------|-------------|-----------|------------|----------------|--|
| | Day of Week | Other Bulk Packaging (OBP) | | | | | Compliance Reviews(CR) | | | New Entrant | Post Coll. Insp. | Portable Checks | | | | | Permanent Checks | | | | | |
| | | 1 | 2 | 3 | 4 | 5 | Inter State | Intra State | Educ. Audit | | | Inter State | Intra State | Total Stops | Dyed Fuel | Other Fuel | Total Activity | Total Stops | Dyed Fuel | Other Fuel | Total Activity | |
| | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

| Commercial Motor Vehicles | Day of Week | Other Bulk Packaging (OBP) | | | | | Compliance Reviews(CR) | | | New Entrant | | Post Coll. Insp. | RECORDED PER CRIMINALS (P. 02) | | | | | RECORDED PER CRIMINALS (P. 02) | | | | |
|---------------------------|-------------|----------------------------|---|---|---|---|------------------------|-------------|-------------|-------------|-------------|------------------|--------------------------------|-------|-----------|------------|----------------|--------------------------------|-------|-----------|------------|----------------|
| | | | | | | | | | | | | | Portable Checks | | | | | Permanent Checks | | | | |
| | | | | | | | | | | | | | Total | Stops | Dyed Fuel | Other Fuel | Total Activity | Total | Stops | Dyed Fuel | Other Fuel | Total Activity |
| | | 1 | 2 | 3 | 4 | 5 | Inter State | Intra State | Educ. Audit | Inter State | Intra State | | Total | Stops | Dyed Fuel | Other Fuel | Total Activity | Total | Stops | Dyed Fuel | Other Fuel | Total Activity |
| | Mon | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | |

Member's Signature
Sgt. M.A. Dyallo

☒ Approved
Supervisor's Signature
[Signature]

- Doc Ex 794 -
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/10/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|-------------------------|---------|--------|-----|-----|-------|-------|---------|-------|
| Assigned Shift | 1P-12A | 1P-12A | DO | DO | 5P-4A | 5P-4A | 3P-2A | |
| Shift Worked | 12P-11P | 1P-2A | DO | DO | 3P-1A | 4P-4A | 12P-11P | |
| 9500 Time Worked | 10.00 | 12.00 | | | 10.00 | 12.00 | 10.00 | 54.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 54.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weight Sta. Admin. | Civilian Admin. | Collision Investigation | Court | Special Assignment | Public Disturbance | Notified Disaster | Event Traffic Control | Equipment | Training | | Comm. Policing | Recruiting | Patrol | Calls for Service | Escorts | Post Coll. Inspection | Inspection Hours | TSI / MC Presentation | Edu. Audits New Entrant Comp. Rev. | TOTAL |
|-------------|---------|-----------|----------------|-------------------|--------------------|-----------------|-------------------------|-------|--------------------|--------------------|-------------------|-----------------------|-----------|----------|-------|----------------|------------|--------|-------------------|---------|-----------------------|------------------|-----------------------|------------------------------------|-------|
| | | | | | | | | | | | | | | Received | Given | | | | | | | | | | |
| Mon | 102.00 | | | 3.00 | | | | | | | | | | | | | | 7.00 | | | | | | | 10.00 |
| Tue | 143.00 | | | 2.00 | | | 5.00 | | | | | | | | | | | 5.00 | | | | | | | 12.00 |
| Wed | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | 87.00 | | | 6.00 | | | | | | | | | | | | | | 4.00 | | | | | | | 10.00 |
| Sat | 99.00 | | | 5.00 | | | 2.00 | | | | | | | | | | | 5.00 | | | | | | | 12.00 |
| Sun | 113.00 | | | 5.00 | | | | | | | | | | | | | | 5.00 | | | | | | | 10.00 |
| TOTAL | 544.00 | | | 21.00 | | | 7.00 | | | | | | | | | | | 26.00 | | | | | | | 54.00 |

CASES MADE

| Commercial Motor Vehicles | | Passenger Vehicles | | | | | | | | | | | | | | | | | | | | | | | | | |
|---------------------------|-----|---------------------|-----------------|-------|----------------|------------------|------------------|-------------------|------------------|-------------|------------------------|-------------------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|
| | | Day of Week | Implied Consent | | | Drug Vio. | | | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
| Day of Week | DWI | Provisional License | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | Driver's License Viol. | Vehicle Reg. Violations | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial Motor Vehicles | | Passenger Vehicles | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | Day of Week | Implied Consent | | | Drug Vio. | | | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV |
| Day of Week | DWI | Provisional License | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | Driver's License Viol. | Vehicle Reg. Violations | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | | | |

CMV SEAL ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-001

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

CVSA DECALS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-024

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

ENF-505 OUT-OF-SERVICE

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED ENF-507

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

AFFIDAVITS AND WARRANTS ISSUED

| |
|----------------|
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| First Serial # |
| Last Serial # |
| Grand Total |

VOIDED AFFIDAVITS AND WARRANTS

| |
|----------|
| Serial # |
| Serial # |
| Serial # |
| Serial # |

Doc Ex 795
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/10/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of
Week | Work Zone | | | | | | Work Zone PV | | | | Work Zone CMV | | | |
|----------------|-----------|----------|-------|-------|--------------------------------|--|-----------------------|-----|--|--|----------------------------|-----|--|--|
| | County | Location | Hours | Miles | Number of
Vehicles
Towed | | DMV-349
Reportable | | | | DMV-349 Non-
Reportable | | | |
| | | | | | | | PV | CMV | | | PV | CMV | | |
| Mon | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSI / MC
Presentations | | Calls &
Service | Escort | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|--------------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Day of
Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|----------------|-------------------|------------------|---------|---------|---------|---------|---------|---------|---------|-----------------------|----------------------------------|---------|---------|---------|---------|---------|---------|-----------------------|-----------------------|----------------------------|-------------|--|
| | Total
Stops | Total
Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-607 | Total ENF
Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-607 | Total ENF
Activity | Total ENF
Activity | Total ENF-
500 Activity | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|----------------|---------------|---|---|---|---|--------------|---|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews (CR) | | Educ.
Audit | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | Permanent Checks | | | |
|----------------|----------------------------|---|---|---|---|----------------------------|----------------|----------------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|------------------|--------------|---------------|-------------------|
| | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Member's Signature
Sgt. M.A. DeValle

Supervisor's Signature
[Signature]
☒ Approved

- Doc. Ex. 796 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/17/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|--------------------------------|-----|-----|--------------|--------|-------|-----|-----|-------|
| Assigned Shift | DO | DO | 1P-12A | 1P-12A | 8A-7P | DO | DO | |
| Shift Worked | DO | DO | 6a-7p 9p-10a | 3p-10p | 8a-2p | DO | DO | |
| 9500 Time Worked | | | 25.00 | 7.00 | 6.00 | | | 38.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 38.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of
Week | Mileage | Hours Off | Trooper
Admin. | Supervisor
Admin. | Weigh Sta.
Admin. | Civilian
Admin. | Collision
Investigation | Court | Special
Assignment | Public
Disturbance | Narc/Mariju.
Disaster | Event Traff.
Control | Equipment | Training | | Comm.
Policing | Recruiting | Patrol | Calls for
Service | Escorts | Post Coll.
Inspection | Inspection
Hours | TSB / MC
Presentation | Edu. Audits
New Entrant
Comp. Rev. | TOTAL |
|----------------|---------------|-----------|-------------------|----------------------|----------------------|--------------------|----------------------------|-------|-----------------------|-----------------------|--------------------------|-------------------------|-----------|----------|-------|-------------------|------------|-------------|----------------------|---------|--------------------------|---------------------|--------------------------|--|--------------|
| | | | | | | | | | | | | | | Received | Given | | | | | | | | | | |
| Mon | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | 251.00 | | | 2.00 | | | | | | | | | | | | | | 4.00 | 19.00 | | | | | | 25.00 |
| Thu | 91.00 | | | 5.00 | | | | | | | | | | | | | | 2.00 | | | | | | | 7.00 |
| Fri | 87.00 | | | 3.00 | | | | | | | | | | | | | | 3.00 | | | | | | | 6.00 |
| Sat | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | 429.00 | | | 10.00 | | | | | | | | | | | | | | 9.00 | 19.00 | | | | | | 38.00 |

CASES MADE

| | | Passenger Vehicles | | | | | | | Commercial Motor Vehicles | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-------|-----|----------------------|-----------------|-------|----------------|------------------|------------------|-------------------|---------------------------|-------|-------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|----------|-------------|-----|----------------------|------------|-------|----------------|------------------|------------------|-------------------|------------------|-------|-------|-------------|-----|----------------------|------------|-------|----------------|------------------|------------------|-------------------|------------------|-------|-------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|----|
| | | Day of Week | Implied Consent | | | Drug Vio. | | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | DWI | Provisional Licensee | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other | Speed | | | | | | | | | | | | | | | | Day of Week | DWI | Provisional Licensee | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other | Speed | Day of Week | DWI | Provisional Licensee | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other | Speed | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | </ |

| CMV SEAL ISSUED | |
|------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| CVSA DECALS ISSUED | |
|---------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| ENF-505 OUT-OF-SERVICE | |
|-------------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| AFFIDAVITS AND WARRANTS ISSUED | |
|---------------------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| VOIDED ENF-001 | |
|-----------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-024 | |
|-----------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-507 | |
|-----------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED AFFIDAVITS AND WARRANTS | |
|---------------------------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

- Doc. Ex 797 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/17/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of Week | Work Zone | | | | | | Work Zone PV | | | | Work Zone CM | | | | | | |
|-------------|-----------|----------|-------|-------|--------------------------|--------------------|--------------|------------------------|-----|-------|--------------|-------|--------|-------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of Vehicles Towed | DMV-349 Reportable | | DMV-349 Non-Reportable | | Speed | Alcohol | Other | HP 303 | Speed | Alcohol | Other | HP 303 |
| | | | | | | PV | CMV | PV | CMV | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSI / MC
Presentations | | Calls 4
Service
Event | HP-305 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|-----------------------------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|---------------------------|-------------|-------------------|---------------|---------|---------|---------|---------|---------|---------|---------|--------------------|----------------------------------|---------|---------|---------|---------|---------|---------|--------------------|--------------------|------------------------|-------------|--|
| | | Total Stops | Total Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | Total ENF Activity | Total ENF-500 Activity | | |
| | Mon | | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|----------------|---------------|---|---|---|---|--------------|---|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of Week | Other Bulk Packaging (OBP) | | | | | Compliance Reviews(CR) | | | New Entrant | | Post Coll. Insp. | Portable Checks | | | | | Permanent Checks | | | | |
|---------------------------|-------------|----------------------------|---|---|---|---|------------------------|-------------|-------------|-------------|-------------|------------------|-----------------|-----------|------------|----------------|-------------|------------------|------------|----------------|--|--|
| | | 1 | 2 | 3 | 4 | 5 | Inter State | Intra State | Educ. Audit | Inter State | Intra State | | Total Stops | Dyed Fuel | Other Fuel | Total Activity | Total Stops | Dyed Fuel | Other Fuel | Total Activity | | |
| | Mon | | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Member's Signature
Sgt. M.A. DeValle

Supervisor's Signature
☐ Approved

- Doc. Ex. 798 -
NORTH CAROLINA STATE HIGHWAY PATROL
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/24/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|-------------------------|--------|--------|-----|-----|-------|-------|--------|-------|
| Assigned Shift | 1P-12A | 1P-12A | DO | DO | 5P-4A | 5P-4A | 3P-2A | |
| Shift Worked | 7A-6P | 8A-6P | DO | DO | 1P-2A | 4P-2A | 1P-12A | |
| 9500 Time Worked | 10.00 | 10.00 | | | 12.00 | 10.00 | 10.00 | 52.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 52.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weigh Sta. Admin. | Civilian Admin. | Collision Investigation | Count | Special Assignment | Public Disturbance | Red/Mand. Disaster | Event Train. Control | Equipment | Training | Recruiting | Parade | Calls for Service | Escort | Post Conf. Inspection | Inspection Hours | TSI / MC Presentation | Edr. Audits New Entrant Comp. Rev. | TOTAL |
|-------------|---------|-----------|----------------|-------------------|-------------------|-----------------|-------------------------|-------|--------------------|--------------------|--------------------|----------------------|-----------|----------|------------|--------|-------------------|--------|-----------------------|------------------|-----------------------|------------------------------------|-------|
| Mon | 99.00 | | | 7.00 | | | | | | | | | | | | 3.00 | | | | | | | 10.00 |
| Tue | 133.00 | | | 3.00 | | | | | | | | | | | | 2.00 | 5.00 | | | | | | 10.00 |
| Wed | | 8.00 | | | | | | | | | | | | | | | | | | | | | |
| Thu | | 8.00 | | | | | | | | | | | | | | | | | | | | | |
| Fri | 147.00 | | | 3.00 | | | | | | | | | | | | 4.00 | 5.00 | | | | | | 12.00 |
| Sat | 101.00 | | | 4.00 | | | | | | | | | | | | 6.00 | | | | | | | 10.00 |
| Sun | 87.00 | | | 6.00 | | | | | | | | | | | | 4.00 | | | | | | | 10.00 |
| TOTAL | 567.00 | | | 23.00 | | | | | | | | | | | | 19.00 | 10.00 | | | | | | 52.00 |

CASES MADE

| Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
|------------------|-----------------|----------------------|------------|-----------|----------------|------------------|------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|-----------|
| | DWI | Provisional Licensee | Other I.C. | Drugs | Para-pharmalia | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| Day of Week | Implied Consent | | | Drug Vio. | | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL CMV |
| | DWI | Provisional Licensee | Other I.C. | Drugs | Para-pharmalia | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | |

CMV SEAL ISSUED

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

VOIDED ENF-001

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

CVSA DECALS ISSUED

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

VOIDED ENF-024

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

ENF-505 OUT-OF-SERVICE

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

VOIDED ENF-507

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

AFFIDAVITS AND WARRANTS ISSUED

| | |
|----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

VOIDED AFFIDAVITS AND WARRANTS

| | |
|----------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

- Doc Ex 799 -
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/24/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of
Week | County | Location | Work Zone | | | | Work Zone PV | | | | Work Zone CMV | | | |
|----------------|--------|----------|-----------|-------|--------------------------------|-----------------------------|-----------------------------------|-------|---------|-------|-----------------|---------|-------|--------|
| | | | Hours | Miles | Number of
Vehicles
Towed | DMV-349
Reportable
PV | DMV-349 Non-
Reportable
CMV | Speed | Alcohol | Other | HP-308
Speed | Alcohol | Other | HP-308 |
| | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSI / MC
Presentations | | Calls &
Service | Escort | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|--------------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Commercial Motor Vehicles | Day of Week | Portable Activity | | | | | | | | | Permanent Weigh Station Activity | | | | | | | Port & Perm | | | |
|---------------------------|-------------|-------------------|---------------|---------|---------|---------|---------|---------|---------|---------|----------------------------------|---------|---------|---------|---------|---------|---------|-------------|--------------------|--------------------|------------------------|
| | | Total Stops | Total Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF Activity | Total ENF Activity | Total ENF-500 Activity |
| | Mon | | | | | | | | | | | | | | | | | | | | |
| | Tue | | | | | | | | | | | | | | | | | | | | |
| | Wed | | | | | | | | | | | | | | | | | | | | |
| | Thu | | | | | | | | | | | | | | | | | | | | |
| | Fri | | | | | | | | | | | | | | | | | | | | |
| | Sat | | | | | | | | | | | | | | | | | | | | |
| | Sun | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|---------------------------|----------------|---------------|---|---|---|---|--------------|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 6 |
| | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Commercial Motor Vehicles | RECORDED PERFORMANCE (INSPECTION REPORT) | | | | | | | | | | | RECORDED PERFORMANCE (FUEL) | | | | | | | | | | |
|---------------------------|--|----------------------------|---|---|---|---|-------------------------|-------------|-------------|-------------|-------------|-----------------------------|-----------------|-----------|------------|----------------|-------------|------------------|------------|----------------|--|--|
| | Day of Week | Other Bulk Packaging (OBP) | | | | | Compliance Reviews (CR) | | Educ. Audit | New Entrant | | Post Coll. Insp. | Portable Checks | | | | | Permanent Checks | | | | |
| | | 1 | 2 | 3 | 4 | 5 | Inter State | Intra State | | Inter State | Intra State | | Total Stops | Dyed Fuel | Other Fuel | Total Activity | Total Stops | Dyed Fuel | Other Fuel | Total Activity | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Member's Signature
Sgt. M.A. DeValle

☒ Approved *[Signature]*
Supervisor's Signature

- Doc. Ex. 800 -
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/31/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

DUTY HOURS WORKED

| | Mon | Tue | Wed | Thu | Fri | Sat | Sun | Total |
|-------------------------|-----|-------|--------|---------|-----|-----|-----|-------|
| Assigned Shift | DO | 7A-6P | 1P-12A | 8A-7P | DO | DO | DO | |
| Shift Worked | DO | 7A-6P | 9A-8P | 11A-10P | DO | DO | DO | |
| 9500 Time Worked | | 10.00 | 10.00 | 10.00 | | | | 30.00 |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Total Weekly Duty Hours | | | | | | | | 30.00 |

ACTIVITY (DUTY HOURS IN HOURS AND QUARTER HOURS SEGMENTS)

| Day of Week | Mileage | Hours Off | Trooper Admin. | Supervisor Admin. | Weight Sta. Admin. | Civilian Admin. | Collision Investigation | Court | Special Assignment | Public Disturbance | Hazardous Material Disaster | Event Traffic Control | Equipment | Training | | Comm. Policing | Recruiting | Patrol | Calls for Service | Escorts | Post Coll. Inspection | Inspection Hours | TST / MC Presentation | Edu. Audits New Entrant Comp. Rev. | TOTAL | |
|-------------|---------|-----------|----------------|-------------------|--------------------|-----------------|-------------------------|-------|--------------------|--------------------|-----------------------------|-----------------------|-----------|----------|-------|----------------|------------|--------|-------------------|---------|-----------------------|------------------|-----------------------|------------------------------------|-------|-------|
| | | | | | | | | | | | | | | Received | Given | | | | | | | | | | | |
| Mon | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | 24.00 | | | | | | | | | | | | | 8.00 | | | | 2.00 | | | | | | | 10.00 | |
| Wed | 120.00 | | | 8.00 | | | | | | | | | | | | | | 2.00 | | | | | | | 10.00 | |
| Thu | 133.00 | | | 8.00 | | | | | | | | | | | | | | 2.00 | | | | | | | 10.00 | |
| Fri | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | 8.00 | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | 277.00 | | | 16.00 | | | | | | | | | | | 8.00 | | | 6.00 | | | | | | | | 30.00 |

CASES MADE

| Day of Week | DUI | Provisional License | Other I.C. | Drugs | Para-pharmalia | Reckless Driving | Speeding | | | | Seatbelt | Child Restraint | Improper Passing | Stop Sign or Light | Equipment | Left of Center | Driver's License Viol. | Vehicle Reg. Violations | Littering | Yield | Following Too Close | Load Securement | Move Over Law | Other | TOTAL PV |
|---------------------------|-----|---------------------|------------|-------|----------------|------------------|---------------------------|-------------------|------------------|-------------|----------|-----------------|------------------|--------------------|-----------|----------------|------------------------|-------------------------|-----------|-------|---------------------|-----------------|---------------|-------|----------|
| | | | | | | | 1-15 Over Posted | 16-25 Over Posted | > 25 Over Posted | Other Speed | | | | | | | | | | | | | | | |
| | | | | | | | Commercial Motor Vehicles | Implied Consent | Drug Vio. | Speeding | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial Motor Vehicles | | | | | | | | | | | | | | | | | | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total PV and CMV | | | | | | | | | | | | | | | | | | | | | | | | | |

| CMV SEAL ISSUED | |
|-----------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| CVSA DECALS ISSUED | |
|--------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| ENF-505 OUT-OF-SERVICE | |
|------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| AFFIDAVITS AND WARRANTS ISSUED | |
|--------------------------------|--|
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| First Serial # | |
| Last Serial # | |
| Grand Total | |

| VOIDED ENF-001 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-024 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED ENF-507 | |
|----------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

| VOIDED AFFIDAVITS AND WARRANTS | |
|--------------------------------|--|
| Serial # | |
| Serial # | |
| Serial # | |
| Serial # | |

Doc Ex 801
North Carolina State Highway Patrol
WEEKLY REPORT OF DAILY ACTIVITY

| MM/DD/YYYY
(Week Beginning Monday) | Reg. # | BEACON ID # | First | M.I. | Last | Duty Station | Troop / District | Exempt
Civilian |
|---------------------------------------|--------|-------------|---------|------|---------|--------------|------------------|--------------------|
| 10/31/2016 | 1966 | 1265297 | Maurice | A | DeValle | Goldsboro | C/2 | - |

RECORDED PERFORMANCES (WORK ZONE)

| Day of Week | Work Zone | | | | | | Work Zone PV | | | | Work Zone CM | | | | | | |
|-------------|-----------|----------|-------|-------|--------------------------|--------------------|--------------|------------------------|-----|-------|--------------|-------|--------|-------|---------|-------|--------|
| | County | Location | Hours | Miles | Number of Vehicles Towed | DMV-349 Reportable | | DMV-349 Non-Reportable | | Speed | Alcohol | Other | HP-308 | Speed | Alcohol | Other | HP-308 |
| | | | | | | PV | CMV | PV | CMV | | | | | | | | |
| Mon | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (GENERAL FUNCTIONS)

| Day of
Week | Vehicle(s)
Recovered | | Value of
Property
Recovered | Chemical
Tests | | DMV-349
Reportable | | DMV-349 Non-
Reportable | | Process
Served | | Driver License
Check | | Felony
Charges | | TSI / MC
Presentations | | Calls &
Service | Escort | HP-308 | |
|----------------|-------------------------|-----|-----------------------------------|-------------------|-----|-----------------------|-----|----------------------------|-----|-------------------|-----|-------------------------|-----|-------------------|-----|---------------------------|-----|--------------------|--------|--------|-----|
| | PV | CMV | | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | PV | CMV | | | PV | CMV |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (PORTABLE / PERMANENT)

| Day of
Week | Portable Activity | | | | | | | | | | Permanent Weigh Station Activity | | | | | | | | | | Port & Perm | |
|----------------|-------------------|------------------|---------|---------|---------|---------|---------|---------|---------|-----------------------|----------------------------------|---------|---------|---------|---------|---------|---------|-----------------------|-----------------------|----------------------------|-------------|--------------|
| | Total
Stops | Total
Weighed | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF
Activity | ENF-001 | ENF-002 | ENF-003 | ENF-004 | ENF-024 | ENF-500 | ENF-507 | Total ENF
Activity | Total ENF
Activity | Total ENF-
500 Activity | Total | 500 Activity |
| Mon | | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Standard CVSA | | | | | HazMat (Haz) | | | | | | Cargo Tank (C/T) | | | | | Motor Coach (M/C) | | | | |
|----------------|---------------|---|---|---|---|--------------|---|---|---|---|---|------------------|---|---|---|---|-------------------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 | 6 | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 4 | 5 |
| Mon | | | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (INSPECTION REPORT)

| Day of
Week | Other Bulk Packaging (OBP) | | | | | Compliance
Reviews (CR) | | | New Entrant | | Post
Coll.
Insp. | Portable Checks | | | | Permanent Checks | | | |
|----------------|----------------------------|---|---|---|---|----------------------------|----------------|----------------|----------------|----------------|------------------------|-----------------|--------------|---------------|-------------------|------------------|--------------|---------------|-------------------|
| | 1 | 2 | 3 | 4 | 5 | Inter
State | Intra
State | Educ.
Audit | Inter
State | Intra
State | | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity | Total
Stops | Dyed
Fuel | Other
Fuel | Total
Activity |
| Mon | | | | | | | | | | | | | | | | | | | |
| Tue | | | | | | | | | | | | | | | | | | | |
| Wed | | | | | | | | | | | | | | | | | | | |
| Thu | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | |
| Sat | | | | | | | | | | | | | | | | | | | |
| Sun | | | | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | | | | |

RECORDED PERFORMANCES (FUEL)

Member's Signature
Sgt. M.A. DeValle

Supervisor's Signature
Approved

[illegible]

↓
Dance

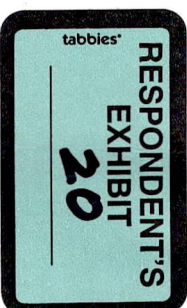
Erasmus

| NAME | PORT NO. | DATE | STATUS | BRIDGE | PI | ALPHA | COORDINATE | TIME | DETAILED | LAST DATE | TIME | REPORT | REPORT DATE | REPORT NAME |
|----------------------|----------|------------|--------|--------|----|-------|------------|----------|----------|------------|----------|------------------|-------------|------------------|
| MAURICE A. DEVALLE | 1265297 | 11/13/2016 | Δ | 10 | H | 9500 | 11/13/2016 | 17:47:09 | 01265297 | 11/14/2016 | 00:43:43 | 01265297 | SUNDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 11/13/2016 | Δ | 10 | H | 9500 | 11/12/2016 | 23:51:18 | 01265297 | 11/12/2016 | 23:51:31 | 01265297 | SATURDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 11/13/2016 | Δ | 9 | H | 9000 | 11/12/2016 | 23:51:18 | 01265297 | 11/14/2016 | 00:43:43 | 01265297 | FRIDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 11/10/2016 | Δ | 10 | H | 9500 | 11/12/2016 | 23:51:18 | 01265297 | 11/12/2016 | 23:51:31 | 01265297 | THURSDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 11/07/2016 | Δ | 10 | H | 9500 | 11/12/2016 | 23:51:18 | 01265297 | 11/12/2016 | 23:51:31 | 01265297 | MONDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 11/03/2016 | Δ | 10 | H | 9500 | 11/07/2016 | 06:42:18 | 01265297 | 11/07/2016 | 08:19:32 | 01018057 | THURSDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 11/02/2016 | Δ | 10 | H | 9500 | 11/07/2016 | 06:42:18 | 01265297 | 11/07/2016 | 08:19:32 | 01018057 | WEDNESDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 11/01/2016 | Δ | 10 | H | 9500 | 11/07/2016 | 06:42:18 | 01265297 | 11/07/2016 | 08:19:32 | 01018057 | TUESDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/30/2016 | Δ | 10 | H | 9500 | 10/30/2016 | 20:57:18 | 01265297 | 10/31/2016 | 08:10:33 | 01018057 | SUNDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/29/2016 | Δ | 10 | H | 9600 | 10/30/2016 | 20:57:18 | 01265297 | 10/31/2016 | 08:10:33 | 01018057 | FRIDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/29/2016 | Δ | 12 | H | 9500 | 10/30/2016 | 20:57:18 | 01265297 | 10/31/2016 | 08:10:33 | 01018057 | THURSDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/25/2016 | Δ | 10 | H | 9500 | 10/30/2016 | 20:57:18 | 01265297 | 10/31/2016 | 08:10:33 | 01018057 | FRIDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/24/2016 | Δ | 10 | H | 9500 | 10/30/2016 | 20:57:18 | 01265297 | 10/31/2016 | 08:10:33 | 01018057 | THURSDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/20/2016 | Δ | 6 | H | 9500 | 10/24/2016 | 12:23:29 | 01265297 | 10/25/2016 | 10:28:37 | 01018057 | FRIDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/20/2016 | Δ | 8 | H | 9500 | 10/24/2016 | 12:23:29 | 01265297 | 10/25/2016 | 10:28:37 | 01018057 | THURSDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/19/2016 | Δ | 24 | H | 9500 | 10/24/2016 | 12:23:29 | 01265297 | 10/25/2016 | 10:28:37 | 01018057 | TUESDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/15/2016 | Δ | 10 | H | 9500 | 10/11/2016 | 07:47:32 | 01265297 | 10/25/2016 | 10:28:37 | 01018057 | SUNDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/14/2016 | Δ | 12 | H | 9500 | 10/11/2016 | 07:47:32 | 01265297 | 10/25/2016 | 10:28:37 | 01018057 | FRIDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/13/2016 | Δ | 10 | H | 9500 | 10/11/2016 | 07:47:32 | 01265297 | 10/25/2016 | 10:28:37 | 01018057 | THURSDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/10/2016 | Δ | 10 | H | 9500 | 10/10/2016 | 07:29:59 | 01265297 | 10/10/2016 | 07:57:31 | 01018057 | THURSDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/07/2016 | Δ | 10 | H | 9500 | 10/10/2016 | 07:29:59 | 01265297 | 10/10/2016 | 07:57:31 | 01018057 | WEDNESDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/06/2016 | Δ | 10 | H | 9500 | 10/10/2016 | 07:29:59 | 01265297 | 10/10/2016 | 07:57:31 | 01018057 | THURSDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 10/02/2016 | Δ | 10 | H | 9500 | 10/03/2016 | 06:36:23 | 01265297 | 10/03/2016 | 10:59:32 | 01018057 | SATURDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 09/30/2016 | Δ | 10 | H | 9500 | 10/03/2016 | 06:36:23 | 01265297 | 10/03/2016 | 10:59:32 | 01018057 | FRIDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 09/27/2016 | Δ | 10 | H | 9500 | 10/03/2016 | 06:36:23 | 01265297 | 10/03/2016 | 10:59:32 | 01018057 | TUESDAY | DEVALLE, MAURICE |
| MAURICE A. DEVALLE | 1265297 | 09/26/2016 | Δ | 10 | H | 9500 | 10/03/2016 | 06:36:23 | 01265297 | 10/03/2016 | 10:59:32 | 01018057 | MONDAY | DEVALLE, MAURICE |
| * MAURICE A. DEVALLE | 1265297 | | | 304 | H | | | | | | | DEVALLE, MAURICE | | |
| ** | | | | 304 | H | | | | | | | | | |

↓
Dance

Erasmus

| Date Fuel was Obtained | Time Fuel was Obtained | Mileage | Difference in mileage from last fuel entry | Entered into SAP by | Location | Date entered into SAP | Time entered into SAP | Material Doc. |
|------------------------|------------------------|-----------|--|---------------------|----------------------------|-----------------------|-----------------------|---------------|
| 20161113 | 21:30:00 | 63,561.00 | 273.00 | 7ARAVNOR | Goldsboro | 11/14/2016 | 14:57:06 | 4914610405 |
| 20161103 | 13:15:00 | 63,288.00 | 327.00 | 7ARAVNOR | Goldsboro | 11/07/2016 | 09:55:22 | 4914589376 |
| 20161028 | 19:45:00 | 62,961.00 | 333.00 | 7ARAVNOR | Goldsboro | 10/31/2016 | 10:41:01 | 4914564243 |
| 20161020 | 08:30:00 | 62,628.00 | 158.00 | 7ARAVNOR | Goldsboro | 10/21/2016 | 08:43:30 | 4914529889 |
| 20161019 | 12:45:00 | 62,470.00 | 296.00 | 7ARAVNOR | Goldsboro | 10/20/2016 | 11:06:42 | 4914531230 |
| 20161011 | 16:00:00 | 62,174.00 | 111.00 | 7ARAVNOR | Goldsboro | 10/17/2016 | 10:49:22 | 4914514639 |
| 20161010 | 18:30:00 | 62,063.00 | 188.00 | 7ARAVNOR | Goldsboro | 10/11/2016 | 10:34:47 | 4914494843 |
| 20161006 | 16:20:00 | 61,875.00 | 292.00 | 7ARAVNOR | Goldsboro | 10/07/2016 | 09:25:54 | 4914488793 |
| 20160922 | 11:30:00 | 61,583.00 | 296.00 | 7ARAVNOR | Goldsboro | 09/23/2016 | 09:03:23 | 4914443248 |
| 20160917 | 20:05:00 | 61,287.00 | 148.00 | 7ARAVNOR | Goldsboro | 09/19/2016 | 09:09:36 | 4914426381 |
| 20160916 | 13:08:23 | 61,139.00 | 134.00 | 7BPONZO | Troop C Garage/Maintenance | 09/16/2016 | 16:08:50 | |
| 20160912 | 13:50:00 | 61,005.00 | 246.00 | 7ARAVNOR | | 09/13/2016 | 15:19:42 | 4914409647 |
| 20160907 | 15:30:00 | 60,759.00 | 323.00 | 7ARAVNOR | | 09/13/2016 | 14:38:37 | 4914409587 |
| 20160902 | 17:41:00 | 60,436.00 | 274.00 | DOT-FUEL | Smithfield | 09/07/2016 | 21:18:27 | 4914391532 |



Former Sgt. M. A. Devalle

Mileage/Fuel Table

| Days worked or off | HP-201 Hours worked | HP-201 Claimed Mileage | SAP Fuel Log D Mileage |
|-----------------------------|-----------------------------|-------------------------|-----------------------------------|
| 09-22-16 | 6a-5p | 80 miles | 61,583 |
| 09-23-16 | 7a-5p | 105 miles | None |
| 09-24-16 | Day Off | N/A | N/A |
| 09-25-16 | Day Off | N/A | N/A |
| 09-26-16 | 1p-11p | 116 miles | None |
| 09-27-16 | Approved Leave | N/A | N/A |
| 09-28-16 | Day Off | N/A | N/A |
| 09-29-16 | Day Off | N/A | N/A |
| 09-30-16 | 4p-3a | 87 miles | None |
| 10-01-16 | 3p-3a | 99 miles | None |
| 10-02-16 | 1p-11p | 71 miles | None |
| 10-03-16 | Day Off | N/A | N/A |
| 10-04-16 | Day Off | N/A | N/A |
| 10-05-16 | 1p-11p | 95 miles | None |
| 10-06-16 | 1p-11p | 114 miles | 61,875 |
| Total Dates: 15 Days | Total Days Worked: 8 | Total Miles: 767 | Total Mileage Between: 292 |

According to MapQuest(<https://www.mapquest.com/directions/list/1/us/north-carolina/raleigh/27603-9530/1152-southern-meadows-dr-35.601544,-78.648374/to/us/nc/goldsboro/27530-1916/701-w-grantham-st-35.398165,-78.001753>) former Sgt. Devalle's residence in Wake County to the Troop C, District 2, District Office is 43.9 miles one way and 87.8 miles roundtrip. In that case and with him traveling to district office each day, he should have at a minimum logged 702 miles. (see attached MapQuest directions)

Former Sgt. Devalle's Wake County residence is approximately 35 miles from the Wayne County line. If he drove just to the Wayne County line each shift he should have at a minimum logged 560 miles.


Instead, in the eight (8) shifts he worked he only drove a total of 292 miles. (see attached SAP Fuel Log)

**RESPONDENT'S
EXHIBIT
21**

YOUR TRIP TO:











701 W Grantham St

mapquest

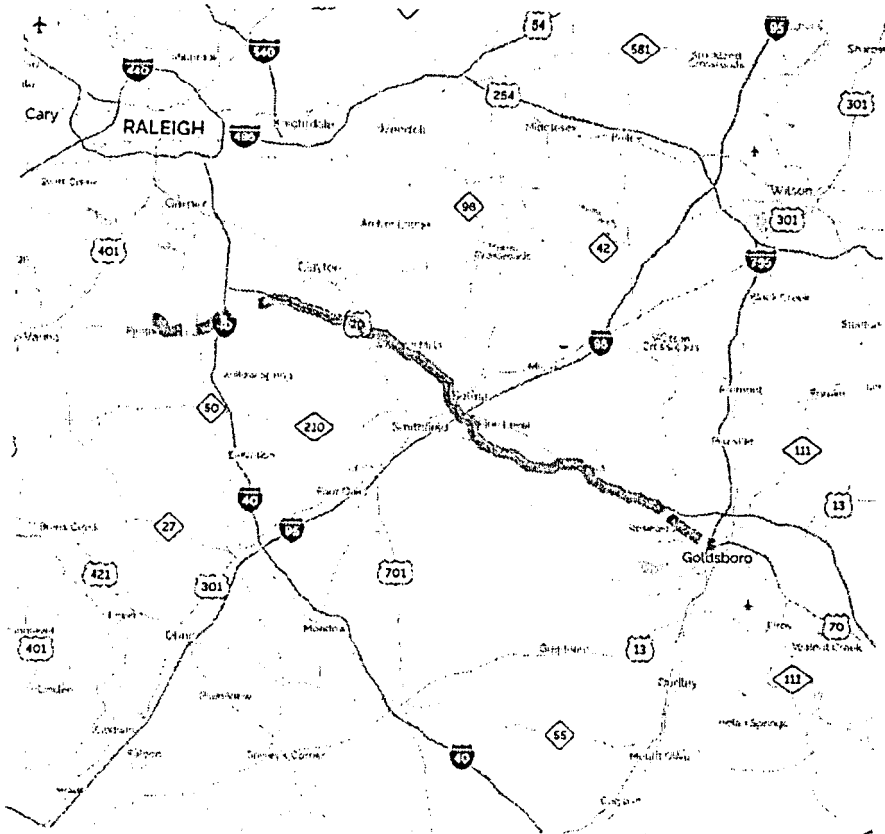
54 MIN | 43.9 MI 

Est. fuel cost: \$2.60

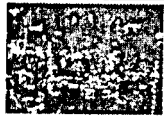
Trip time based on traffic conditions as of 1:00 PM on July 4, 2017. Current Traffic: Light

-  1. Start out going east on Southern Meadows Dr toward Southern Times Dr.
Then 0.31 miles 0.31 total miles
-  2. Turn right onto Mal Weathers Rd.
Then 0.53 miles 0.84 total miles
-  3. Turn right onto Sauls Rd.
Then 0.52 miles 1.36 total miles
-  4. Turn left onto NC Highway 42 W/NC-42.
Then 7.39 miles 8.75 total miles
-  5. Merge onto US-70 E toward Smithfield/Selma.
Then 13.67 miles 22.42 total miles
-  6. Take US-70 Byp E toward Goldsboro.
Then 2.90 miles 25.32 total miles
-  7. US-70 Byp E becomes US-70 E.
Then 18.31 miles 43.63 total miles
-  8. Turn left onto Elizabeth St.
Then 0.03 miles 43.66 total miles
-  9. Take the 1st right onto W Grantham St.
If you reach Marygold St you've gone a little too far.
Then 0.21 miles 43.88 total miles
-  10. 701 W Grantham St, Goldsboro, NC 27530-1916. You have arrived at your destination.
Your destination is just past Paul St.
If you reach A St you've gone about 0.2 miles too far.

Use of directions and maps is subject to our [Terms of Use](#). We don't guarantee accuracy, route conditions or usability. You assume all risk of use.



70°W
Grantham St



Book a hotel tonight and
save with some great deals!
(1-877-577-5766)



Car trouble mid-trip?
MapQuest Roadside
Assistance is here:
(1-888-461-3625)

Wingo II, James H .

From: Nelson, Paul B.
Sent: Thursday, March 23, 2017 8:15 PM
To: Wingo II, James H .
Cc: Regan, Brian K .
Subject: RE: Dates
Attachments: 2016-10-14.jpg; 2016-09-26.jpg

Hey Sir,

26 September 2016 – One piece of mail (screenshot attached)
30 September 2016 – No mail activity
1 October 2016 – No mail activity
2 October 2016 – No mail activity
14 October 2016 – One piece of mail (screenshot attached)
11 November 2016 – No mail activity

Please let me know if you need anything further.

Paul B. Nelson
Systems/Programmer Specialist
N.C. Department of Public Safety
North Carolina State Highway Patrol
Technical Services Unit
3318 Garner Road
Raleigh, NC 27529
P. 919-662-4440
F. 919-662-4444
paul.nelson@ncdps.gov
Website: www.ncdps.gov

From: Wingo II, James H .
Sent: Thursday, March 23, 2017 4:19 PM
To: Nelson, Paul B. <Paul.Nelson@ncdps.gov>
Cc: Regan, Brian K . <Brian.Regan@ncdps.gov>
Subject: Dates

Paul,

Here are the dates that are in question. If you could, please see if any emails were sent or received on these dates.

26 September 2016
30 September 2016
1 October 2016
2 October 2016
14 October 2016
11 November 2016

you find any activity, would you please screen shot same and send back to me.
Any questions give me a call.
Thanks



Respondent - 01262

Jimmy

J. H. Wingo II
Captain

North Carolina Department of Public Safety
North Carolina State Highway Patrol
Internal Affairs Unit
4231 Mail Service Center
Raleigh, NC 27699
Office (919) 436-3050
Mobile (919) 437-7165
Fax (919) 715-2668
james.wingo@ncdps.gov
www.ncdps.gov

"E-mail correspondence sent to and from this address may be subject to the provisions of G.S. 132-1, the North Carolina Public Records Law, and may be subject to monitoring and disclosed to third parties, including law enforcement personnel, by an authorized state official."

Saved Searches Tasks

| | | | | |
|------|---|---------------|------------|-------|
| From | ▼ | contains ▼ | devalle | Basic |
| Date | ▼ | is equal to ▼ | 2016-10-14 | |

| | | | |
|--|-----------------|----------------------------|-----------------------|
| Me | Tools | View | Displaying 1 - 1 of 1 |
| Size | From | To/Cc | Subject |
| 2 | Maurice DeValle | southernmeadowsfantasyf... | Maurice DeValle up... |
| Subject: Maurice DeValle updated their On The Block Southern Meadows Fantasy Football League | | | |
| Date: 2016-10-14 16:32:35 | | | |
| Download | | | |
| From: Maurice DeValle | | | |
| To/Cc: southernmeadowsfantasyfootball139@footballchssports.com | | | |
| Bcc: Maurice Devalle@ncdps.gov | | | |
| View Message | | View Source | |



Respondent - 01264

Midland Posse have updated their "On the Block" below. If you want to offer this team a trade,

Comment:
Don't come back with some crappy kicker!

Offered:
Drew Brees QB | NO

Saved Searches Tasks

| | | | | | | |
|------|---|-------------|---|------------|-----|--------|
| From | ▼ | contains | ▼ | devalle | AND | Search |
| Date | ▼ | is equal to | ▼ | 2016-09-26 | | |

| | | | |
|---------------------------|-----------------------|----------------|---------|
| Me | Tools | View | Dis |
| Size From | | To/Cc | Subject |
| 9... | "Devalle, Maurice A." | <TroopCHQ@...> | MFF SOP |
| Subject: MFF SOP | | | |
| Date: 2016-09-26 14:36:39 | | | |
| Download | | | |
| From: Devalle, Maurice A. | | | |
| To/Cc: Troop CHQ + | | | |
| VIEW MESSAGE | | | |
| VIEW | | | |

All MFF 2016 SOP entries have been for Trooper A. R. Fowler (C232) and Sanders (C240).

Maurice DeValle / Sergeant

N.C. Department of Public Safety

North Carolina State Highway Patrol

Troop C, District 2

ARCHIVE SEARCH

Help

Standard

PSIs & Tags

Saved Searches

Tasks

+

Email

+

Email

From

Date

contains

is equal to

devalle

2016-10-14

Search

Basic

Save Search

Displaying 1 - 1 of 1

Date

Size

From

To/Cc

Subject

2016-10-14 16:32:35

2...

Maurice DeValle <maurice...>

southernmeadowsfantasyf...

Maurice DeValle up...

Subject: Maurice DeValle updated their On The Board Southern Meadows Fantasy Football League

Date: 2016-10-14 16:32:35

From: Maurice DeValle

To/Cc: southernmeadowsfantasyfootball139@footballclasssports.com

Bcc: Maurice.DeValle@ncdps.gov

Download

View Source

FANTASY FOOTBALL

Midland Posse have updated their "On the B" below. If you want to offer this team a trade.

Comment: Don't come back with some crappy kicker!

Offered: Drew Brees QB | NO

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 **LIEUTENANT CLARK:** Today's date is 15, November of 2016. The current
2 time is 10:17 a.m. I am Lieutenant P.T. Clark with the Internal Affairs section.
3 Also with me today from Internal Affairs is First Sergeant R.W. Sawyer. We are
4 in Raleigh, North Carolina, interviewing Sergeant M.A. DeValle about an
5 anonymous complaint that was lodged against you.
6

7 Prior to going on tape, you were furnished with a memorandum from
8 Captain W.T. Evans to Captain J.O. Holmes in reference to this complaint, as
9 well as the attached personnel complaint. Additionally, you were provided with
10 excerpts of policy, specifically Directive H2, Investigation of Complaints and
11 Charges Against Highway Patrol Members, which includes the subsections
12 pertaining to Investigation of Complaints at the Commander's Office Level,
13 Internal Affairs Investigation Procedures and the Responsibility and Rights of
14 Members Being Investigated.
15

16 Did you have an opportunity to review these documents?
17

18 **SERGEANT DEVALLE:** Yes, sir.
19

20 **LIEUTENANT CLARK:** You do you understand them?
21

22 **SERGEANT DEVALLE:** Yes, sir.
23

24 **LIEUTENANT CLARK:** Did you initial and date these documents?
25

26 **SERGEANT DEVALLE:** Yes, sir.
27

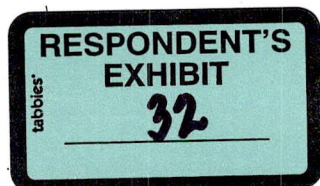
28 **LIEUTENANT CLARK:** Did you receive a copy of these documents?
29

30 **SERGEANT DEVALLE:** Yes, sir.
31

32 **LIEUTENANT CLARK:** You were also provided with Patrol Directive H1,
33 The Highway Patrol Rules of Personal Conduct and Job Performance, Subsection 2,
34 General Policies and Procedures. Did you have an opportunity to review this
35 directive?
36

37 **SERGEANT DEVALLE:** Yes, sir.
38

39 **LIEUTENANT CLARK:** Do you understand this directive?
40



TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 **SERGEANT DEVALLE:** Yes, sir.

2
3 **LIEUTENANT CLARK:** Did you initial and date it?

4
5 **SERGEANT DEVALLE:** Yes, sir.

6
7 **LIEUTENANT CLARK:** Did you receive a copy of it?

8
9 **SERGEANT DEVALLE:** Yes, sir.

10
11 **LIEUTENANT CLARK:** Also under Directive H1, you were given
12 Subsection 4, Violation of Rules; Subsection 7, Truthfulness; Subsection 25,
13 Conduct While Under Investigation; Subsection 35, Obstruction of Investigation;
14 and Directive H1, Section 4, Violation of Rules, to wit E9, Section 4,
15 Policies/Procedures for Establishing Residence, which is the specific policy you
16 were charged with violating. Did you have an opportunity to review these
17 documents?

18
19 **SERGEANT DEVALLE:** Yes, sir.

20
21 **LIEUTENANT CLARK:** Do you understand them?

22
23 **SERGEANT DEVALLE:** Yes, sir.

24
25 **LIEUTENANT CLARK:** Did you initial and date them?

26
27 **SERGEANT DEVALLE:** Yes, sir.

28
29 **LIEUTENANT CLARK:** Did you receive a copy of these documents?

30
31 **SERGEANT DEVALLE:** Yes, sir.

32
33 **LIEUTENANT CLARK:** Have you ingested any substances which will prevent
34 you from answering questions today?

35
36 **SERGEANT DEVALLE:** No, sir.

37
38 **LIEUTENANT CLARK:** Do you admit or deny the allegation of violation of
39 rules?

40

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 **SERGEANT DEVALLE:** Admit.

2

3 **LIEUTENANT CLARK:** Sergeant DeValle, let me take you back to last
4 Friday, which was Veterans' Day. If you would, tell us about the events of that
5 day and how it was that Lieutenant Chris Morton came to your residence.

6

7 **SERGEANT DEVALLE:** Yes, sir. Do you want --

8

9 **LIEUTENANT CLARK:** Just start from the beginning or --

10

11 **SERGEANT DEVALLE:** He showed up at my residence approximately
12 7:30 p.m. Rang the doorbell. I was sick in bed. My wife answered the door.
13 She said that somebody was there to see me. So I walked -- I immediately walked
14 to the front door and stood on the front step with Lieutenant Morton.

15

16 And he asked me, he says, "Are you working?" The first thing he asked
17 me, "Were you working?" I stated, "No." He goes, "Well, you're checked on the
18 CAD." I said, "Well, my daughter puked."

19

20 And I didn't know it at the time, but she was puking the night before
21 with my wife. That day I had her. I took her to the movies. She was sick
22 there. We came home and I told him that I was sick. That's why I was not
23 working and didn't know why I was still in the CAD, but I was not on duty.

24

25 **LIEUTENANT CLARK:** All right. What were you scheduled that day to
26 work?

27

28 **SERGEANT DEVALLE:** I think a 5 p. to 4 a. I think is what I was
29 scheduled. It's either 5:00 or 4:00. I read the -- the Blue Team Report. I
30 think it said 4:00 to 3:00, but I think the schedule truly is 5:00 to 4:00.

31

32 **LIEUTENANT CLARK:** What time did you check on?

33

34 **SERGEANT DEVALLE:** I checked on approximately 3:00 p.m. I did not
35 leave my residence. Again, I was -- I had diarrhea for the day. I wasn't
36 vomiting, but I had diarrhea. About an hour, hour and a half, two hours tops, I
37 realized that I wasn't going to be able to -- to effectively work. So that's
38 when I was no longer on duty, approximately 5:00. I think Lieutenant Morton
39 asked me what time I was off and I stated approximately 5:00 p.m.

40

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 **LIEUTENANT CLARK:** How did you check on that day?

2

3 **SERGEANT DEVALLE:** With my computer.

4

5 **LIEUTENANT CLARK:** Is your MDT one that is required to be in the
6 docking station in the car or is it able to be used inside your house?

7

8 **SERGEANT DEVALLE:** It can be used anywhere. It's just a mobile data
9 computer.

10

11 **LIEUTENANT CLARK:** Did you check on inside your house?

12

13 **SERGEANT DEVALLE:** Yes, sir.

14

15 **LIEUTENANT CLARK:** And how long were you at the house, in hours or
16 whatever time, before Lieutenant Morton came to your front door?

17

18 **SERGEANT DEVALLE:** I never left my residence, sir.

19

20 **LIEUTENANT CLARK:** So you checked on about 3:00 and he showed up about
21 what time?

22

23 **SERGEANT DEVALLE:** Best of my memory is around 7:30.

24

25 **LIEUTENANT CLARK:** So roughly four and a half hours?

26

27 **SERGEANT DEVALLE:** Yes, sir.

28

29 **LIEUTENANT CLARK:** Did you have a radio with you?

30

31 **SERGEANT DEVALLE:** I don't remember that day.

32

33 **LIEUTENANT CLARK:** And specifically during that time period, from the
34 time you checked on until the time you got there, tell us again, what were you
35 doing during that time period?

36

37 **SERGEANT DEVALLE:** Well, as soon as I checked on, I was using the
38 bathroom quite frequently. That was probably an hour's worth of going back and
39 forth to the bathroom. I felt sick, so I -- I was actually in bed.

40

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 LIEUTENANT CLARK: Did you ever put your uniform on at all and attempt
2 to go to work?

3
4 SERGEANT DEVALLE: No, sir. I took a shower and was prepared, but I
5 did not put my uniform on. I was going to see how I was feeling. And I just
6 wasn't -- wasn't going to make it.

7
8 LIEUTENANT CLARK: Were you doing any -- any work from the house while
9 you were there?

10
11 SERGEANT DEVALLE: No, sir. Again, I basically went -- went to sleep
12 from -- I laid down in the bed probably an hour after I -- around 4:00. I
13 don't -- I don't know the exact times. And I don't want to -- I'm not trying to
14 come across where I'm hiding or not being detailed, I just don't remember the
15 exact times of that.

16
17 LIEUTENANT CLARK: Now, you checked on at roughly 3 o'clock?

18
19 SERGEANT DEVALLE: Yes, sir.

20
21 LIEUTENANT CLARK: At that point right there when you checked on, did
22 you have intentions on going to work that day?

23
24 SERGEANT DEVALLE: Absolutely.

25
26 LIEUTENANT CLARK: All right. At what point after you checked on did
27 you realize that you were not going to be able to go to work?

28
29 SERGEANT DEVALLE: Probably an hour, hour and a half. I just -- I
30 tried to -- to see if -- if it would subside where I could make it there. If I
31 could get to the office, I think I would be good with using the bathroom if
32 nothing came out. But again, for whatever stomach bug, I wasn't -- I didn't
33 feel comfortable with trying to do it.

34
35 LIEUTENANT CLARK: And explain for us -- you -- you checked on, but
36 explain for us why after about an hour or so you realized I'm not going to make
37 it that you did not check off.

38 SERGEANT DEVALLE: Okay. I just didn't.

39
40 LIEUTENANT CLARK: Now, you were the late OD that day?

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 **SERGEANT DEVALLE:** Yes, sir.

2

3 **LIEUTENANT CLARK:** Did -- did you communicate with any other
4 supervisor in the district about that you couldn't come to work, and so
5 therefore the district needed coverage or -- for supervisory coverage?
6

7

8 **SERGEANT DEVALLE:** No, sir. I was on call, so I -- I had my phone
9 available if -- if -- and it was just my thought process. Clearly, I would do
10 things very differently now. My thought process at the time, if something were
11 to come up where they needed something, and if they required me to be there,
12 then I would contact the first sergeant and tell him that I'm just not able to
13 come, handle any -- any personal call at that point. But if there were
14 questions or if -- if they needed to speak to something, I was available via my
15 telephone, cell phone.

16

17 **LIEUTENANT CLARK:** Did you ever speak to the first sergeant and tell
18 him that you weren't able to come to work that night?

19

20 **SERGEANT DEVALLE:** I didn't that day. I told him the next day.

21

22 **FIRST SERGEANT SAWYER:** Why not? Why didn't you call your first
23 sergeant?

24

25 **SERGEANT DEVALLE:** There was -- there was no reason. I just -- I
26 didn't think that there would be -- again, learning -- poor -- being here right
27 now with this situation, I see that that clearly would have been the best way of
28 dealing with it. At that time, I didn't see a need to -- sir, there's really no
29 good answer for that. I just didn't call and tell him that night.

30

31 **LIEUTENANT CLARK:** So a period of time went by. You were home sick.
32 Were you in the bed asleep when Lieutenant Morton came to your house?

33

34 **SERGEANT DEVALLE:** I was in the bed. I wasn't asleep at that time.

35

36 **LIEUTENANT CLARK:** When he came to your door, who answered the door?

37

38 **SERGEANT DEVALLE:** My wife.

39

40 **LIEUTENANT CLARK:** And what happened after that?

41

42 **SERGEANT DEVALLE:** She said someone was there to see me. I got out of

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 the bed immediately and walked to the front door.

2
3 **LIEUTENANT CLARK:** Did you do anything from the time you got up to the
4 time you got to the door?

5
6 **SERGEANT DEVALLE:** I walked straight to the door. I don't know the
7 exact timelines that was. I think my interaction with him was maybe a minute,
8 at tops a minute, two minutes.

9
10 **LIEUTENANT CLARK:** Did you do anything before -- other than laying in
11 the bed, did you do anything before he came to the door or were you just laying
12 in bed?

13
14 **SERGEANT DEVALLE:** Sir, I don't really remember any -- anything.

15
16 **LIEUTENANT CLARK:** The CAD times and everything that -- that we looked
17 at, your 10-41 and 10-42 times, did you check yourself off?

18
19 **SERGEANT DEVALLE:** I did.

20
21 **LIEUTENANT CLARK:** Okay. When did you do that?

22
23 **SERGEANT DEVALLE:** He brought that to my attention. I immediately
24 walked in the house and checked myself 10-42. So it was within the same minute
25 of me seeing him.

26
27 Let me set up my computer, how things were -- or for me. My computer,
28 I never turn it off. It's always on. If I go to -- out of state on vacation, I
29 take it with me. The reasoning is if -- if the guys call and needed something,
30 then I'll try the assist them if I can, or if the first sergeant needs me to do
31 something, then I'll do that. But I never personally turn mine off.

32
33 There's times I -- you have a Mi-Fi and the Mi-Fi sometimes will go
34 out and you don't realize it, so it will automatically try to click to a home
35 network. So sometimes, there's been times in the past -- I'm not saying this
36 time. I don't know what happened -- there's a delay or when you transmit
37 something, you think it goes through, it doesn't. And I don't know that until
38 you try and get on and do something else. So there's times you just don't know
39 when it switches from a Wi-Fi or from your Mi-Fi to your home network or
40 whatever wireless network.

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 **LIEUTENANT CLARK:** Did you check off before or after you talked to
2 Lieutenant Morton?
3

4 **SERGEANT DEVALLE:** It was after. And it was approximately -- I mean
5 immediately. I walked straight from the front door -- because it was -- he told
6 me that I was still on the CAD. So I walked right in and checked off. So
7 within the same minute that I spoke to him, it was the same.
8

9 **LIEUTENANT CLARK:** Did -- was that your own idea or was that his idea?
10

11 **SERGEANT DEVALLE:** It was mine because he had told me that I was still
12 on the CAD and I told him I was sick. I didn't -- obviously, he thought that I
13 was working. I wasn't working. So I checked myself off so that I wasn't
14 showing on duty at that point.
15

16 **LIEUTENANT CLARK:** Okay. After -- after you spoke with
17 Lieutenant Morton and told him that you were sick, did any -- was there any
18 discussion about covering supervisory calls for the district that night? Were
19 any arrangements made?
20

21 **SERGEANT DEVALLE:** I don't -- I don't recall.
22

23 **LIEUTENANT CLARK:** So you were still the late OD then?
24

25 **SERGEANT DEVALLE:** Yes, sir. I was basically on call. I don't recall
26 us having any conversation about that. Don't remember anything -- saying
27 anything about that.
28

29 **LIEUTENANT CLARK:** Lieutenant Morton -- let's talk about the
30 conversation in detail what you and Lieutenant spoke of when he was at your
31 house and he came to you to address the issue of you being at home.
32

33 **SERGEANT DEVALLE:** Yes, sir.
34

35 **LIEUTENANT CLARK:** Tell us in detail what that conversation was.
36

37 **SERGEANT DEVALLE:** Again, he got there and he asked me, 'Are you
38 working?' I said, 'No, sir.' He goes, 'Well, you're still on the CAD.' I
39 said, 'Okay. Well, I'm sick, so I shouldn't. I'm not working. I shouldn't
40 be.' And he said, 'Okay.'

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 I think the next -- I asked him, I said, "Well, what is -- what's this
2 about?" And he says, "I can't say anything about it." I said, "What do you
3 mean you can't say anything about it? I mean where is this coming from that
4 you're just at my house checking on me?" And he says, "I'm not going to say
5 anything about it." Something to that nature. I don't know the exact what he
6 said with that.

7
8 I said, "Okay." I said, "Well," something to the effect that, "you
9 know, Lieutenant, there's been rumors in the past that you're riding around
10 checking on -- on people." And -- and if I could take this back, I absolutely
11 would. I said, "But you guys want -- you want the loyalty, but you're riding
12 around just checking on people instead of talking to them." I said, "I don't
13 understand that, how you want loyalty from the top down, but -- from us to you,
14 but then there's no loyalty reciprocated."

15
16 And he -- he said, "Well, Maurice, this is the second time I've been
17 to your house. You know, you and your wife have had these problems." And
18 again, if I could take this back, I absolutely would, but that, I felt at that
19 time that that was a malicious dig and inappropriate comment to me that he's
20 bringing my marital past of approximately four years ago, after my wife's
21 postpartum depression, that he brought that into the conversation. And I made
22 some comments that I should not have made to the fact that I said, "Well, you
23 know, Lieutenant, if you want your legacy to be you're riding around checking on
24 people, congratulations, you know, you're checking on me." I said, "And you
25 bringing my wife into this conversation, I don't appreciate it. That has
26 nothing to do with this matter." I said, "You had your own personal matters
27 with your own wife running around on you. But the Patrol didn't get in your
28 business." I said, "That day it was a -- it was a personal matter, that it
29 wasn't the Patrol's business that day, that I had a marital issue at that moment
30 and I don't appreciate you bringing that into this conversation. It has nothing
31 to do with why you're here right now."

32
33 Sometime to that effect. The best of my memory of how I said that.
34 Again, I say that and what I say now is I believe in this organization. I
35 shouldn't have said anything at all. And I apologize for saying -- making
36 any -- any further comments that -- I was angry; I was upset that he brought
37 in -- my wife into the personal matters and I made a poor decision.

38
39 **LIEUTENANT CLARK:** And I know you kind of summarized, but in
40 retrospect, looking back at it now, do you feel that what you said to him was

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 appropriate?

2

3

SERGEANT DEVALLE: No, sir.

4

5

LIEUTENANT CLARK: Do you feel that way now?

6

7

SERGEANT DEVALLE: Absolutely I shouldn't have said that then. I won't say that in the future. I absolutely feel like now I shouldn't have said anything at all.

8

9

10

11

LIEUTENANT CLARK: Based on everything you just said right there and what was said to Lieutenant Morton, was that classified as insubordinate behavior?

12

13

14

15

SERGEANT DEVALLE: Sir, I don't think I'm very good at making a judgment call one way or another. All I can say is I shouldn't have commented at all. I will never comment in the future any possible way that way. I'm not very good at classifying things. I don't -- I don't feel comfortable classifying that.

16

17

18

19

20

21

LIEUTENANT CLARK: Let me reverse it. If a trooper had spoke to you in the manner in which you spoke to Lieutenant Morton, how would you perceive that?

22

23

24

25

26

27

28

29

30

31

32

33

34

LIEUTENANT CLARK: Was there any profanity used?

35

36

SERGEANT DEVALLE: No, sir. Not that I -- not that I recall.

37

38

39

40

LIEUTENANT CLARK: Under H1, Section 178, would you read that for us, please?

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 **SERGEANT DEVALLE:** "Members shall promptly obey any lawful order of a
2 superior officer. This will include orders relayed from a superior officer by
3 an employee of the same or lesser rank. Any disrespectful, malicious, insolent,
4 or abusive language, conduct or attitude directed towards the supervisor or the
5 authority or the position shall be considered insubordination."
6

7 **LIEUTENANT CLARK:** After telling us what happened there, you -- you
8 expressed regret and remorse for having said what you said. And by definition
9 of what the Highway Patrol has deemed insubordination, does that fall within
10 this definition?
11

12 **SERGEANT DEVALLE:** I think my attitude directed towards the superior
13 officer was not cordial. Yes, sir.
14

15 **LIEUTENANT CLARK:** And just so -- I want to understand right. When
16 Lieutenant Morton got there, did he explain or attempt to explain that he was
17 there by somebody else's direction?
18

19 **SERGEANT DEVALLE:** Best of my memory, he wouldn't elaborate. He
20 wouldn't say why he was there at all. He just really didn't say anything.
21

22 **FIRST SERGEANT SAWYER:** And if he didn't say anything or you don't
23 recall him saying anything about why he was there, what was your conclusion --
24 what did you conclude his reason for being there was?
25

26 **SERGEANT DEVALLE:** I concluded that he was just riding around checking
27 on me.
28

29 **FIRST SERGEANT SAWYER:** Is that what led to your demeanor --
30

31 **SERGEANT DEVALLE:** No, sir.
32

33 **FIRST SERGEANT SAWYER:** -- to your attitude or however you described
34 it?
35

36 **SERGEANT DEVALLE:** No, sir. No, sir. That -- that didn't bother me.
37 That didn't bother me at all for that -- that matter because -- for that
38 particular situation.
39

40 I was sick. I was truly sick. I was not working. I told him I

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 wasn't working. He asked me. That was the very first thing he asked me, "Are
2 you working?" I said, "No, sir." So that didn't bother me at all that he -- he
3 was there for that.
4

5 What upset me was when he brought my -- when he said, "Well, I've been
6 here twice; for you and your wife having your problems." That I thought was not
7 appropriate for him to -- to make that comment to me. That had nothing to do
8 with this situation. And that -- and I had stated that to him also.
9

10 **LIEUTENANT CLARK:** And I don't want to go into any great detail about
11 that, but those two times that he mentioned and you referred to here just a
12 minute ago, were you also on duty in that home?
13

14 **SERGEANT DEVALLE:** No, sir.
15

16 **LIEUTENANT CLARK:** Okay. So that didn't have -- you were off duty --
17

18 **SERGEANT DEVALLE:** Yes, sir.
19

20 **LIEUTENANT CLARK:** -- and separate and apart?
21

22 **SERGEANT DEVALLE:** That was something simple as -- I just had a second
23 child. My wife had postpartum depression. And I was literally -- I had my
24 child and I was getting in my car and I was trying to leave the residence. And
25 he came and showed -- showed up.
26

27 **FIRST SERGEANT SAWYER:** You spoke to profanity. You didn't recall any
28 profanity being used in the conversation with Lieutenant Morton?
29

30 **SERGEANT DEVALLE:** No, sir.
31

32 **FIRST SERGEANT SAWYER:** How about your tone of voice? Tell us about
33 your tone of voice and Lieutenant Morton's tone of voice, the -- the nature of
34 that conversation. Did you raise your voice at him? Did he raise his voice at
35 you?
36

37 **SERGEANT DEVALLE:** I don't think we had our voices raised. He -- it's
38 amazing, he -- he was -- he wasn't -- no, didn't raise his voice at all. He
39 didn't cuss at me. I didn't -- I don't -- I don't feel I had my voice raised.
40 And I -- I don't recall any profanity. But the tone of my response was -- was

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 not what -- not how we normally talk to each other, no, sir.

2

3

LIEUTENANT CLARK: Is it like how you and are discussing right now?

4

5

SERGEANT DEVALLE: No, sir.

6

7

LIEUTENANT CLARK: Were there any -- did you make any hand gestures or point your finger at him or anything like that?

8

9

10 **SERGEANT DEVALLE:** No, sir. Now, I'm bad -- again, I'm kind of
11 animated with my hands sometimes, but I never pointed at him, anything like
12 that. But it's --

13

14

LIEUTENANT CLARK: Were you like that on this occasion?

15

16

SERGEANT DEVALLE: I'm sure. I'm sure. I'm just -- I'm vocal with my
17 hands. But I -- now, I recognized other times where I would being very angry
18 and doing something like that. There was nothing like that. It was more of
19 talking with my hands and being a little upset.

20

21

LIEUTENANT CLARK: Was Lieutenant Morton within his authority and
22 responsibility to check on members under his command?

23

24

SERGEANT DEVALLE: Yes, sir. I think at that -- when he asked me --
25 when he showed up at my house, those are the -- the duties. He -- he did -- the
26 part that I don't agree with what he said is when he brought my personal matters
27 of my wife and a disagreement between me and her into that situation. And
28 that's where I was little bit upset.

29

30

LIEUTENANT CLARK: As a supervisor sergeant on Highway Patrol, would
31 you also have the same authority and responsibility to go check on members under
32 your command?

33

34

SERGEANT DEVALLE: Yes, sir.

35

36

LIEUTENANT CLARK: Who in the past, supervisors on the Highway Patrol,
37 either be a trooper or district, have spoken to you or cautioned you about being
38 on duty and at your residence?

39

40

SERGEANT DEVALLE: Sir, I don't remember any direct conversations like

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 that of saying that don't be at your house while you're on duty.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

LIEUTENANT CLARK: What about this, has any supervisors, either be it from troop or district level, spoken to you about abiding by the residency policy, being in your duty station at the appropriate time versus remaining at your residence for a number of hours before going to work?

SERGEANT DEVALLE: Nothing -- I don't recall anything of saying that you need to be there hours before -- I mean don't be there hours before. What I do recall is we've had general conversations or we -- we have -- the phrase -- the conversation was be where you're supposed to be doing what you're supposed to be doing when you're supposed to be doing it.

LIEUTENANT CLARK: Okay. That conversation right there, who --

SERGEANT DEVALLE: Captain Holmes.

LIEUTENANT CLARK: Captain Holmes. When did he tell you that?

SERGEANT DEVALLE: Sir, it's -- I don't remember the date. It's been a significant time.

LIEUTENANT CLARK: In this calendar year or last year?

SERGEANT DEVALLE: Not this calendar year. Maybe sometime last year. I -- I'm not trying to be deceptive. I don't want to come across that way. I just -- that's --

LIEUTENANT CLARK: That's fine.

SERGEANT DEVALLE: It's been such a significant amount of time, I don't recall. It's --

LIEUTENANT CLARK: That's fine, Maurice.

FIRST SERGEANT SAWYER: Was that a -- what that a personal conversation he had with just you and him or was that a conversation that he was speaking to a group and you were a part of that group? Your conversation was with Captain Holmes about being where you're supposed to be and doing what you're supposed to do.

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1
2 **SERGEANT DEVALLE:** No, sir. Lieutenant Finney was in there at the
3 time. Me, Lieutenant Finney and Captain Holmes.
4

5 **FIRST SERGEANT SAWYER:** So it was a conversation directed to you?
6

7 **SERGEANT DEVALLE:** Yes, sir.
8

9 **LIEUTENANT CLARK:** Where did this conversation take place?
10

11 **SERGEANT DEVALLE:** In Lieutenant -- I believe Lieutenant Finney's
12 office.
13

14 **LIEUTENANT CLARK:** It was Troop C headquarters?
15

16 **SERGEANT DEVALLE:** Yes, sir.
17

18 **LIEUTENANT CLARK:** Were --
19

20 **SERGEANT DEVALLE:** It's either there or Captain Holmes' office because
21 I was -- I remember being back and forth speaking to both of them for an
22 unrelated matter just being there.
23

24 **LIEUTENANT CLARK:** And that was my next question. What -- what was
25 your purpose of being there? Were you called to troop to have this discussion
26 or did you just happen to be there and they had this discussion with you?
27 Which -- which side did it come on?
28

29 **SERGEANT DEVALLE:** The best of my memory, I was there for an
30 in-service training or just an unrelated matter. It had nothing to do with that
31 particular matter.
32

33 **LIEUTENANT CLARK:** About -- an approximate. I'm not asking for an
34 exact. Approximately how long did that conversation take place?
35

36 **SERGEANT DEVALLE:** 30 seconds. A minute tops.
37

38 **LIEUTENANT CLARK:** And what was the purpose in Captain Holmes telling
39 you that statement, that you need to be where you need to be when you need to be
40 there?

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1
2 **SERGEANT DEVALLE:** Sir, I -- I can only assume at this point. He
3 didn't elaborate any further than that. I've drawn a lot of wrong conclusions.
4 Of course, my demeanor towards Lieutenant Morton.

5
6 He didn't elaborate that day. It was a very short -- he's made that
7 statement to many others. And I say that not trying to drag anybody into
8 anything else. I don't want you to think that. But that's a common phrase that
9 he makes it known at the district meetings or he's made it more than one time.
10 But on that particular incident, it was me, Lieutenant Finney, and him. And
11 First Sergeant Burton may have actually been there.

12
13 **LIEUTENANT CLARK:** Did he cite any specific occasions that things had
14 been brought to his attention that he felt that, you know, on this date or this
15 date or anything like that, that obviously a troop commander felt it was
16 important enough to speak to you one on one directly with a troop lieutenant and
17 your first sergeant in the office --

18
19 **SERGEANT DEVALLE:** Yes, sir.

20
21 **LIEUTENANT CLARK:** -- did he cite any specific occasions?

22
23 **SERGEANT DEVALLE:** No, sir. He didn't elaborate at all on that to me.

24
25 **LIEUTENANT CLARK:** After that conversation, what was your
26 understanding of the message delivered by Captain Holmes to you about being
27 where you need to be at certain times?

28
29 **SERGEANT DEVALLE:** I mean just following policy the -- the correct
30 way. I mean to make sure that I follow policy with the way it's supposed to be
31 followed.

32
33 **LIEUTENANT CLARK:** And when you refer to "the policy," which policy
34 are you kind of specifically identifying with towards that conversation?

35
36 **SERGEANT DEVALLE:** Residency policy.

37
38 **FIRST SERGEANT SAWYER:** When you work generally, when do you check
39 on?
40 Do you check on prior to your shift when your shift begins? I'll give you an

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1 example. On Friday, this past Friday, you said you were scheduled 5 p. to 2 a.
2 or 4 a.

3
4 **SERGEANT DEVALLE:** Yes, sir.

5
6 **FIRST SERGEANT SAWYER:** You said you checked on approximately
7 3 o'clock. Why did you check on so early?

8
9 **SERGEANT DEVALLE:** I was scheduled in-service Monday, Tuesday,
10 Wednesday. And I know the schedule said 5:00 to 4:00. But I was trying to get
11 my sleep down lower so I wouldn't be out until 4:00 in the morning then 3:00 in
12 the morning and then have to be at in-service at 7:00 a.m. Monday. So I was
13 trying to back things down to -- so I could make it to my in-service.

14
15 **FIRST SERGEANT SAWYER:** Okay. If you're generally assigned a shift --

16
17 **SERGEANT DEVALLE:** Yes, sir.

18
19 **FIRST SERGEANT SAWYER:** -- to begin at 1 o'clock or at 3 o'clock or
20 5 o'clock, what's your common practice? Do you normally work what you're
21 assigned or do you have a general practice of checking on early?

22
23 **SERGEANT DEVALLE:** I mean I check on -- when you say "early," if I'm
24 scheduled to check on at 3:00, it wouldn't be 3:05, 3:11, 3:15.

25
26 **FIRST SERGEANT SAWYER:** That would be checking on late.

27
28 **SERGEANT DEVALLE:** Right.

29
30 **FIRST SERGEANT SAWYER:** I'm not asking about you checking on late.
31 Checking on --

32
33 **SERGEANT DEVALLE:** Before the assigned times?

34
35 **FIRST SERGEANT SAWYER:** Checking on prior to your assigned shift.

36
37 **SERGEANT DEVALLE:** There's not a -- I don't have a standard or a
38 routine one way or another. just whatever district operations mandates.

39
40 **LIEUTENANT CLARK:** Let me phrase it this way.

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW - PT 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

SERGEANT DEVALLE: Okay.

LIEUTENANT CLARK: Are you granted the latitude in the district as a supervisor to --

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: -- to change your schedule, fluctuate --

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: -- it either earlier or later than what is assigned in the CAD?

SERGEANT DEVALLE: Yes, sir. A lot of times for -- like during the week, Friday and Saturday nights is we -- we have to work nights. That's the latitude we have. Any other time, we work whatever we need to work to fill district operations.

LIEUTENANT CLARK: Our time is 10:56 a.m. We're going to take a short break.

(Whereupon, the interview recessed.)

Transcribed by Donna Rowe

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **LIEUTENANT CLARK:** The current time is 11:03 a.m. and we are resuming
2 the interview with Sergeant DeValle.

3
4 **SERGEANT DEVALE,** while we were on break, did you have an opportunity
5 or occasion to speak to anybody outside or tell anybody what we talked about?

6
7 **SERGEANT DEVALE:** No, sir.

8
9 **LIEUTENANT CLARK:** As we started out and in the complaint, you're
10 specifically charged with the residency policy of the Highway Patrol.

11
12 **SERGEANT DEVALE:** Yes, sir.

13
14 **LIEUTENANT CLARK:** Explain to us, tell us your understanding of what
15 that policy is and how to abide by it.

16
17 **SERGEANT DEVALE:** Of course, by being -- of course, as of yesterday,
18 I read this policy a little more to -- I understood it before. I don't want --
19 I don't mean to say that as I didn't understand it. **You're required to live**
20 **within 20 miles of your district and be in your district when you're on -- when**
21 **you're on duty.**

22
23 **LIEUTENANT CLARK:** Now, the house that we talked about earlier, the
24 one that Lieutenant Morton came to, which house is that? Is that a permanent
25 residence?

26
27 **SERGEANT DEVALE:** That's my -- that's my primary residence, yes, sir.

28
29 **LIEUTENANT CLARK:** And which county is that located in?

30
31 **SERGEANT DEVALE:** It's in Wake County about two miles to the Johnston
32 County line. Approximately two.

33
34 **LIEUTENANT CLARK:** Now, what is the -- explain to us the 400 Hillside
35 Drive, Smithfield, address. What is that?

36
37 **SERGEANT DEVALE:** That is a residence that -- to abide by the policy,
38 that would conform to the policy that was documented.

39
40 **LIEUTENANT CLARK:** **And you submitted an HP-740 requesting to live**

RESPONDENT'S
EXHIBIT

33

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1
2 outside your residency; is that correct?
3

4 SERGEANT DEVALE: That is correct.
5

6 LIEUTENANT CLARK: All right. This 740, is this the most current 740
7 that is on file for the residence?
8

9 SERGEANT DEVALE: I don't -- I don't know, sir. I'm not trying to
10 be --
11

12 LIEUTENANT CLARK: But it does have the Hillside Drive address?
13

14 SERGEANT DEVALE: Yes, sir.
15

16 LIEUTENANT CLARK: How far is it from your house in Wake County to
17 this house in Smithfield?
18

19 SERGEANT DEVALE: I don't -- I don't know the mileage for that, sir.
20 I've never paid much attention to the exact mileage from those two.
21

22 FIRST SERGEANT SAWYER: How long does it take you in time to drive
23 from one to the other? How long of a drive is it?
24

25 SERGEANT DEVALE: 15 minutes.
26

27 LIEUTENANT CLARK: Is that a house or an apartment?
28

29 SERGEANT DEVALE: It's a house.
30

31 LIEUTENANT CLARK: Tell us how you came about to find this house on
32 Hillside Drive to use as the residence on the 740 you submitted.
33

34 SERGEANT DEVALE: Sir, I say this with me being total responsible for
35 my actions of not abiding by this policy appropriately. I have not done it
36 appropriately. I have admitted to violating this policy and not doing it
37 properly. So with me saying that, I'm not trying to pass this buck on anybody.
38 But that form was done. I've had a form done since 2011 from Captain Taylor,
39 Captain -- or Lieutenant Colonel Bell to Captain Taylor to Captain Henderson to
40 even Captain Holmes, that was told that -- just have something on paper and

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 we're good. But just make sure you are where you're supposed to be when you're
2 supposed to be there, what time you're supposed to be there.

3
4 **LIEUTENANT CLARK:** Who -- who owns this house?

5
6 **SERGEANT DEVALE:** Justin Creech.

7
8 **LIEUTENANT CLARK:** And who is that?

9
10 **SERGEANT DEVALE:** He's another trooper.

11
12 **LIEUTENANT CLARK:** Do you pay rent?

13
14 **SERGEANT DEVALE:** No, sir.

15
16 **LIEUTENANT CLARK:** Any utilities or anything?

17
18 **SERGEANT DEVALE:** No, sir.

19
20 **LIEUTENANT CLARK:** When was the last time you ever parked your patrol
21 car at that residence?

22
23 **SERGEANT DEVALE:** Never, sir.

24
25 **LIEUTENANT CLARK:** And why not?

26
27 **SERGEANT DEVALE:** Sir, I don't -- I don't have an explanation for it
28 other than I have violated the -- the policy.

29
30 **LIEUTENANT CLARK:** Explain to us how you would get from your home in
31 Wake County to your duty station.

32
33 **SERGEANT DEVALE:** Do you want me to name every road?

34
35 **LIEUTENANT CLARK:** No. Just -- just --

36
37 **SERGEANT DEVALE:** It's pretty simple though.

38
39 **LIEUTENANT CLARK:** Well, let me ask it this way. When you come to
40 work, do you drive your patrol car from your driveway in Wake County to the duty

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 SERGEANT DEVALE: Yes.

2
3 LIEUTENANT CLARK: -- in Wayne County?

4
5 SERGEANT DEVALE: Yes, sir.

6
7 LIEUTENANT CLARK: Have you ever done anything to the extent of take
8 your personal car to the Hillside Drive address, pickup a patrol car, and then
9 go work?

10
11 SERGEANT DEVALE: No, sir.

12
13 LIEUTENANT CLARK: Who else uses that address as far as patrol
14 members?

15
16 SERGEANT DEVALE: Trooper Creech. He -- he was --

17
18 LIEUTENANT CLARK: But he owns that residence, right?

19
20 SERGEANT DEVALE: He does.

21
22 LIEUTENANT CLARK: Okay.

23
24 FIRST SERGEANT SAWYER: Is that his primary residence? Is that where
25 he lives?

26
27 SERGEANT DEVALE: It is now. For a while, he was living with his
28 girlfriend in Wayne County. I don't have -- I don't know -- he's not on my
29 shift, so I don't know all of the details of his personal life at this point. I
30 know he was going through some personal issues with -- he had a baby. Of
31 course, not married and a young woman. They had some differences. So I'm not
32 sure if he's living there or back with his girlfriend in Wayne County or not.

33
34 FIRST SERGEANT SAWYER: Well, my purpose in asking that was not to
35 try to hem anyone else up. We were just -- my point in asking the question was
36 does anyone live at this residence --

37
38 SERGEANT DEVALE: Yes, sir.

39
40 FIRST SERGEANT SAWYER: -- permanently now?

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 SERGEANT DEVALE: Yes, sir. It's -- it's right beside of his father.

2

3 FIRST SERGEANT SAWYER: Okay.

4

5 SERGEANT DEVALE: I have been there under official capacities of some
6 shots were fired. He checked off and -- so he -- he lives -- that's his house.
7 He doesn't rent it through anybody else. It's his residence. That's -- I hope
8 I answered the question with that.

9

10 LIEUTENANT CLARK: When was the last time you were there, ever?

11

12 SERGEANT DEVALE: I'm trying to reflect back. And the only reason
13 I'm going to have any memory is just because we had an applicant about that time
14 frame that was going through. A year and a half. Something -- it's been a
15 while.

16

17 LIEUTENANT CLARK: One more and we'll move on from that part. Tell us
18 about any secondary employment you've -- you have.

19

20 SERGEANT DEVALE: I cut some grass on the side for myself.

21

22 LIEUTENANT CLARK: How often do you -- do you do this?

23

24 SERGEANT DEVALE: It's -- there's no standard day with that. You
25 know, it's a small -- it's a small thing. Most of my customers know that I'm a
26 highway patrolman and that's my primary job. So they understand that it might
27 be two weeks before I get there. It's not going to be a set day of every seven
28 days or eight days due to I never know what time I'm going to get off or if my
29 schedule changes.

30

31 LIEUTENANT CLARK: So you have a client base? You have a number of
32 customers?

33

34 SERGEANT DEVALE: Yes, sir.

35

36 LIEUTENANT CLARK: Are these accounts, regular-occurring --

37

38 SERGEANT DEVALE: Yes, sir.

39

40 LIEUTENANT CLARK: -- customers?

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **SERGEANT DEVALE:** Yes, sir.

2

3 **LIEUTENANT CLARK:** Are they residential or commercial and/or both?

4

5 **SERGEANT DEVALE:** Both. I say that because that -- yeah. It would
6 be -- it would be both. This one guy owns a restaurant, but it's not open
7 and -- but it's a restaurant and I just maintain that for him.

8

9 **LIEUTENANT CLARK:** What occasions -- have you done any secondary
10 employment while you were between 10-41 and 10-42 time on the clock?

11

12 **SERGEANT DEVALE:** No, sir.

13

14 **LIEUTENANT CLARK:** Has there ever been a time that you've done any
15 while you were on duty?

16

17 **SERGEANT DEVALE:** The best of my memory, absolutely not. I made
18 that -- that's very important. I cannot recall ever doing that on duty.

19

20 **LIEUTENANT CLARK:** So would it be safe to say that you either admit or
21 deny doing secondary employment?

22

23 **SERGEANT DEVALE:** I deny doing that on duty. If that was ever done,
24 there was absolutely no intent, ever, with that where I would claim the patrol
25 time and that at the same time, no, sir.

26

27 **LIEUTENANT CLARK:** Did you ever do it unintentionally?

28

29 **SERGEANT DEVALE:** Not that I recall, ever, no, sir.

30

31 **FIRST SERGEANT SAWYER:** The customers you have, where are the vast
32 majority of your customers located in relation to your residence?

33

34 **SERGEANT DEVALE:** Within -- most of them are within three or four
35 miles.

36

37 **FIRST SERGEANT SAWYER:** Do you live in a subdivision?

38

39 **SERGEANT DEVALE:** I do, yes, sir.

40

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **FIRST SERGEANT SAWYER:** Do you have customers within your subdivision?

2
3 **SERGEANT DEVALE:** Yes, sir.

4
5 **FIRST SERGEANT SAWYER:** How about for the subdivision itself, do you
6 do any work?

7
8 **SERGEANT DEVALE:** Yes, sir. I maintain the subdivision also.

9
10 **FIRST SERGEANT SAWYER:** Tell us about that arrangement, agreement,
11 what your responsibilities are to your subdivision.

12
13 **SERGEANT DEVALE:** Just mowing the grass. That's -- yeah. Just
14 mowing.

15
16 **LIEUTENANT CLARK:** Now, just to be clear --

17
18 **SERGEANT DEVALE:** I don't --

19
20 **LIEUTENANT CLARK:** -- the subdivision that you're talking about, is
21 that in Wake County or is this the Hillside Drive address?

22
23 **SERGEANT DEVALE:** It's in Wake County.

24
25 **FIRST SERGEANT SAWYER:** Are you talking about like the common areas?

26
27 **SERGEANT DEVALE:** Yes, sir.

28
29 **FIRST SERGEANT SAWYER:** Entryway?

30
31 **SERGEANT DEVALE:** Yes, sir.

32
33 **FIRST SERGEANT SAWYER:** What other areas do you --

34
35 **SERGEANT DEVALE:** That would be all.

36
37 **FIRST SERGEANT SAWYER:** Okay. And that's in addition to clients'
38 residences that you mow within your subdivision?

39
40 **SERGEANT DEVALE:** Yes, sir.

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **LIEUTENANT CLARK:** Was there ever an occasion where you would check
2 on, stay at your house in Wake County, go mow these common areas, finish, come
3 back, put your uniform on, get in your car, and then go to your duty station?
4

5 **SERGEANT DEVALE:** I mean has there been a time when I mowed grass
6 before 10-41, checking on, and then going to work, is that what you're asking
7 me?
8

9 **LIEUTENANT CLARK:** No.. What I'm asking is, have you ever checked on,
10 stayed at your house, you're on -- you're on Highway Patrol time, gone out and
11 mowed these common areas --
12

13 **SERGEANT DEVALE:** No, sir.
14

15 **LIEUTENANT CLARK:** -- come back and then went to work?
16

17 **SERGEANT DEVALE:** No, sir.
18

19 **LIEUTENANT CLARK:** So all the time that you've mowed has been prior to
20 10-41 time?
21

22 **SERGEANT DEVALE:** Either before or after. Now, I -- I will say
23 there's been times where my 201s should reflect a time -- what the CAD says
24 might be different than what my time is. Again, sometimes the CAD -- they don't
25 get you checked off. An example would be for the 11th, my first sergeants -- I
26 think sergeant would know. All three of us were checked on. All three of us.
27 And I was the only one that was supposed to be working. But the CAD showed
28 something different than what our time sheets and our actual time working is.
29

30 **FIRST SERGEANT SAWYER:** Do you normally check yourself on and off
31 yourself the MDT?
32

33 **SERGEANT DEVALE:** Yes, sir. And that varies. I mean but most of the
34 time the answer is, yes, sir.
35

36 **FIRST SERGEANT SAWYER:** Do you conduct a query to make sure you're
37 checked on?
38

39 **SERGEANT DEVALE:** I'm sorry?
40

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **FIRST SERGEANT SAWYER:** Do you conduct a query for the district to
2 verify that you're checked on?

3
4 **SERGEANT DEVALE:** No, sir. I wouldn't say that's a common practice.

5
6 **LIEUTENANT CLARK:** As we discussed a little bit earlier, that this
7 complaint came in anonymously. And this is what we received. And I'm going to
8 show it to you. And I'm going to kind of go down each -- each one individually
9 and just kind of identify.

10
11 Have you seen this before?

12
13 **SERGEANT DEVALE:** No, sir.

14
15 **LIEUTENANT CLARK:** All right. This is what we've received. And it's
16 alleging that there's video or pictures from September 28, October 6, October 1,
17 October 4. And it's basically alleging that you were on duty and checked on
18 doing something other than Highway Patrol business.

19
20 **SERGEANT DEVALE:** Okay.

21
22 **FIRST SERGEANT SAWYER:** It's alleging that you checked 10-41 and still
23 at your residence.

24
25 **LIEUTENANT CLARK:** The -- and we've got your 201s. Specifically
26 directing your attention to September 28, which is a Wednesday, were you off on
27 this Wednesday?

28
29 **SERGEANT DEVALE:** That is -- yes, sir.

30
31 **LIEUTENANT CLARK:** Were you working in any capacity with the Highway
32 Patrol on the 28th?

33
34 **SERGEANT DEVALE:** That's not what it's showing, no, sir.

35
36 **LIEUTENANT CLARK:** Okay. And we discussed a little earlier that you
37 have the latitude of changing schedules and kind of working around what was
38 scheduled.

39
40 **SERGEANT DEVALE:** Yes, sir.

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **LIEUTENANT CLARK:** On the 28th, did you work anything other than being
2 off?

3
4 **SERGEANT DEVALE:** Sir, the only reason I can tell you this right now
5 is because I'm looking at it. I -- I -- I don't know. What this is showing is
6 it was a day off. That the day they have me -- what -- what is this saying on
7 the 28th?

8
9 **LIEUTENANT CLARK:** Let's look at October 1st. We're just going to
10 kind of go right down the line. On October 1st, that was a Saturday, and it's
11 got you working the late shift, ten hours, was there at any point in time on the
12 1st that you checked on, remained at your residence for any reason for a number
13 of hours?

14
15 **SERGEANT DEVALE:** Sir, I --

16
17 **LIEUTENANT CLARK:** Specifically from 4:00 to 7:00 you remained at your
18 house. Essentially, do you admit or deny on the 1st that you stayed at your
19 house at this time?

20
21 **SERGEANT DEVALE:** On October the 1st?

22
23 **LIEUTENANT CLARK:** Yes, sir.

24
25 **SERGEANT DEVALE:** Sir. I don't know. I don't want to -- I'm not
26 trying to be disrespectful at all. I just I don't remember -- I can't remember
27 anything particularly that stands out on that day to me, October the 1st. That
28 I'm -- this is saying that I'm there from 4:00 to 7:00 and this is --

29
30 **LIEUTENANT CLARK:** Showing you checked on at 3:00.

31
32 **SERGEANT DEVALE:** Sir, I don't know.

33
34 **FIRST SERGEANT SAWYER:** Have there been occasions during your shift,
35 any shift, where you would go to work, go to your duty station and then come
36 back home during your shift, either for a meal for an extended period of time,
37 and then return to your duty station?

38
39 **SERGEANT DEVALE:** I don't really recall any.
40

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **FIRST SERGEANT SAWYER:** And all that would fall under the residency
2 policy --

3
4 **LIEUTENANT CLARK:** That you've already admitted to.

5
6 **FIRST SERGEANT SAWYER:** -- which you admitted you were in violation
7 of, so I'm not trying to ask you anything really new or trip you up. But
8 have there -- can you recall occasions or is it a practice to -- to return home
9 for a meal hour or to stay at the house an extended period of time during a
10 ten-hour shift?

11
12 **SERGEANT DEVALE:** I mean I have. Typically it's not a common
13 practice that I come home to eat, no, sir. The common practice is for me to eat,
14 at the office and -- I'm sure I have. I just -- it's not a common practice.

15
16 **LIEUTENANT CLARK:** Well, Maurice, and -- and here's the --

17
18 **SERGEANT DEVALE:** And I know I've already violated that. I totally
19 have. I just don't really recall that day.

20
21 **LIEUTENANT CLARK:** And -- and we appreciate you being honest and
22 forthright with us on that. But this right here, what we're going just do is
23 we're just kind of specifically addressing each thing as we go down the list.
24 And this is your opportunity to either, you know, refute or say, you know, yes,
25 I did. And --

26
27 **SERGEANT DEVALE:** And I'm not --

28
29 **LIEUTENANT CLARK:** -- these are the allegations --

30
31 **SERGEANT DEVALE:** Yes, sir.

32
33 **LIEUTENANT CLARK:** -- and it's either, you know, you did or you
34 didn't. And that's -- that's the purpose of us going through this right here.

35
36 **FIRST SERGEANT SAWYER:** So the claimant says on the 1st that you were
37 at your residence from 4:00 to 7:00.

38
39 **SERGEANT DEVALE:** Sir, I can't tell you --
40

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **FIRST SERGEANT SAWYER:** What do you say to that?

2

3 **SERGEANT DEVALE:** I can't tell you what all I did that day. I mean,
4 I've been doing wrecker inspections a lot, so I've been very, very busy with
5 those, but I can't -- I can't tell you what days.

6

7 **LIEUTENANT CLARK:** All right. On the 6th, which is a Thursday, at
8 6:45 p.m., speak to this allegation right here on the 6th.

9

10 **SERGEANT DEVALE:** So what -- what it's saying, I'm at my residence at
11 6:45? Is that what this is saying?

12

13 **FIRST SERGEANT SAWYER:** Yes, sir.

14

15 **LIEUTENANT CLARK:** That's -- that's -- that's how we're understanding
16 with either videos and/or pictures of you being at your residence for that time.

17

18 **SERGEANT DEVALE:** Sir, I don't know. I mean, it -- it's a month ago.
19 I'm not -- I can't tell you.

20

21 **FIRST SERGEANT SAWYER:** The same thing for October 4th?

22

23 **SERGEANT DEVALE:** I mean what this is showing, that I'm at my
24 residence at 3:55 and this says I'm on. So this -- so violating the policy of
25 not being at the Hillside residence, is that what you're asking me? I mean of
26 course this -- this one would say yes, I'm at that -- I'm there at 3:55 on the
27 4th because it's my day off.

28

29 **LIEUTENANT CLARK:** Well, were you truly off on the 4th?

30

31 **SERGEANT DEVALE:** Yes, sir. I mean that was the same -- that's the
32 same answer for these others. I mean it's -- my car -- as I stated to you, I
33 don't -- I violated the policy by not being at Hillside, so you would see my
34 patrol car at this residence.

35

36 **FIRST SERGEANT SAWYER:** We understand this is not addressing your --
37 the Smithfield address. This is talking about your -- your Wake County address.

38

39 **SERGEANT DEVALE:** That's correct.

40

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **FIRST SERGEANT SAWYER:** And they're alleging that you're at your Wake
2 County address on these dates and times.

3
4 **SERGEANT DEVALE:** That's right.

5
6 **FIRST SERGEANT SAWYER:** So when we speak of these, that's what we're
7 referring to.

8
9 **SERGEANT DEVALE:** I am at -- I would -- the answer is yes. Yes. I
10 would be there. And I didn't understand it that way. So yes. And especially
11 my days off, I would absolutely be there on my days off. My car would be there,
12 yes, sir.

13
14 **LIEUTENANT CLARK:** The next allegation, September 30th, checked in at
15 1:00 p.m. to 4:00 p.m. never left the home. Now, the 30th was a Friday. You
16 were working late. Speak to this allegation right here.

17
18 **SERGEANT DEVALE:** Well, from 1:00 to 4:00 --

19
20 **LIEUTENANT CLARK:** I guess the easiest way to -- to ask is, after you
21 checked on on the 30th, on September 30th, did you stay home and never report to
22 work but remained on the --

23
24 **SERGEANT DEVALE:** Well --

25
26 **LIEUTENANT CLARK:** -- whole time?

27
28 **SERGEANT DEVALE:** -- what this is saying to me, from 1:00 to 4:00, I
29 never left my residence. I checked on at 4:00 p.m., so this would be accurate
30 because my car is at my residence and -- and I left my home at 4:00 p.m. to go
31 to work. So from 1:00 to 4:00, yes, I would -- that would -- I don't know if I
32 was there or if I was out, wherever I would be, but it would -- if -- if I
33 wasn't working, yes, my car would be at my -- at that residence.

34
35 **LIEUTENANT CLARK:** On September 30th, you got dressed, got in your
36 patrol car and went to work. The allegation is that you never left home.

37
38 **SERGEANT DEVALE:** From 1:00 p. to 4:00 p., yeah, I wasn't even
39 working.
40

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **FIRST SERGEANT SAWYER:** They're saying what time you checked on, you
2 either checked on at 1:00 or you checked on at 4:00, one or the other. But
3 whatever time you checked on, they're alleging that you never left your home.
4 Speak to that.

5
6 **SERGEANT DEVALE:** Well, this is saying that 1:00 p.m. is not -- based
7 on the record that I can see, 1:00 p.m. wouldn't be accurate at all. But the
8 4:00 p. --

9
10 **LIEUTENANT CLARK:** Well, let me ask you this a simple way. On
11 September 30th, did you stay at your house after you checked on?

12
13 **SERGEANT DEVALE:** I don't --

14
15 **LIEUTENANT CLARK:** It doesn't make any difference what time you
16 checked on.

17
18 **SERGEANT DEVALE:** Okay.

19
20 **LIEUTENANT CLARK:** Did you stay at your house on the 30th after you
21 checked on?

22
23 **SERGEANT DEVALE:** I don't know. What -- what day is that?

24
25 **LIEUTENANT CLARK:** It's Friday the 30th.

26
27 **SERGEANT DEVALE:** Friday. Sir, it's -- it's possible. I just -- I
28 can't remember what I did on that particular day.

29
30 **LIEUTENANT CLARK:** Was it -- did you intentionally stay at the house
31 that day or did you unintentionally stay at the house that day?

32
33 **SERGEANT DEVALE:** Well, with me not really knowing what all went on
34 that day, I -- I -- I don't want to come across like I'm trying to not be fully
35 honest, it's just I -- I don't know what all at all occurred that day. Nothing
36 stands out to me to make me say one thing or another.

37
38 **LIEUTENANT CLARK:** But earlier you acknowledged that it was possible
39 that you, in fact, stayed at the house.
40

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **SERGEANT DEVALE:** I have been at my residence while checked 10-41,
2 yes, sir.

3
4 **LIEUTENANT CLARK:** Has there been occasions that you've checked on,
5 checked in 10-41 and stayed at your house for an entire shift?

6
7 **SERGEANT DEVALE:** Yes, sir.

8
9 **LIEUTENANT CLARK:** All right. The next allegation is on October 2,
10 and you left several hours, drove to Goldsboro, came back, and stayed home. The
11 2nd is a Sunday. If you would speak to that allegation.

12
13 **SERGEANT DEVALE:** Again, I mean, I'm -- nothing stands out to me on
14 that particular day to say one way or another.

15
16 **LIEUTENANT CLARK:** Well, did you, in fact, go to Goldsboro and then
17 come back and stay at your house?

18
19 **SERGEANT DEVALE:** I -- I have no idea. I mean if I turned the
20 reports in, I'm sure they're --

21
22 **LIEUTENANT CLARK:** Is it possible that this -- this essentially going
23 hand in hand with the other --

24
25 **SERGEANT DEVALE:** Yes, sir.

26
27 **LIEUTENANT CLARK:** -- allegations? So it's possible that this --

28
29 **SERGEANT DEVALE:** Well --

30
31 **LIEUTENANT CLARK:** To your knowledge, it's possible that -- that this
32 occurred?

33
34 **SERGEANT DEVALE:** Yes, sir. I just can't speak on that particular
35 day.

36
37 **LIEUTENANT CLARK:** The next allegation is that they're alleging that
38 there's video of you conducting secondary employment, yard maintenance, HOA,
39 open-space maintenance.
40

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 **SERGEANT DEVALE:** Yeah.

2

3 **LIEUTENANT CLARK:** And I've already asked you, but do you admit or
4 deny that you've ever done yard work while on duty?

5

6 **SERGEANT DEVALE:** Sir, the best of my memory, and I make it a very --
7 it's a very clear point to me that I've admitted to you that there's been times
8 where I've been home, but not this.

9

10 **LIEUTENANT CLARK:** All right. The next one is your home address of
11 1152 Southern Meadows Drive. That is your primary residence; is that correct?

12

13 **SERGEANT DEVALE:** Yes, sir.

14

15 **LIEUTENANT CLARK:** It's 35 miles from the Wayne County line. Now,
16 we've already established and you've already admitted that you drive your car
17 from your primary residence to your duty station --

18

19 **SERGEANT DEVALE:** Yes, sir.

20

21 **LIEUTENANT CLARK:** -- is that correct?

22

23 **SERGEANT DEVALE:** Yes, sir.

24

25 **LIEUTENANT CLARK:** We've also discussed the address of 400 Hillside
26 Drive in Smithfield and how you utilized that, like you said on paper, but
27 you're never been to that residence, you've never used that residence, you just
28 kind of have it on paper; is that correct?

29

30 **SERGEANT DEVALE:** That's correct.

31

32 **LIEUTENANT CLARK:** And you further admitted Creech, Justin Creech,
33 he's the one that owns that residence and is basically being utilized as -- as
34 that, just an address on paper?

35

36 **SERGEANT DEVALE:** Yes, sir.

37

38 **LIEUTENANT CLARK:** Additionally, in the last bullet on this sheet,
39 this letter, the 400 Hillside Drive is the same address on file used by another
40 trooper who is accused of wasting taxpayer money by commuting from

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 Elizabethtown.

2

3 SERGEANT DEVALE: Really?

4

5 LIEUTENANT CLARK: Are you familiar with this?

6

7 SERGEANT DEVALE: No, sir. I had no idea. I -- I know what you're
8 talking about with the wasting taxpayer money by commuting to Elizabethtown
9 simply because that was on the news. I had no idea he was using that as -- that
10 as a residence or put that on paper, no, sir.

11

12 LIEUTENANT CLARK: And when you say "he," who are you identifying?

13

14 SERGEANT DEVALE: It's Sergeant Hardee. I think -- I had no idea he
15 did that. I thought that he was just -- I didn't realize he was doing that at
16 all. And the way the media showed it, he was just driving back and forth. I
17 didn't know he had a secondary or a residence. And I've never spoken to him
18 about that whole issue, ever. So I don't know any of the true details. Only
19 what the media showed.

20

21 LIEUTENANT CLARK: All right. We've talked about a lot here today,
22 about the residence policy and the anonymous complaint and everything. And we
23 appreciate you being honest and candid with us on that. You, as being a
24 supervisor, with this policy that you've admitted to violating, does that
25 reflect favorably upon you as a supervisor?

26

27 SERGEANT DEVALE: For living outside of the --

28

29 LIEUTENANT CLARK: For violating the policy as a sergeant, as a
30 supervisor.

31

32 SERGEANT DEVALE: Sir, I don't think any violation of any policy
33 looks favorable.

34

35 LIEUTENANT CLARK: Would it be safe to say that if members under your
36 supervision know that you're violating policy, that that would be kind of a
37 quiet authority for them to do the same thing?

38

39 SERGEANT DEVALE: Sir, I don't want to speculate on them. I can only
40 hope that -- and I've tried to mention to people saying, hey, no matter what I

TRANSCRIPT OF SERGEANT DEVALE - PT 2

1 tell you or any supervisor tells you, it does not supersede the law or policy,
2 that they need to abide by it. But it does not look favorable for me, no, sir.
3

4 **LIEUTENANT CLARK:** Is there any question that we have not asked you or
5 is there anything that you want to tell us -- because we want to give you the
6 last word -- about anything that we've talked about in here today that you feel
7 is relevant to the investigation or anything that you want us to know or to be
8 included in the investigation?
9

10 **SERGEANT DEVALE:** Sir, I can just -- I want to own my -- my mistakes.
11 I hope that -- my mistakes with this is I have been at my residence -- not on
12 the 11th was not one of those days, but there has been days where I've checked
13 on and been at my residence, I should have been in Wayne County.
14

15 I'm sorry. It's -- it's very shameful to me. I just hope I have an
16 opportunity to make things right and to -- and to prove myself, that I will do
17 the right thing.
18

19 As far as -- just going up this bullet thing here. I had no idea that
20 Trooper First Sergeant Hardee was -- that's an unbelievable coincidence there.
21

22 And the other is, sir, it -- from my kids' life, I have never, ever --
23 it's not worth me making 40 or \$50 for my career to work, doing that on duty.
24 I've never intentionally ever done that. And not unintentionally, I just --
25 it's a -- I make a point to not do that.
26

27 And then the over times being at home, I -- sir, I -- I have to own
28 those mistakes and -- and really beg the opportunity to make things right to
29 prove that I can be a -- the leader that the Highway Patrol is looking for and
30 be a good leader to the subordinates that I supervise.
31

32 **LIEUTENANT CLARK:** Anything else?
33

34 **SERGEANT DEVALE:** No, sir.
35

36 **LIEUTENANT CLARK:** The current time is 11:38 a.m. and this concludes
37 our interview.
38

39 (Whereupon, the interview concluded.)
40 Transcribed by Donna Rowe

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

LIEUTENANT CLARK: Today's date is 15 November 2016. Current time is 10:17 a.m. I am Lieutenant P.T. Clark with the Internal Affairs Section. Also with me today from Internal Affairs is First Sergeant R.W. Sawyer. We're in Raleigh, North Carolina, interviewing Sergeant M.A. Devalle about a anonymous complaint that was lodged against you.

Prior to going on tape, you were furnished with the memorandum from Captain W.T. Evans to Captain J.O. Holmes in reference to this complaint, as well as the attached Personnel Complaint. Additionally, you were provided with excerpts of policy, specifically Directive H.02, Investigation of Complaints and Charges against Highway Patrol Members, which includes the subsections pertaining to Investigation of Complaints at the Commander's Office Level, Internal Affairs Investigation Procedures and the Responsibility and Rights of Members being investigated.

Did you have an opportunity to review these documents?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Do you understand them?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Did you initial and date these documents?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Did you receive a copy of these documents?

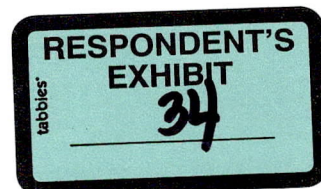
SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: You were also provided with Patrol Directive H.01, the Highway Patrol Rules of Personal Conduct and Job Performance, Subsection II, General Policies and Procedures. Did you have an opportunity to review this directive?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Do you understand this directive?

SERGEANT DEVALLE: Yes, sir.



TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

LIEUTENANT CLARK: Did you initial and date it?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Did you receive a copy of it?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Also under Directive H.01, you were given Subsection IV, Violation of Rules; Subsection VII, Truthfulness; Subsection XXV, Conduct While Under Investigation; Subsection XXXV, Obstruction of Investigation; and Directive H.01, Section IV, Violation of Rules, to wit: E.09, Section IV, Policies, Procedures for Establishing Residence, which is the specific policy you are charged with violating.

Did you have an opportunity to review these documents?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Do you understand them?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Did you initial and date them?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Did you receive a copy of these documents?

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: Have you ingested any substances which would prevent you from answering questions today?

SERGEANT DEVALLE: No, sir.

LIEUTENANT CLARK: Do you admit or deny the allegation of Violation of Rules?

SERGEANT DEVALLE: Admit.

371

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **LIEUTENANT CLARK:** All right. Sergeant Devalle, let me take you back to
2 last Friday, which was Veteran's Day. If you would, tell us about the events of that day and
3 how it was that Lieutenant Chris Morton came to your residence.
4

5 **SERGEANT DEVALLE:** Yes, sir. Do you want --
6

7 **LIEUTENANT CLARK:** Just start from the beginning or...
8

9 **SERGEANT DEVALLE:** He showed up at my residence approximately
10 7:30 p.m., rang the doorbell. I was sick in bed. My wife answered the door. She said
11 that somebody was there to see me, so I walked -- immediately walked to the front door,
12 stood on the front step with Lieutenant Morton. And he asked me, he says, "Are you
13 working?" The first thing he asked me was "were you working?" I stated "no." He goes,
14 "Well, you're checked on the CAD." I said, "Well, my daughter puked." And I didn't know it
15 at the time, but she was puking the night before with my wife. That day I had had her, took
16 her to the movies, she was sick. There -- we came home and I told him that I was sick,
17 that's why I was not working and didn't know why I was still on the CAD, but I was not on
18 duty.
19

20 **LIEUTENANT CLARK:** What were you scheduled that day to work?
21

22 **SERGEANT DEVALLE:** I think a 5 p to 4 a, I think is what I was scheduled.
23 It's either 5:00 or 4:00. I -- I read the -- the -- the BlueTeam report. I think it said 4:00 to
24 3:00, but I think the schedule truly is a 5:00 to 4:00.
25

26 **LIEUTENANT CLARK:** What time did you check on?
27

28 **SERGEANT DEVALLE:** I checked on approximately 3:00 p.m. I did not leave
29 my residence. Again, I was -- I had diarrhea for the day. I wasn't vomiting, but I had
30 diarrhea. About an hour, hour and a half, two hours tops I realized that I wasn't going to be
31 able to -- to effectively work just -- so that's when I was no longer on duty, approximately
32 5:00. I think Lieutenant Morton asked me what time I was off and I stated approximately
33 5:00 p.m.
34

35 **LIEUTENANT CLARK:** How did you check on that day?
36

37 **SERGEANT DEVALLE:** With my computer.
38

39 **LIEUTENANT CLARK:** Is your MDT one that is required to be in the docking
40 station in the car or is it able to be used inside your house?

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** It can be used anywhere. It's a – just a mobile data
2 computer.

3
4 **LIEUTENANT CLARK:** Did you check on inside your house?

5
6 **SERGEANT DEVALLE:** Yes, sir.

7
8 **LIEUTENANT CLARK:** And how long were you at the house in hours or
9 whatever time before Lieutenant Morton came to your front door?

10
11 **SERGEANT DEVALLE:** I – I never left my residence, sir.

12
13 **LIEUTENANT CLARK:** So you checked on about 3:00 and he showed up
14 about what time?

15
16 **SERGEANT DEVALLE:** Best to my memory is around 7:30.

17
18 **LIEUTENANT CLARK:** So roughly four and a half hours?

19
20 **SERGEANT DEVALLE:** Yes, sir.

21
22 **LIEUTENANT CLARK:** Okay. Did you have a radio with you?

23
24 **SERGEANT DEVALLE:** I – I don't remember that day.

25
26 **LIEUTENANT CLARK:** And specifically during that time period from the time
27 you checked on until the time he got there, tell us again, what were you doing during that
28 time period?

29
30 **SERGEANT DEVALLE:** Well, soon as I checked on, I was using the bathroom
31 quite frequently. That was probably an hour's worth of going back and forth to the
32 bathroom. Felt sick, so I was actually in bed.

33
34 **LIEUTENANT CLARK:** Did you ever put your uniform on at all and attempt to
35 go to work?

36
37 **SERGEANT DEVALLE:** No, sir. I took a shower and was prepared, but I did
38 not put my uniform on. I was going to see how I was feeling and I just wasn't – wasn't
39 going to make it.

40

572

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **LIEUTENANT CLARK:** Were you doing any -- any work from the house while
2 you were there?

3
4 **SERGEANT DEVALLE:** No, sir. Again, I basically went to sleep from -- I laid
5 down in the bed probably an hour after I -- around 4:00. I don't -- I don't know the exact
6 times and I don't want to -- I'm not trying to come across where I'm hiding or not being
7 detailed, I just -- I don't remember the exact times with that.

8
9 **LIEUTENANT CLARK:** Now, you checked on at -- at roughly 3 o'clock.

10
11 **SERGEANT DEVALLE:** Yes, sir.

12
13 **LIEUTENANT CLARK:** At that point right there that -- when you checked on,
14 did you have intentions on going to work that day?

15
16 **SERGEANT DEVALLE:** Absolutely.

17
18 **LIEUTENANT CLARK:** All right. At what point after you checked on did you
19 realize that you were not going to be able to go to work?

20
21 **SERGEANT DEVALLE:** Probably an hour, hour and a half. It just -- I tried
22 to -- to see if it would subside where I could make it there. If I could get to the office, I think
23 I would be good with using the bathroom if nothing came out. But again, for whatever
24 stomach bug, I wasn't -- I didn't feel comfortable with trying to do it.

25
26 **LIEUTENANT CLARK:** And explain for us -- you checked on, but explain for us
27 why after about an hour or so you realized I'm not going to make it that you did not check
28 off.

29
30 **SERGEANT DEVALLE:** Okay. Just -- I just didn't.

31
32 **LIEUTENANT CLARK:** Now, you were the late OD that day.

33
34 **SERGEANT DEVALLE:** Yes, sir.

35
36 **LIEUTENANT CLARK:** Did -- did you communicate with any other supervisor in
37 the district about that you couldn't come to work and so therefore the district needed
38 coverage or -- for supervisory coverage?

39
40 **SERGEANT DEVALLE:** No, sir. I was on call, so I had my phone available

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 if -- if -- and it was just my thought process -- clearly I would do things very differently now.
2 My thought process at the time, if something were to come up where they needed
3 something and if they required me to be there, then I would contact the first sergeant and
4 tell him that I'm just not able to come handle any -- any personal call at that point. But if
5 there were questions or if -- if they needed to speak to something, I was available via my
6 telephone, cell phone.

7
8 **LIEUTENANT CLARK:** Did you ever speak to the first sergeant and tell him
9 that you weren't able to come to work that night?

10
11 **SERGEANT DEVALLE:** I didn't that day. I told him the next day.

12
13 **FIRST SERGEANT SAWYER:** Why not? Why didn't you call your first
14 sergeant?

15
16 **SERGEANT DEVALLE:** There was -- there's no reason. I just -- I didn't think
17 that there would be -- again, learning -- poor -- being here right now with this situation, I see
18 that that clearly would have been the best way of dealing with it. At that time, I didn't see a
19 need to tell -- I -- I -- sir, there's really no good answer for that. I just didn't call and tell him
20 at -- that night.

21
22 **LIEUTENANT CLARK:** So a period of time went by. You were home sick.
23 Were you in the bed asleep when Lieutenant Morton came to your --

24
25 **SERGEANT DEVALLE:** I was in the bed. I wasn't asleep at that time.

26
27 **LIEUTENANT CLARK:** When he came to your door, who answered the door?

28
29 **SERGEANT DEVALLE:** My wife.

30
31 **LIEUTENANT CLARK:** All right. And what happened after that?

32
33 **SERGEANT DEVALLE:** She said somebody was there to see me. I got out of
34 the bed immediately and walked to the front door.

35
36 **LIEUTENANT CLARK:** Did you do anything from the time you got up to the
37 time you got to the door?

38
39 **SERGEANT DEVALLE:** I walked straight to the door. I don't know the exact
40 timelines that was. I think my interaction with him was maybe a minute. At tops a minute,

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 two minutes.

2
3 **LIEUTENANT CLARK:** What -- did you do anything before -- other than laying
4 in the bed, did you do anything before he came to the door or were you just laying in bed?

5
6 **SERGEANT DEVALLE:** Sir, I don't really remember any --

7
8 **LIEUTENANT CLARK:** Umm.

9
10 **SERGEANT DEVALLE:** -- any -- anything.

11
12 **LIEUTENANT CLARK:** The -- the CAD times and everything that we looked at,
13 your 10-41, 10-42 times, did you check yourself off?

14
15 **SERGEANT DEVALLE:** I did.

16
17 **LIEUTENANT CLARK:** Okay. When did you do that?

18
19 **SERGEANT DEVALLE:** He brought that to my attention. Immediately walked
20 in the house and checked myself 10-42. So it was within the same minute of me seeing
21 him.

22
23 Let me set up my computer, how things work or -- or -- or for me. My computer,
24 I never turn it off. It's always on. If I go to -- out of state, on vacation, I take it with me.
25 The reasoning is if -- if the guys call and need something, then I'll try to assist them if I can.
26 Or if the first sergeant needs me to do something, then I'll do that. But I never personally
27 turn mine off.

28
29 There's times I -- you have a MiFi, and the MiFi sometimes will go out. And I
30 don't -- you don't realize it, so it automatically will try to click to a home network. So
31 sometimes there's been times in the past -- I'm not saying this time. I don't know what
32 happened. There is a delay or when you transmit something, you think it goes through, it
33 doesn't. And I don't know that until you're trying to get on and do something else. So
34 there's times you just don't know when it switches from a WiFi or from your MiFi to your
35 home network or whatever, wireless network.

36
37 **LIEUTENANT CLARK:** Did you check off before or after you talked to
38 Lieutenant Morton?

39
40 **SERGEANT DEVALLE:** It was after. And it was approximately -- I mean,

871

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 immediately I walked straight from the front door -- because it was his -- he told me that I
2 was still on the CAD. So I walked right in and checked off. So within the second minute
3 that I spoke to him, it was the same --

4
5 **LIEUTENANT CLARK:** Did -- was that your own idea or was that his idea?
6

7 **SERGEANT DEVALLE:** It was mine because he had told me that I was still on
8 the CAD and I told him I was sick, I didn't -- obviously he -- he thought that I was working. I
9 wasn't working. So I checked myself off so that I wasn't showing on duty at that point.
10

11 **LIEUTENANT CLARK:** Okay. After -- after you spoke with Lieutenant Morton,
12 told him that you were sick, did any -- was there any discussion about covering supervisory
13 calls for the district that night? Were any arrangements made?
14

15 **SERGEANT DEVALLE:** I don't -- I don't recall him -- us saying --
16

17 **LIEUTENANT CLARK:** So you were still the late OD then?
18

19 **SERGEANT DEVALLE:** Yes, sir. I was basically on call. I don't recall us
20 having any conversation about that. Don't remember anything -- saying anything about
21 that.
22

23 **LIEUTENANT CLARK:** First Sergeant?
24

25 **FIRST SERGEANT SAWYER:** I don't have anything.
26

27 **LIEUTENANT CLARK:** Lieutenant Morton, let's talk about the conversation in
28 detail, what you and Lieutenant Morton spoke of when he was at your house and he came
29 to you to address the issue of you being at home.
30

31 **SERGEANT DEVALLE:** Yes, sir.
32

33 **LIEUTENANT CLARK:** Tell us in detail what that conversation was.
34

35 **SERGEANT DEVALLE:** Again, he got there and he asked me, "Are you
36 working?" I said, "No, sir." He goes, "Well, you're still on the CAD." I said, "Okay. Well,
37 I'm sick, so I shouldn't -- I'm not working, I shouldn't be." And he said "okay."
38

39 I think the next -- I asked him, I said, "Well, what -- what is -- what's this about?"
40 And he says, "I'm" -- "I can't say anything about it." I said "I" -- "what do you mean you can't

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 say anything about it? I mean, where is this coming from that you're just at my house
2 checking on me?" And he says, "I'm not going to say anything about it," something to that
3 nature. I don't know the exact -- what he said with that. I said "okay." I said,
4 well -- something to the effect that, you know, Lieutenant, there's been rumors in the past
5 that you're riding around checking on -- on people and -- and -- and if I could take this back,
6 I absolutely would. I said, "But you guys want -- you want the loyalty, but you're riding
7 around just checking on people instead of talking to them." I said, "I don't understand that,
8 how you want loyalty from the top down, but from us to you, but then there's no loyalty
9 reciprocated."

10
11 And he -- he said, "Well, Maurice, this is the second time I've been to your house.
12 You know, you and your wife have had these problems." And again, if I could take this
13 back, I absolutely would, but that I felt at that time that that was a malicious dig, an
14 inappropriate comment to me that he's bringing my marital past of approximately four years
15 ago after my wife's in postpartum depression, that he brought that into the conversation.
16 And I made some comments that I should not have made to the fact that I said, "Well, you
17 know, Lieutenant, if you want your legacy to be you're riding around checking on people,
18 congratulations, you know, you're checking on me." I said, "And if you're bringing my wife
19 into this conversation, I don't appreciate it. That has nothing to do with this matter." I said,
20 "You had your own personal matters with your own wife running around on you, but the
21 Patrol didn't get in your business." I said, "That day it was a -- it was a personal matter that
22 wasn't the Patrol's business that day that I had a marital issue at that moment and I don't
23 appreciate you bringing that into this conversation. It has nothing to do with why you're
24 here right now." Something to that effect; the best of my memory of -- of how I said that.

25
26 Again, I say that and what I say now is I -- I believe in this organization. I
27 shouldn't have said anything at all. And I apologize for saying -- making any -- any further
28 comments; that I was angry, I was upset that he brought in my wife into the personal
29 matters and I made poor -- a poor decision.

30
31 **LIEUTENANT CLARK:** And I know you've kind of summarized, but in
32 retrospect looking back at it now, do you feel that what you said to him was appropriate?

33
34 **SERGEANT DEVALLE:** No, sir.

35
36 **LIEUTENANT CLARK:** Do you feel that way now?

37
38 **SERGEANT DEVALLE:** Absolutely. I shouldn't have said that then. I won't
39 say that in the future. I absolutely feel like now I -- I shouldn't have said anything at all.
40

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

LIEUTENANT CLARK: Based on everything you said right there and what was said to Lieutenant Morton, was that -- would that be classified as insubordinate behavior?

SERGEANT DEVALLE: Sir, I don't think I'm very good at making a judgment call on one way or another. All I can say is I shouldn't have commented at all. I will never comment in the future any possible way that way. I'm not very good at classifying things. I don't -- I don't feel comfortable classifying --

LIEUTENANT CLARK: Well, let me --

SERGEANT DEVALLE: -- classifying that.

LIEUTENANT CLARK: Well, let me reverse it. If a trooper had spoke to you in the manner in which you spoke to Lieutenant Morton, how would you perceive that?

SERGEANT DEVALLE: I wouldn't like it. The only experience that I can give you remotely close to that would be while I was in Durham, that I was doing a -- a performance evaluation or a annual performance evaluation on a trooper. He didn't get the rating that he wanted. My first sergeant was in the next room and the trooper began to cuss and saying that you're wrong, this is coward, blah -- he made a lot of comments that shouldn't be said. And we moved -- and nothing was ever done with that.

So, of course, I didn't like it then. I -- I would never think that that's acceptable to speak to a supervisor that way.

LIEUTENANT CLARK: Was there any profanity used?

SERGEANT DEVALLE: No, sir. Not -- not that I -- not that I recall.

LIEUTENANT CLARK: Under H.01, Section 18, would you read that for us, please?

SERGEANT DEVALLE: "Member shall promptly obey any lawful order of a superior officer. This will include orders relayed from a superior officer by an employee of the same or lesser rank. Any disrespectful, mutinous, insolent or abusive language, conduct or attitude directed towards a supervisor or the authority or the position shall be considered insubordination."

LIEUTENANT CLARK: After telling us what happened there, you've -- you've expressed regret and remorse for having said what you said. And by definition of what the

11/2

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 Highway Patrol has deemed insubordination, does that fall within this definition?

2
3 **SERGEANT DEVALLE:** I think my attitude directed towards a superior officer
4 was not cordial, yes, sir.

5
6 **LIEUTENANT CLARK:** And just so -- I want to understand right. When
7 Lieutenant Morton got there, did he explain or attempt to explain that he was there by
8 somebody else's direction?

9
10 **SERGEANT DEVALLE:** Best to my memory, he wouldn't elaborate. He
11 wouldn't say why he was there at all. He just really didn't say anything.

12
13 **FIRST SERGEANT SAWYER:** And if he didn't say anything or you don't recall
14 him saying anything about why he was there, what was your conclusion? What did you
15 conclude his reason for being there was?

16
17 **SERGEANT DEVALLE:** I concluded that he was just riding around checking on
18 me.

19
20 **FIRST SERGEANT SAWYER:** Is that what led to your demeanor, to your --

21
22 **SERGEANT DEVALLE:** No, sir.

23
24 **FIRST SERGEANT SAWYER:** -- attitude or whatever --

25
26 **SERGEANT DEVALLE:** No, sir.

27
28 **FIRST SERGEANT SAWYER:** -- however you described it?

29
30 **SERGEANT DEVALLE:** No, sir. That -- that -- what -- that didn't bother me.
31 That didn't bother me at all for that matter because -- for that particular situation. I --

32
33 **FIRST SERGEANT SAWYER:** Why not?

34
35 **SERGEANT DEVALLE:** -- was sick. I was truly sick. I was not working. I
36 told him I wasn't working. He asked me. That was the very first thing he asked me, "Are
37 you working?" I said, "No, sir." So that didn't bother me at all that he was there for that.
38 What upset me was when he brought my -- when he said, "Well, I've been here twice for
39 you and your wife having your problems." That I thought was not appropriate for him to
40 make that comment to me. I -- that had nothing to do with this situation. And that -- and I

12

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 had stated that to him also.

2

3 **LIEUTENANT CLARK:** And I don't want to go into any great detail about that,
4 but those two times that he mentioned and you referred to here just a minute ago, were you
5 also on duty and at home?

6

7 **SERGEANT DEVALLE:** No, sir.

8

9 **LIEUTENANT CLARK:** Okay. So that didn't have -- you were off duty and --

10

11 **SERGEANT DEVALLE:** Yes, sir.

12

13 **LIEUTENANT CLARK:** -- separate and apart?

14

15 **SERGEANT DEVALLE:** That was something simple as I just had a second
16 child. My wife had postpartum depression and I was literally -- I had my child and I was
17 getting in my car and I was trying to leave the residence, and he came and
18 showed -- showed up.

19

20 **FIRST SERGEANT SAWYER:** You spoke to profanity. You didn't recall any
21 profanity being used in your conversation with Lieutenant Morton.

22

23 **SERGEANT DEVALLE:** No, sir.

24

25 **FIRST SERGEANT SAWYER:** How about your tone of voice? Tell us about
26 your tone of voice and -- and the -- or Lieutenant Morton's tone of voice, the -- the nature of
27 that conversation. Did you raise your voice at him or did he raise his voice at you?

28

29 **SERGEANT DEVALLE:** I don't think we had our voices raised. He -- I'm going
30 to -- it's amazing. He was -- he wasn't -- no -- didn't raise his voice at all. He didn't cuss at
31 me. I didn't -- I don't -- I don't feel I had my voice raised and I don't recall any profanity.
32 But the tone of my response was -- was not what -- not how we normally talk to each other,
33 no, sir.

34

35 **LIEUTENANT CLARK:** Is it like how you and I are discussing right now?

36

37 **SERGEANT DEVALLE:** No, sir.

38

39 **LIEUTENANT CLARK:** All right. Did -- were -- were there any -- did you make
40 any hand gestures or point your finger at him or anything like that?

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** No, sir. Now I'm bad -- and I'm -- I'm kind of animated
2 with my hands sometimes, but I never pointed at him, anything like that. But it's --

3
4 **LIEUTENANT CLARK:** Were you like that on this occasion?

5
6 **SERGEANT DEVALLE:** I'm sure. I'm sure. I just -- I'm vocal with my hands.
7 But I -- now, I've recognized other times where I would have been very angry and doing
8 something like that. It was nothing like that. It was more of talking with my hands and
9 being a little upset.

10
11 **LIEUTENANT CLARK:** Was Lieutenant Morton within his authority and
12 responsibility to check on members under his command?

13
14 **SERGEANT DEVALLE:** Yes, sir. I think that when he asked me -- when he
15 showed up at my house, those are the duties he -- he did. The part that I don't agree with
16 what he said was when he brought my personal matters of my wife and a disagreement
17 between me and her and to that situation. And that's where I was a little bit upset.

18
19 **LIEUTENANT CLARK:** As a supervisor, a sergeant on the Highway Patrol,
20 would you also have the same authority and responsibility to go check on members under
21 your command?

22
23 **SERGEANT DEVALLE:** Yes, sir.

24
25 **LIEUTENANT CLARK:** Who in the past, supervisors on the Highway Patrol,
26 either be it troop or district, have spoken to you or cautioned you about being on duty and at
27 your residence?

28
29 **SERGEANT DEVALLE:** Sir, I don't remember any direct conversations like
30 that, of saying that don't be at your house while you're on duty.

31
32 **LIEUTENANT CLARK:** Well --

33
34 **SERGEANT DEVALLE:** Would -- I'm sorry.

35
36 **LIEUTENANT CLARK:** Well, what about this? Has any supervisors, either be
37 it from troop or district level, spoken to you about abiding by the residency policy being in
38 your duty station at the appropriate time versus remaining at your residence for a number of
39 hours before going to work?
40

14 *[Handwritten signature]*

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** Nothing's -- I -- I don't recall anything of saying that
2 you need to be there hours before -- I mean don't be there hours before. The -- what I do
3 recall is we've had general conversations or we -- we have -- the phrase, the conversation
4 was be where you're supposed to be doing what you're supposed to be doing when you're
5 supposed to be doing it.

6
7 **LIEUTENANT CLARK:** Okay. That conversation right there, who did
8 you -- who -- who --

9
10 **SERGEANT DEVALLE:** Captain Holmes.

11
12 **LIEUTENANT CLARK:** Captain Holmes. When did he tell you that?

13
14 **SERGEANT DEVALLE:** Sir, it's -- I don't remember the date. It's been a
15 significant time.

16
17 **LIEUTENANT CLARK:** In this calendar year or last year?

18
19 **SERGEANT DEVALLE:** Not this calendar year. Maybe sometime last year.
20 I -- I -- I'm not trying to be deceptive. I don't want to come across that way. I
21 just -- that's --

22
23 **LIEUTENANT CLARK:** Well, that's fine.

24
25 **SERGEANT DEVALLE:** -- just been such a significant amount of time, I don't
26 recall. It's --

27
28 **LIEUTENANT CLARK:** That's fine, Maurice.

29
30 **FIRST SERGEANT SAWYER:** Was that a -- was that a personal conversation
31 he had with just you and him or was that a conversation that he was speaking to a group
32 and you were part of that group, your conversation was with Captain Holmes about being
33 where you're supposed to be and doing what you're supposed to?

34
35 **SERGEANT DEVALLE:** No, sir. Lieutenant Finney was in there at the time.
36 Me, Lieutenant Finney and Captain Holmes.

37
38 **FIRST SERGEANT SAWYER:** So it was a conversation directed to you?

39
40 **SERGEANT DEVALLE:** Yes, sir.

15/12

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **LIEUTENANT CLARK:** Where did this conversation take place?

2
3 **SERGEANT DEVALLE:** In Lieutenant -- I believe Lieutenant Finney's office.

4
5 **LIEUTENANT CLARK:** So Troop C headquarters?

6
7 **SERGEANT DEVALLE:** Yes, sir.

8
9 **LIEUTENANT CLARK:** Were --

10
11 **SERGEANT DEVALLE:** It's either there or Captain Holmes' office because I
12 was -- I remember being back and forth. I -- speaking to both of them --

13
14 **LIEUTENANT CLARK:** For --

15
16 **SERGEANT DEVALLE:** -- for a unrelated matter. Just -- just being there.

17
18 **LIEUTENANT CLARK:** And that was my next question. What -- what was your
19 purpose in being there? Were you called to troop to have this discussion or did you just
20 happen to be there and they had this discussion with you? Which -- which side did it come
21 on?

22
23 **SERGEANT DEVALLE:** The best of my memory, I was there for inservice
24 training or just an unrelated matter that had nothing to do with that particular matter.

25
26 **LIEUTENANT CLARK:** About an approximate, I'm not asking for an exact.
27 Approximately how long did that conversation take place?

28
29 **SERGEANT DEVALLE:** 30 seconds, a minute tops.

30
31 **LIEUTENANT CLARK:** And what was the purpose in Captain Holmes telling
32 you that statement, that you need to be where you need to be when you need to be there?

33
34 **SERGEANT DEVALLE:** Sir, I -- I can only assume at this point. He didn't
35 elaborate any further than that. I -- I -- I've drawn a lot of wrong conclusions, of course my
36 demeanor towards Lieutenant Morton. He didn't elaborate that day. It was a very
37 short -- he's made that statement to many others and I say that not trying to drag anybody
38 into anything else. I don't want you to think that. But that's a common phrase that he
39 makes it known that at the district meetings or he's made it more than one time. But on
40 that particular incident, it was me, Lieutenant Finney and him. And First Sergeant Burton

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 may have actually been there.

2
3 **LIEUTENANT CLARK:** Did he cite any specific occasions that things had been
4 brought to his attention that he felt the -- you know, on this date or this date or anything like
5 that that obviously a troop commander felt it was important enough to speak to you one on
6 one directly with a troop lieutenant and your first sergeant in the office? Did he cite any
7 specific occasions?

8
9 **SERGEANT DEVALLE:** I -- no, sir. He didn't elaborate at all on that to me.

10
11 **LIEUTENANT CLARK:** After that conversation, what was your understanding of
12 the message delivered by Captain Holmes to you about being where you need to be at
13 that -- at certain times?

14
15 **SERGEANT DEVALLE:** I mean just following policy the correct way. I mean to
16 make sure that I follow policy, but the way it's supposed to be followed.

17
18 **LIEUTENANT CLARK:** And when you refer to the policy, which policy are you
19 kind of specifically identifying with towards that conversation?

20
21 **SERGEANT DEVALLE:** Residency policy.

22
23 **FIRST SERGEANT SAWYER:** When you work generally, when do you check
24 on? Do you check on prior to your shift? When your shift begins? I'll give you an
25 example. The -- on Friday, this past Friday, you said you were scheduled until 5 p to 2
26 a -- or 4 a.

27
28 **SERGEANT DEVALLE:** Yes, sir.

29
30 **FIRST SERGEANT SAWYER:** You said you checked on approximately
31 3 o'clock. Why did you check on so early?

32
33 **SERGEANT DEVALLE:** I was scheduled inservice Monday, Tuesday,
34 Wednesday and I know the schedule said 5:00 to 4:00, but I was trying to get my sleep
35 down lower so I wouldn't be out until 4:00 in the morning and then 3:00 in the morning and
36 then have to be at inservice at 3:00 -- at 7:00 a.m. Monday. So I was trying to back things
37 down to -- so I could make it to my inservice.

38
39 **FIRST SERGEANT SAWYER:** Okay. If you're generally assigned a shift of --
40

17 *TH*

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** Yes, sir.

2

3 **FIRST SERGEANT SAWYER:** -- a -- beginning at 1 o'clock or at 3 o'clock or 5
4 o'clock, what's your common practice? You normally work what you're assigned or do you
5 have a general practice of -- of checking on early?
6

6

7 **SERGEANT DEVALLE:** I mean, I check on when -- on -- when you say early, if
8 I'm scheduled to check on at 3:00, it wouldn't be 3:05, 3:11, 3:15.
9

9

10 **FIRST SERGEANT SAWYER:** Well, that would be checking on late.

11

12 **SERGEANT DEVALLE:** Right.

13

14 **FIRST SERGEANT SAWYER:** I'm not asking about if you checked on late.

15

16 **SERGEANT DEVALLE:** Before the --

17

18 **FIRST SERGEANT SAWYER:** The checking on --

19

20 **SERGEANT DEVALLE:** -- assigned times --

21

22 **FIRST SERGEANT SAWYER:** Checking on prior to your assigned shift.

23

24 **SERGEANT DEVALLE:** There's not a -- I don't have a standard or routine and
25 one way or another. It -- just whatever district operations mandates.
26

26

27 **LIEUTENANT CLARK:** Well, let me phrase it this way.

28

29 **SERGEANT DEVALLE:** Okay.

30

31 **LIEUTENANT CLARK:** Are you granted the latitude in the district as a
32 supervisor to --
33

33

34 **SERGEANT DEVALLE:** Yes, sir.

35

36 **LIEUTENANT CLARK:** -- change your schedule, fluctuate --

37

38 **SERGEANT DEVALLE:** Yes, sir.

39

40

LIEUTENANT CLARK: -- either earlier or later than what is assigned in the

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 CAD?

2

3 **SERGEANT DEVALLE:** Yes, sir. I've -- a lot of times for -- like during the
4 week, if Friday and Saturday nights says we -- we have to work nights. That's the latitude
5 we have. Any other time we work whatever we need to work to fulfill district operations.

6

7 **LIEUTENANT CLARK:** The current time is 10:56 a.m. and we're going to take a
8 short break.

9

10 (Whereupon, a break was taken.)

11

12 **LIEUTENANT CLARK:** The current time is 11:03 a.m. and we are resuming the
13 interview with Sergeant Devalle.

14

15 Sergeant Devalle, while we were on break, did you have an opportunity or
16 occasion to speak to anybody outside Internal Affairs about what we talked about?

17

18 **SERGEANT DEVALLE:** No, sir.

19

20 **LIEUTENANT CLARK:** All right. As we started out and in the complaint, you're
21 specifically charged with the residency policy of the Highway Patrol.

22

23 **SERGEANT DEVALLE:** Yes, sir.

24

25 **LIEUTENANT CLARK:** Explain to us, tell us your understanding of what that
26 policy is and how to abide by it.

27

28 **SERGEANT DEVALLE:** Of course by then -- of course as of yesterday, I read
29 this policy a little more to -- it's -- I understood it before. I don't want -- I don't mean to say
30 that as I didn't understand it. Required to live within 20 miles of your -- your district and be
31 in your district when you're on -- when you're on duty.

32

33 **LIEUTENANT CLARK:** Now the house that we talked about earlier, the one
34 that Lieutenant Morton came to, which house is that? Is that a permanent residence?

35

36 **SERGEANT DEVALLE:** It's my -- it's my primary residence, yes, sir.

37

38 **LIEUTENANT CLARK:** And which county is that located in?

39

40 **SERGEANT DEVALLE:** It's in Wake County about two miles to the Johnston

19 *N*

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 County line. Approximately two.

2

3 **LIEUTENANT CLARK:** Now, what is the -- explain to us the 400 Hillside Drive,
4 Smithfield, address. What is that?

5

6 **SERGEANT DEVALLE:** That is a residence that -- to abide by the policy, that
7 would conform to the policy, was documented.

8

9 **LIEUTENANT CLARK:** And you submitted a HP-740 requesting to live outside
10 your residency; is that correct?

11

12 **SERGEANT DEVALLE:** That's correct.

13

14 **LIEUTENANT CLARK:** All right. This 740, is this the most current 740 that is
15 on file for the residence?

16

17 **SERGEANT DEVALLE:** I don't -- I don't know, sir. I'm not trying to --

18

19 **LIEUTENANT CLARK:** But it does have the Hillside Drive address, is...

20

21 **SERGEANT DEVALLE:** Yes, sir.

22

23 **LIEUTENANT CLARK:** Okay. How far is it from your house in Wake County to
24 this house in Smithfield?

25

26 **SERGEANT DEVALLE:** I don't -- I don't know the mileage for that, sir. I've
27 never doc -- or paid much attention to the exact mileage from those two.

28

29 **FIRST SERGEANT SAWYER:** How long would it take you in time to drive from
30 one to the other? How long of a drive is it?

31

32 **SERGEANT DEVALLE:** 15 minutes.

33

34 **LIEUTENANT CLARK:** Is that a house or an apartment?

35

36 **SERGEANT DEVALLE:** It's a house.

37

38 **LIEUTENANT CLARK:** Tell us how you came about to have -- find this house
39 on Hillside Drive to use as the residence on the 740 you submitted?

40

20
P.V.

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** Sir, I say this with me being total responsible for my
2 actions of not abiding by this policy appropriately. I have not done it appropriately. I have
3 as admitted to violating this policy and not doing it properly. So with me saying that, I'm not
4 trying to pass this buck on anybody. But that form was done. I've had a form done since
5 2011 from Captain Taylor, Captain -- or Lieutenant Colonel Bell to Captain Taylor to Captain
6 Henderson to even Captain Morton -- I mean to Captain Holmes. That was told that just
7 have something on paper and we're good, but just make sure you are where you're
8 supposed to be when you're supposed to be there, what time you're supposed to be there.

9
10 **LIEUTENANT CLARK:** Who -- who owns this house?

11
12 **SERGEANT DEVALLE:** Justin Creech.

13
14 **LIEUTENANT CLARK:** All right. And who is that?

15
16 **SERGEANT DEVALLE:** He's another trooper.

17
18 **LIEUTENANT CLARK:** Do you pay rent?

19
20 **SERGEANT DEVALLE:** No, sir.

21
22 **LIEUTENANT CLARK:** Any utilities or anything?

23
24 **SERGEANT DEVALLE:** No, sir.

25
26 **LIEUTENANT CLARK:** When was the last time you ever parked your patrol car
27 at that residence?

28
29 **SERGEANT DEVALLE:** Never, sir.

30
31 **LIEUTENANT CLARK:** And why not?

32
33 **SERGEANT DEVALLE:** Sir, I don't -- I don't have an explanation for it other
34 than I have violated the policy.

35
36 **LIEUTENANT CLARK:** Explain to us how you would get from your home in
37 Wake County to your duty station.

38
39 **SERGEANT DEVALLE:** I -- do you want me to name every road?
40

21
72

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **LIEUTENANT CLARK:** No.

2
3 **SERGEANT DEVALLE:** It's -- I mean, it's pretty simple though.

4
5 **LIEUTENANT CLARK:** Well, let me ask it this way: When you come to work,
6 do you drive your patrol car from your driveway in Wake County to the duty station --

7
8 **SERGEANT DEVALLE:** Yes, sir.

9
10 **LIEUTENANT CLARK:** -- in Wayne County?

11
12 **SERGEANT DEVALLE:** Yes, sir.

13
14 **LIEUTENANT CLARK:** Have you ever done anything to the extent of take your
15 personal car to the Hillside Drive address, pick up a patrol car and then go work?

16
17 **SERGEANT DEVALLE:** No, sir.

18
19 **LIEUTENANT CLARK:** Who else uses that address as far as patrol members?

20
21 **SERGEANT DEVALLE:** Trooper Creech. He -- he was --

22
23 **LIEUTENANT CLARK:** But he owns that residence, right?

24
25 **SERGEANT DEVALLE:** He does.

26
27 **LIEUTENANT CLARK:** Okay.

28
29 **FIRST SERGEANT SAWYER:** Is that his primary residence? Is that where he
30 lives?

31
32 **SERGEANT DEVALLE:** It -- it is now. For a while he was living with his
33 girlfriend in Wayne County. I don't have -- I don't know -- he's not on my shift, so I don't
34 know all of the details of his personal life at this point. I know he was going through some
35 personal issues with the -- he had a baby. Of course not married and young woman, they
36 had some differences, so I'm not sure if he's living there or back with his girlfriend in Wayne
37 County or not.

38
39 **FIRST SERGEANT SAWYER:** Well, our purpose in asking that was not to try to
40 hem anyone else up. We were just -- my point in asking the question was does anyone live

22
21

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 at that residence --

2

3 **SERGEANT DEVALLE:** Yes, sir.

4

5 **FIRST SERGEANT SAWYER:** -- currently now?

6

7 **SERGEANT DEVALLE:** Yes, sir. It's right beside of his father.

8

9 **FIRST SERGEANT SAWYER:** Okay.

10

11 **SERGEANT DEVALLE:** I have been there under official capacities of some
12 shots were fired, he checked off. And so he -- he lives -- that's his house. He doesn't rent
13 it to anybody else. It's his residence. That's what -- I hope I answered the question with
14 that.

15

16 **LIEUTENANT CLARK:** When was the last time you were there ever?

17

18 **SERGEANT DEVALLE:** I'm trying to reflect back. And the only reason I'm
19 going to have any memories is because we had an applicant about that time frame that was
20 going through. A year and a half, something -- it's been a while.

21

22 **LIEUTENANT CLARK:** One more -- we'll move on from that part. Tell us
23 about any secondary employment you -- you have.

24

25 **SERGEANT DEVALLE:** I cut some grass on the side for myself.

26

27 **LIEUTENANT CLARK:** How often do you -- you do this?

28

29 **SERGEANT DEVALLE:** It's -- there's no standard day with that. I don't -- you
30 know, it's a small -- it's a small thing. Most of my customers know that I'm a Highway
31 Patrolman and that's my primary job. So they understand that sometimes it might be two
32 weeks before I get there. It's not going to be a set day of every seven days or eight days
33 due to I never know what time I'm going to get off or if my schedule changes.

34

35 **LIEUTENANT CLARK:** So you have a client base? You have a number of
36 customers?

37

38 **SERGEANT DEVALLE:** Yes, sir.

39

40 **LIEUTENANT CLARK:** Are these accounts, regular occurring --

23 ✓
24 ✓

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** Yes, sir.

2
3 **LIEUTENANT CLARK:** -- customers?

4
5 **SERGEANT DEVALLE:** Yes, sir.

6
7 **LIEUTENANT CLARK:** Are they residential or commercial and/or both?

8
9 **SERGEANT DEVALLE:** Both. I say that because that -- yeah, it would
10 be -- I -- it would be both. It's one guy owns a restaurant, but it's not open, but it's a
11 restaurant and I just maintain that for him.

12
13 **LIEUTENANT CLARK:** What occasions have you done any secondary
14 employment while you were between 10-41 and 10-42 time --

15
16 **SERGEANT DEVALLE:** No, sir.

17
18 **LIEUTENANT CLARK:** -- on the -- okay. Has there ever been a time that
19 you've done any while you were on duty?

20
21 **SERGEANT DEVALLE:** The best of my memory, absolutely not. I make
22 that -- that's very important. I cannot recall ever doing that on duty.

23
24 **LIEUTENANT CLARK:** So would it be safe to say that you either admit or deny
25 doing secondary employment?

26
27 **SERGEANT DEVALLE:** I deny doing that on duty. If that was ever done, there
28 was absolutely no intent ever with that where I would claim the Patrol time and that at the
29 same time, no, sir.

30
31 **LIEUTENANT CLARK:** Did you ever do it unintentionally?

32
33 **SERGEANT DEVALLE:** Not that I recall ever, no, sir.

34
35 **FIRST SERGEANT SAWYER:** The customers you have, where are the vast
36 majority of your customers located in relation to your residence?

37
38 **SERGEANT DEVALLE:** Within -- most of them within three or four miles.

39

40

FIRST SERGEANT SAWYER: You live in a subdivision?

24
N

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** I do, yes, sir.

2
3 **FIRST SERGEANT SAWYER:** Do you have customers within your subdivision?

4
5 **SERGEANT DEVALLE:** Yes, sir.

6
7 **FIRST SERGEANT SAWYER:** How about for the subdivision itself? Do you do
8 any work?

9
10 **SERGEANT DEVALLE:** Yes, sir. I maintain the subdivision also.

11
12 **FIRST SERGEANT SAWYER:** Tell us about that arrangement agreement, what
13 your responsibilities are to your subdivision.

14
15 **SERGEANT DEVALLE:** Just -- just mowing the grass. That's -- yeah, just
16 mowing.

17
18 **LIEUTENANT CLARK:** Now just to be clear --

19
20 **SERGEANT DEVALLE:** I don't --

21
22 **LIEUTENANT CLARK:** -- the subdivision that you're talking about, is that in
23 Wake County or is this the Hillside Drive address?

24
25 **SERGEANT DEVALLE:** It's in Wake County.

26
27 **FIRST SERGEANT SAWYER:** So you're talking about like the common areas?

28
29 **SERGEANT DEVALLE:** Yes, sir.

30
31 **FIRST SERGEANT SAWYER:** Entryway?

32
33 **SERGEANT DEVALLE:** Yes, sir.

34
35 **FIRST SERGEANT SAWYER:** What other areas do you --

36
37 **SERGEANT DEVALLE:** That would be all.

38
39 **FIRST SERGEANT SAWYER:** Okay.

25 

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** Excuse me.

2
3 **FIRST SERGEANT SAWYER:** And that's in addition to clients' residences that
4 you mow within your subdivision?

5
6 **SERGEANT DEVALLE:** Yes, sir.

7
8 **LIEUTENANT CLARK:** Was there ever an occasion where you would check
9 on, stay at your house in Wake County, go mow these common areas, finish, come back,
10 put your uniform on, get in your car and then go to your duty station?

11
12 **SERGEANT DEVALLE:** Let me -- has there been a time where I mowed grass
13 before 10-41, checking on and then going to work, is that what you're asking me?

14
15 **LIEUTENANT CLARK:** No. What I'm asking is have you ever checked on,
16 stayed at your house -- so you're on Highway Patrol time, gone out and mowed these
17 common areas --

18
19 **SERGEANT DEVALLE:** No, sir.

20
21 **LIEUTENANT CLARK:** -- come back and then went to work?

22
23 **SERGEANT DEVALLE:** No, sir.

24
25 **LIEUTENANT CLARK:** So -- so all the time that you've mowed has been prior
26 to 10-41 time?

27
28 **SERGEANT DEVALLE:** I -- either before or after. Now, I -- I will say there's
29 been times where my 201s should reflect the time -- what the CAD says might be different
30 than what my time is. Again, sometimes the CAD -- they don't get you checked off. An
31 example would be for the 11th. My first sergeants -- I think sergeant -- well, no. All three
32 of us were checked on. All three of us, and I was the only one that was supposed to be
33 working. But the CAD showed something different than what our time sheets and our
34 actual time working is.

35
36 **FIRST SERGEANT SAWYER:** You normally check yourself on and off yourself
37 on your MDT?

38
39 **SERGEANT DEVALLE:** Yes, sir. And that -- and that varies. I mean, but
40 most of the time the answer is yes, sir.

26

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **FIRST SERGEANT SAWYER:** You conduct a query to make sure you're
2 checked on?

3
4 **SERGEANT DEVALLE:** I'm sorry?

5
6 **FIRST SERGEANT SAWYER:** Do you conduct a query of the district to verify
7 that you're checked on?

8
9 **SERGEANT DEVALLE:** No, sir. Not -- I wouldn't say that's a common
10 practice, so...

11
12 **LIEUTENANT CLARK:** As we discussed a little bit earlier, that this complaint
13 came in anonymously. And this is what we received. And I'm going to show it to you.
14 And I'm kind of going to go down each -- each one individually and just kind of identify.

15
16 Have you seen this before?

17
18 **SERGEANT DEVALLE:** No, sir.

19
20 **LIEUTENANT CLARK:** All right. This is what we've received, and it's alleging
21 that there's video or pictures from September 28th, October 6th, October 1st, October 4th.
22 I mean it basically is alleging that you were on duty and checked on doing something other
23 than Highway Patrol business.

24
25 **SERGEANT DEVALLE:** Okay.

26
27 **FIRST SERGEANT SAWYER:** It's alleging that you're checked 10-41 and still
28 at your residence.

29
30 **LIEUTENANT CLARK:** The -- and we got your 201s. Specifically directing
31 your attention to September 28th, which is a Wednesday. Were you off on this
32 Wednesday?

33
34 **SERGEANT DEVALLE:** That's -- yes, sir.

35
36 **LIEUTENANT CLARK:** Were you working in any capacity with the Highway
37 Patrol on the 28th?

38
39 **SERGEANT DEVALLE:** It's not what it's showing, no, sir.
40

271

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

LIEUTENANT CLARK: Okay. And we discussed a little earlier that you have the latitude of changing schedules and kind of working around what was scheduled.

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: On the 28th, did you work anything other than being off?

SERGEANT DEVALLE: Sir, I -- the only reason I can tell you this right now is because I'm looking at it. I -- I -- I don't know. What this is showing is it was a day off. That the day they're having me -- what -- what is this saying, that -- on the 28th?

LIEUTENANT CLARK: Well, let's look at October 1st. We're just going to kind of go right down the line. On October 1st, that was a Saturday, and it's got you working a late shift, ten hours. Was there at any point in time on the 1st that you checked on, remained at your residence for any reason for a number of hours?

SERGEANT DEVALLE: Sir, I --

LIEUTENANT CLARK: Specifically from 4:00 to 7:00 you remained at your house. Essentially do you admit or deny on the 1st that you stayed at your house at this time?

SERGEANT DEVALLE: On October the 1st?

LIEUTENANT CLARK: Yes, sir.

SERGEANT DEVALLE: Sir, I -- I -- I don't know. I don't want to -- I'm not trying to be --

LIEUTENANT CLARK: I understand.

SERGEANT DEVALLE: -- disrespectful at all, I just -- I don't remember. I can't remember anything particularly that stands out on that day to me, October the 1st. That I'm -- this is saying that I'm there from 4 to 7 and this is --

LIEUTENANT CLARK: Showing you checked on at 3:00.

SERGEANT DEVALLE: I -- sir, I don't know.

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

LIEUTENANT CLARK: All right.

FIRST SERGEANT SAWYER: Have there been occasions during your shift, any shift, where you would go to work, go to your duty station and then come back home during your shift either for meal, for an extended period of time and then return to your duty station?

SERGEANT DEVALLE: I don't really recall any. I --

FIRST SERGEANT SAWYER: And all that would fall under the residency policy.

LIEUTENANT CLARK: That you've already admitted to.

FIRST SERGEANT SAWYER: Which you've admitted you were in violation of, so I'm not trying to ask you anything really new or trip you up. But have there -- can you recall occasions or is it a practice to return home for a meal hour or to stay at the house an extended period of time during an ten-hour shift?

SERGEANT DEVALLE: I mean, I have. Typically it's not a common practice that I come home to eat, no, sir. It's a common practice for me to eat at the office and I'm sure I have, I'm just -- it's not a common practice.

LIEUTENANT CLARK: Well, Maurice, and here's the thing.

SERGEANT DEVALLE: And I've already -- I know I've already violated that. I totally have. I just don't really recall that day.

LIEUTENANT CLARK: And -- and we appreciate you being honest and forthright with us on that. But this right here, what we're going to just do is we're just kind of specifically addressing each thing as we go down the list. And that -- this is your opportunity to either, you know, refute or say, you know, yes, I did. And --

SERGEANT DEVALLE: And I'm not --

LIEUTENANT CLARK: These are the allegations.

SERGEANT DEVALLE: Yes, sir.

LIEUTENANT CLARK: And it's either, you know, you did or you didn't. And

29
JH

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 that's -- that's --

2

3 **SERGEANT DEVALLE:** Yes, sir.

4

5 **LIEUTENANT CLARK:** -- the purpose of us going through this right here.

6

7 **FIRST SERGEANT SAWYER:** So the claimant says on the 1st that you were at
8 your residence from 4:00 to 7:00.

9

10 **SERGEANT DEVALLE:** Sir, I can't tell you --

11

12 **FIRST SERGEANT SAWYER:** What do you say to that?

13

14 **SERGEANT DEVALLE:** I can't tell you what I -- all I did that day. I mean,
15 I've -- I've been doing wrecker inspections a lot, so I've been very, very busy with those.
16 But I can't even -- I can't tell you what days.

17

18 **LIEUTENANT CLARK:** It's this one. All right. On the 6th, which is a
19 Thursday, at 6:45 p.m., speak to this allegation right here on the 6th.

20

21 **SERGEANT DEVALLE:** So what -- what's it -- it's saying I'm at my residence at
22 6:45? Is that --

23

24 **LIEUTENANT CLARK:** That's --

25

26 **SERGEANT DEVALLE:** -- what this is saying?

27

28 **FIRST SERGEANT SAWYER:** Yes, sir.

29

30 **LIEUTENANT CLARK:** That's -- that's how we're understanding with either
31 videos and/or pictures of you being at your residence for that time.

32

33 **SERGEANT DEVALLE:** Sir, I don't know. I mean, it's -- it's a month ago. I'm
34 not -- I can't tell you.

35

36 **FIRST SERGEANT SAWYER:** Same thing for October 4th?

37

38 **SERGEANT DEVALLE:** I mean, what this is showing, that I'm at my residence
39 at 3:55 and -- and this says I'm off, so is -- is it violating the policy of not being at the Hillside
40 Residence? Is that what you're asking me? I mean, of course, this -- this one would say

30

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 yes, I'm at that -- I'm there at 3:55 on the 4th because it's my day off.

2

3 **LIEUTENANT CLARK:** Well, were you truly off on the 4th?

4

5 **SERGEANT DEVALLE:** Yes, sir.

6

7 **LIEUTENANT CLARK:** All right.

8

9 **SERGEANT DEVALLE:** I mean, that was the same -- that's the same answer
10 for these others. I mean, it's -- my car -- as I stated to you, I don't -- I have violated the
11 policy by not being at Hillside, so you would see my patrol car --

12

13 **FIRST SERGEANT SAWYER:** Well, from what we understand --

14

15 **SERGEANT DEVALLE:** -- at this residence.

16

17 **FIRST SERGEANT SAWYER:** -- this is not addressing your -- the Smithfield
18 address. This is talking about your Wake County address.

19

20 **SERGEANT DEVALLE:** That's correct.

21

22 **FIRST SERGEANT SAWYER:** And they're alleging that you're at your Wake
23 County address on these dates --

24

25 **SERGEANT DEVALLE:** That's right.

26

27 **FIRST SERGEANT SAWYER:** -- and times. So that's -- when we speak of
28 these, that's what we're referring to.

29

30 **SERGEANT DEVALLE:** I -- I am at -- I would -- the answer is yes.

31

32 **LIEUTENANT CLARK:** Okay.

33

34 **SERGEANT DEVALLE:** Yes. And I would be there -- and I didn't understand it
35 that way, so yes. And -- but especially my days off I would absolutely be there on my days
36 off. My car would be there, yes, sir.

37

38 **LIEUTENANT CLARK:** All right. The next allegation, September 30th,
39 checked in at 1:00 p.m., 4:00 p.m., never left the home. Now the 30th was a Friday. You
40 were working late. Speak to this allegation right here.

31

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** Well, from 1:00 to 4:00...

2

3 **LIEUTENANT CLARK:** I guess the easiest way to ask is after you checked on
4 on the 30th, on September 30th, did you stay home and never report to work but remained
5 on Highway Patrol time?
6

7 **SERGEANT DEVALLE:** Well, what this is saying to me from 1:00 to 4:00, I
8 never left my residence. I checked on at 4:00 p.m., so this would be accurate because my
9 car is at my residence and -- and I left my home at 4:00 p.m. to go to work. So from 1:00 to
10 4:00, yes, I would -- that would -- I don't know if I was there or if I was out wherever I would
11 be, but it would -- if -- if I wasn't working, yes, my car would be at my -- at that residence.
12

13 **LIEUTENANT CLARK:** On September 30th, you got dressed, got in your patrol
14 car and went to work. The allegation is that you never left home.
15

16 **SERGEANT DEVALLE:** From 1 p to 4 p -- yeah. I wasn't even working.
17

18 **FIRST SERGEANT SAWYER:** Someone was saying what time you checked
19 on. You either checked on at 1:00 or they checked -- or you checked on at 4:00, one of the
20 other. But whatever time you checked on, they're alleging that you never left your home.
21

22 **SERGEANT DEVALLE:** I -- well --
23

24 **FIRST SERGEANT SAWYER:** Speak to that.
25

26 **SERGEANT DEVALLE:** -- this is saying that 1:00 p.m. is not -- based on the
27 record that I can see, 1:00 p.m. wouldn't be accurate at all, but the 4 p --
28

29 **LIEUTENANT CLARK:** Well, let me ask you this in a simple way. On
30 September 30th, did you stay at your house after you checked on?
31

32 **SERGEANT DEVALLE:** I don't --
33

34 **LIEUTENANT CLARK:** It doesn't make any difference what time you checked
35 off.
36

37 **SERGEANT DEVALLE:** Okay.
38

39 **LIEUTENANT CLARK:** Did you stay at your house on the 30th after you
40 checked on?

32 ✓

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **SERGEANT DEVALLE:** I don't know. And what -- what day is that?

2
3 **LIEUTENANT CLARK:** It's Friday the 30th.

4
5 **SERGEANT DEVALLE:** Friday. Sir, it's -- it's possible. I just -- I can't
6 remember what I did on that particular day.

7
8 **LIEUTENANT CLARK:** Was it -- did you intentionally stay at the house that day
9 or did you unintentionally stay at the house that day?

10
11 **SERGEANT DEVALLE:** Well, I -- with me not really knowing what all went on
12 that day, I -- I don't want to come across like I'm trying to not be fully honest. It's just I don't
13 know what all at all occurred that day; that nothing stands out to me to make me say one
14 thing or another.

15
16 **LIEUTENANT CLARK:** But earlier you acknowledged that it was possible that
17 you, in fact, stayed at the --

18
19 **SERGEANT DEVALLE:** I have been at my residence while checked 10-41
20 before, yes, sir.

21
22 **LIEUTENANT CLARK:** Has there been occasions that you've checked on,
23 checked 10-41 and stayed at your house for an entire shift?

24
25 **SERGEANT DEVALLE:** Yes, sir.

26
27 **LIEUTENANT CLARK:** All right. Next allegation is on October 2nd, and you
28 left several hours, drove to Goldsboro, came back and stayed home. The 2nd is a Sunday.
29 If you would, speak to that allegation.

30
31 **SERGEANT DEVALLE:** Again, I mean, I -- nothing stands out to me on that
32 particular day to say one way or another.

33
34 **LIEUTENANT CLARK:** All right. Well, did you, in fact, go to Goldsboro and
35 then come back and stay at your house?

36
37 **SERGEANT DEVALLE:** I -- I have no idea. If I mean to return the reports in,
38 I'm sure they're --

39
40 **LIEUTENANT CLARK:** Is it possible that this is essentially going hand in hand

33-11

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 with the other --

2
3 **SERGEANT DEVALLE:** Yes, sir.

4
5 **LIEUTENANT CLARK:** -- allegations? So it's possible?

6
7 **SERGEANT DEVALLE:** Well --

8
9 **LIEUTENANT CLARK:** But you acknowledge that it's possible that -- that this
10 occurred?

11
12 **SERGEANT DEVALLE:** Yes, sir.

13
14 **LIEUTENANT CLARK:** Okay.

15
16 **SERGEANT DEVALLE:** I just can't speak on that particular day.

17
18 **LIEUTENANT CLARK:** All right. The next allegation is that they're alleging
19 that there's video of you conducting secondary employment, yard maintenance, HOA open
20 space maintenance.

21
22 **SERGEANT DEVALLE:** Yeah.

23
24 **LIEUTENANT CLARK:** And I've already asked you, but do you admit or deny
25 that you've ever done yard work while on duty?

26
27 **SERGEANT DEVALLE:** Sir, the best of my memory -- and I make a very -- it's
28 a very clear point to me that I've admitted to you that there's been times where I've been
29 home, but not this.

30
31 **LIEUTENANT CLARK:** All right. Next one is your home address of 1152
32 Southern Meadows Drive. That is your primary residence; is that correct?

33
34 **SERGEANT DEVALLE:** Yes, sir.

35
36 **LIEUTENANT CLARK:** All right. It's 35 miles from the Wayne County line.
37 Now we've already established and you've already admitted that you drive your car from
38 your primary residence to your duty station --

39
40 **SERGEANT DEVALLE:** Yes, sir.

34
H

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **LIEUTENANT CLARK:** -- is that correct?

2
3 **SERGEANT DEVALLE:** Yes, sir.

4
5 **LIEUTENANT CLARK:** All right. We've also discussed the address of 400
6 Hillside Drive in Smithfield and how you utilized that. And like you said, on paper, but
7 you've never been to that residence, you never use that residence, you just kind of have it
8 on paper; is that correct?

9
10 **SERGEANT DEVALLE:** That's correct.

11
12 **LIEUTENANT CLARK:** And you further admitted Creech, Justin Creech, he's
13 the one that owns that residence and is basically being utilized as -- as that, just an address
14 on paper?

15
16 **SERGEANT DEVALLE:** Yes, sir.

17
18 **LIEUTENANT CLARK:** Additionally, and the last bullet on this sheet, this letter,
19 the 400 Hillside Drive is the same address on file used by another trooper who's accused of
20 wasting taxpayer money by commuting from Elizabethtown.

21
22 **SERGEANT DEVALLE:** Really?

23
24 **LIEUTENANT CLARK:** Are you familiar with this?

25
26 **SERGEANT DEVALLE:** No, sir. I had no idea. I -- I know what you're talking
27 about with the wasting taxpayer money by commuting to Elizabethtown simply because that
28 was on the news. I had no idea he was using that -- that as a residence or put that on
29 paper, no, sir.

30
31 **LIEUTENANT CLARK:** And when you say "he," who are you identifying?

32
33 **SERGEANT DEVALLE:** It's Sergeant Hardee. I think I -- yeah. I had no idea
34 he did that. I thought that he was just -- I didn't realize he was doing that at all. And the
35 way the media showed it, he was just driving back and forth. I didn't know he had a
36 secondary or a residence and I've never spoken to him about that whole issue ever, so I
37 don't know any of the true details, only what the media showed.

38
39 (Brief pause.)
40

35 

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 **LIEUTENANT CLARK:** We've talked about a lot here today, Maurice, about the
2 residency policy and the anonymous complaint and everything. And we appreciate you
3 being honest and candid with us on that. You, as being a supervisor with this policy that
4 you've admitted to violating, does that reflect favorably upon you as a supervisor?

5
6 **SERGEANT DEVALLE:** For living outside of the —

7
8 **LIEUTENANT CLARK:** For violating the policy as — as a sergeant, as a
9 supervisor.

10
11 **SERGEANT DEVALLE:** Sir, I don't think any violation of any policy looks
12 favorable.

13
14 **LIEUTENANT CLARK:** Would it be safe to say that if members under your
15 supervision know that you're violating policy, that they — that would be kind of a quiet
16 authority for them to do the same thing?

17
18 **SERGEANT DEVALLE:** Sir, I don't want to speculate on them. I can only
19 hope that — and I've tried to mention to people saying, hey, no matter what I tell you or any
20 supervisor tells you, it does not supersede the law or policy, that they need to abide by.
21 But it does not look favorable for me, no, sir.

22
23 **LIEUTENANT CLARK:** Is there any question that we have not asked you or is
24 there anything that you want to tell us, because we're going to give you the last word, about
25 anything that we talked about in here today that you feel is relevant to the investigation or
26 anything that you want us to know or to be included in the investigation?

27
28 **SERGEANT DEVALLE:** Sir, I can just — I want to own my mistakes. I hope
29 that my — my mistakes with this is I have been at my residence not on the 11th was not one
30 of those days, but there has been days where I've checked on and been at my residence
31 and should have been in Wayne County.

32
33 I'm sorry. It's — it's very shameful to me. I just hope I have an opportunity to
34 make things right and to — and to prove myself that I will do the right thing. As far as
35 the — and just going up this bullet here thing, it's — I had no idea that trooper — First
36 Sergeant Hardee was — that's a unbelievable coincidence there.

37
38 And the other is, sir, from my kids' life, I have never, ever — it's not worth me
39 making 40 or 50 dollars for my career to work doing that on duty. I've never intentionally
40 ever done that. And not that unintentionally. I just — it's a — I make a point to not do that.

TRANSCRIPT OF SERGEANT DEVALLE'S INTERVIEW

1 And then the other times being at home, I -- sir, I have to own those mistakes
2 and -- and really beg the opportunity to make things right to prove that I can be a -- the
3 leader that the Highway Patrol is looking for and be a good leader to the subordinates that I
4 supervise.

5
6 **LIEUTENANT CLARK:** The current time is 11:38 a.m. and this concludes our
7 interview.

8
9 (Whereupon, the interview concluded.)

TRANSCRIPT OF SERGEANT DeVALLE'S FOLLOW-UP TELEPHONE INTERVIEW - PT 1

1 **FIRST SERGEANT SAWYER:** Today's date is 18, November 2016. It is
2 11:27 a.m. I am First Sergeant Rodney Sawyer with the Internal Affairs Unit.
3 Also with me from Internal Affairs is Lieutenant P.T. Clark. We're conducting a
4 follow-up interview by telephone with Sergeant Maurice DeValle of Troop C,
5 District 2.

6
7 **SERGEANT DeVALLE,** I want to remind you of a policy you signed prior to
8 our initial interview. You're aware of that and you recall those policies; is
9 that correct?

10
11 **SERGEANT DeVALLE:** Yes, sir.

12
13 **FIRST SERGEANT SAWYER:** Okay. On -- recalling your -- well, first of
14 all, since -- since our interview last time, have you been in receipt of a
15 letter from WRAL?

16
17 **SERGEANT DeVALLE:** Yes, sir.

18
19 **FIRST SERGEANT SAWYER:** If you will, just tell us the synopsis of that
20 letter.

21
22 **SERGEANT DeVALLE:** I think it was -- it pretty much went along with
23 the same line with the synonymous letter that you guys have been provided with
24 just was saying some dates that I'm outside the residency policy and saying that
25 it's got -- that I'm at my residence on certain days when I should be working.

26
27 **FIRST SERGEANT SAWYER:** How was it that you received that letter?

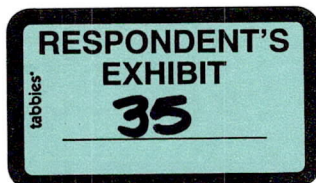
28
29 **SERGEANT DeVALLE:** Cullen Browder came by my residence. The
30 investigative reporter for WRAL came by my residence and dropped it with my
31 father-in-law.

32
33 **FIRST SERGEANT SAWYER:** Okay. And there's some dates listed --

34
35 **SERGEANT DeVALLE:** I immediately --

36
37 **FIRST SERGEANT SAWYER:** There's some --

38
39 **SERGEANT DeVALLE:** I immediately took that letter and made contact
40 with the Highway Patrol to give the Highway Patrol that letter. Simple fact



TRANSCRIPT OF SERGEANT DeVALLE'S FOLLOW-UP TELEPHONE INTERVIEW - PT 1

1 that I've already been honest about the days that you all have asked me about.
2 It's shameful. I've answered them. And it's embarrassing and shameful that I
3 have. I answered it honestly that I have. And I realize that they're going to
4 air some stories that they're saying. And I realize it's going to tarnish my
5 name further. And I'm trying to minimize and gave that to the Patrol so that it
6 would minimize any further damage to the organization.
7

8 **FIRST SERGEANT SAWYER:** Okay. And during your initial interview, we
9 specifically asked you on some dates that were listed where it was alleged that
10 you were not working in the district or you where in some way in -- in violation
11 of Patrol policy concerning your reporting for duty or your residency policy.
12

13 This letter that WRAL provided also included the date of October the
14 14th and made a reference to that was the day that Goldsboro was under water
15 after Hurricane Matthew. They're alleging that there's video of your patrol car
16 at your residence on that date.
17

18 We did not ask you specially about October 14th during your initial
19 interview because it was not listed on the complaint letter that we had. So if
20 you will, **SERGEANT DeVALLE**, if you'll speak to October the 14th to your schedule
21 that day and what you worked and the activities that you took part in that day.
22

23 **SERGEANT DeVALLE:** Sir, I don't know. I can't -- I don't know what I
24 did or didn't do on that day. I just don't have anything that jars my memory
25 that stands out in particular. That was about two weeks there in Wayne County
26 that the county was cut in half by the Neuse River where I had to schedule
27 troopers, redo some scheduling, and monitor their status of what they were doing
28 on the south side to the north side because there was no -- you couldn't
29 cross -- get from the south to the north. I had to reorganize to get gas cards,
30 but they didn't provide enough gas cards. I gave one of the troopers my gas
31 card because they couldn't come up to get gas. The southern part of the county
32 had actually run out of gas. The gas stations did. So it was a standing order
33 for those guys to be on top of that. We packed like sinkholes all through the
34 county that we didn't know where they were and we were trying to figure those
35 things out.
36

37 DOT were reporting (inaudible), so we were working with DOT. So it
38 was an order for them to just not ride around at that time unless a call for
39 service came out to respond to it, simply.
40

TRANSCRIPT OF SERGEANT DeVALLE'S FOLLOW-UP TELEPHONE INTERVIEW - PT 1

1 We had a tracker trailer run through a sinkhole or where the road had
2 just washed away. He didn't have enough signs for coverage. I mean, you would
3 have cones in front of washed-out roadways and cars would run into it because
4 they just saw one cone.

5
6 So, sir, for that particular day, I -- I can't tell you. We had a
7 fatal -- a drunk driver with a fatal. I did respond to that. I don't know -- I
8 can't -- I don't know what day that was. But for me to get to that, I had the
9 go from 70 to 95 to 40 all the way back to exit 355, that was 17, to come to
10 that.

11
12 And then on top of that, we couldn't even transport the guy. He went
13 to Duplin County. I had to get on the phone and organize the other troopers and
14 the National Guard to transport the defendant through the water.

15
16 So for that particular day, I don't know what I did. There was times
17 where I did work from home for a little while. Whether it was an hour or two, I
18 don't know. Three, I don't know. But there was times during that, all that
19 mess that I had worked from home and with phone calls, emails, or just trying to
20 do -- manage district operations as best as we could. We didn't have any help
21 and we were just doing the best that we could. And -- and sir, and -- I don't
22 know. I can't definitively tell you what I did on that particular day.

23
24 **FIRST SERGEANT SAWYER:** Okay. If WRAL came up with a video that
25 showed you at your residence on October the 14th about 3:55 p.m. --

26
27 **SERGEANT DeVALLE:** That would be possible, yes, sir.

28
29 **LIEUTENANT CLARK:** It would be possible that you were home on that day
30 during your --

31
32 **SERGEANT DeVALLE:** Yes, sir.

33
34 **FIRST SERGEANT SAWYER:** -- 40 hours?

35
36 **SERGEANT DeVALLE:** Yes, sir.

37
38 **FIRST SERGEANT SAWYER:** Okay.

39
40 **LIEUTENANT CLARK:** Sergeant DeValle, how did you check on for duty

TRANSCRIPT OF SERGEANT DeVALLE'S FOLLOW-UP TELEPHONE INTERVIEW - PT 1

1 that day? Did you use your MDT or did you use -- check on through patrol radio?

2

3 **SERGEANT DeVALLE:** My MDT. I don't think -- I read that letter. I
4 think it said that I told Raleigh I was in Wayne County. Never said that.
5 That's not -- that's not standard. I typically checked on with my computer.
6 Start going through emails, doing whatever phone calls that you've got to do in
7 relation to the emails just for district operations, managing district
8 operations. So it's -- it's unusual for me to get on the radio and call radio
9 and say I'm in Wayne County.

10

11 **LIEUTENANT CLARK:** And the only day that we are really talking about
12 is just October 14th. And in the last interview, your -- excuse me, your
13 initial interview that we had, you know, you were very forthright and honest
14 about it and you admitted that there were times that you stayed at your
15 residence for a number of hours or there's been times that you stayed at your
16 residence the whole time. On the 14th, did you, after you checked on, put your
17 uniform on, get in your patrol car and drive to Wayne County?

18

19 **SERGEANT DeVALLE:** I'm not trying to be deceptive at all and -- sir,
20 about -- again, I don't remember what I did that day. I'm not trying to be rude
21 or deceptive at all with that. I just don't remember what I did that day.
22 There was just so many different things going on. I don't know, sir.

23

24 **FIRST SERGEANT SAWYER:** I have your -- just one last thing, quick. I
25 have your 201 for that week. And bring your attention to the 14th, which is a
26 Friday, you were scheduled 5:00 p.m. to 4:00 a.m. Your 201 indicates a shift
27 worked of 3:00 p.m. to 1:00 a.m. with a total time of --

28

29 **SERGEANT DeVALLE:** What --

30

31 **FIRST SERGEANT SAWYER:** 3:00 p.m. to 1:00 a.m. is a shift worked.

32

33 **SERGEANT DeVALLE:** Yes.

34

35 **FIRST SERGEANT SAWYER:** And you have ten hours shown for shift worked.

36

37 **SERGEANT DeVALLE:** Yes, sir. I understand that. But my 201 is not --
38 without knowing kind of what's going on in the district to jar my memory,
39 nothing stands out to me. If you were to say on -- like the fatal, I don't even
40 know what day that was, but I remember what went on that day and some of the
 things that went on that day for the fatal involving the collision. So without

TRANSCRIPT OF SERGEANT DeVALLE'S FOLLOW-UP TELEPHONE INTERVIEW - PT 1

1 truly something that happened, nothing is jarring my memory of what I did that
2 day, sir.

3
4 **FIRST SERGEANT SAWYER:** Okay. And the First Sergeant asked you if
5 WRAL came up and showed you a video. You indicated, your patrol at your house
6 after you checked on on October 14th, that that would be possible; is that
7 correct?

8
9 **SERGEANT DeVALLE:** Yes, sir.

10
11 **FIRST SERGEANT SAWYER:** All right. Would you be surprised if that
12 video surfaced and showed your car sitting at your residence?

13
14 **SERGEANT DeVALLE:** Sir, like I -- I already admitted to you, I mean
15 there's been times where I've been at my residence maybe an hour late or what
16 I've already admitted to you, explained to you. So I don't know what days those
17 were. I don't know what days I did that. It's not like it was an every Monday,
18 Wednesday, Friday. It's just -- I'm not going to deny what's happened. If
19 they've got a video footage, I -- I don't know.

20
21 **FIRST SERGEANT SAWYER:** Are there any questions --

22
23 **SERGEANT DeVALLE:** Of course --

24
25 **FIRST SERGEANT SAWYER:** I'm sorry. Go ahead.

26
27 **SERGEANT DeVALLE:** Would I be able to get a -- a copy of that
28 anonymous letter so I can try to figure out my -- my activities during those
29 days to try to figure out to explain it better to you guys?

30
31 **FIRST SERGEANT SAWYER:** Well, that's all part of the file. And
32 certainly you're entitled to what -- what's in the file, but --

33
34 **SERGEANT DeVALLE:** But can I get it prior to the end of the
35 investigation?

36 **FIRST SERGEANT SAWYER:** Well, we'll discuss that after a while. But
37 specifically our interview is for the 14th.

38
39 **SERGEANT DeVALLE:** Yes, sir.

40

TRANSCRIPT OF SERGEANT DeVALLE'S FOLLOW-UP TELEPHONE INTERVIEW - PT 1

1 **FIRST SERGEANT SAWYER:** So is there any questions that we haven't
2 asked you about the 14th or is there anything that you want to tell us
3 specifically relating to October 14th and the WRAL letter and its allegations?
4

5 **SERGEANT DeVALLE:** No, sir. There's -- I mean like I explained to
6 you, I -- I don't know my whereabouts, the timelines of knowing things. And I
7 provided the information as quickly as possible so that you guys aren't
8 blindsided by nothing. And I mean, I've been forthright with that. I'm not
9 trying to hide anything from you. I'm trying to be completely forthright and
10 honest with you.

11
12 **FIRST SERGEANT SAWYER:** All right. Anything else?

13
14 **SERGEANT DeVALLE:** No, sir.

15
16 **FIRST SERGEANT SAWYER:** Okay. The current time is 11:42 a.m. and this
17 concludes our interview.

18
19 Transcribed by Donna Rowe

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** Today's date is March 24, 2017. It is
2 12:05 p.m. I am First Sergeant Rodney Sawyer with the Internal Affairs Unit.
3 Also with me from Internal Affairs is First Sergeant Chad Parks. We are
4 interviewing, in a follow-up interview, Sergeant Maurice DeValle regarding the
5 allegations -- allegations against him.

6
7 **SERGEANT DeVALLE,** before when you were interviewed -- well, when you
8 were served the complaint and prior to your -- your first interview, you were
9 provided excerpts of Policy H1 and H2. Do you recall that?

10
11 **SERGEANT DeVALLE:** I remember being provided some policy, yes, sir.

12
13 **FIRST SERGEANT SAWYER:** And that policy, the truthfulness policy, was
14 given to you and you acknowledged that by --

15
16 **SERGEANT DeVALLE:** That's correct.

17
18 **FIRST SERGEANT SAWYER:** -- by signing and dating. Before we begin
19 this interview, we just want to review of the policies you signed for.
20 Specifically we want to remind you of the truthfulness policy. I'll ask that
21 you read the highlighted portion that's provided to you. And if you will, just
22 sign and date acknowledging that you read that and understand it.

23
24 **SERGEANT DeVALLE:** What's the date today, sir?

25
26 **FIRST SERGEANT SAWYER:** 24th. Do you have any questions --

27
28 **FIRST SERGEANT PARKS:** Go ahead and take a chance to read it. You
29 just signed it.

30
31 **SERGEANT DeVALLE:** Yes, sir.

32
33 **FIRST SERGEANT SAWYER:** Do you have any questions about the
34 truthfulness policy?

35
36 **SERGEANT DeVALLE:** I do have a question of what -- I'm being
37 questioned about the allegations brought against me. So I would ask you, what
38 are the allegations brought against me?



TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** The allegation that was before you before was
2 that you were not in compliance with the Patrol's domicile policy, residency
3 policy. And that specifically with that policy, you were not in -- it was
4 alleged that you were not in your duty station at the time that you were
5 supposed to be checked on for duty at 10-41 time. And like we said before, the
6 dates that were provided to you before that came from the media, we asked those
7 dates, particularly the dates that are in question, that we will be talking
8 about today, whether or whether or not you were in your duty station as required
9 by that policy when you were supposed to be.

10
11 **FIRST SERGEANT PARKS:** Now, Sergeant DeValle, I'll direct your
12 attention to the IA Service Memo. And this memorandum is the memorandum in
13 which you signed in the personnel complaint, which you signed, which set forth
14 the allegations for this particular investigation and the personnel complaint,
15 which you signed. Do you remember those documents?

16
17 **SERGEANT DeVALLE:** Yes, sir.

18
19 **FIRST SERGEANT PARKS:** Do you need a second to review those
20 documents?

21
22 **SERGEANT DeVALLE:** No, sir.

23
24 **FIRST SERGEANT PARKS:** Okay.

25
26 **FIRST SERGEANT SAWYER:** Do you have any further questions about the
27 reason we're here today and the allegation before you?

28
29 **SERGEANT DeVALLE:** No, sir.

30
31 **FIRST SERGEANT SAWYER:** Okay. I don't know that anything we discuss
32 today is going to be new information, so this was covered before. I just want
33 to -- to follow up on -- on a few things. And I want to begin with the meeting
34 that you had with Captain Holmes at some point at Troop C.

35
36 There was a meeting where Captain Holmes, Lieutenant Finney, First
37 Sergeant Burton, and yourself were in a meeting at Troop C headquarters. Do you
38 recall -- are you familiar with the meeting --

39
40 **SERGEANT DeVALLE:** Yes, sir.

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** -- I'm referring of?

2

3 **SERGEANT DeVALLE:** Yes, sir yes, sir.

4

5 **FIRST SERGEANT SAWYER:** Okay. If you will, take us back to that
6 meeting and -- and tell us in your words what the purpose of that meeting was
7 and what, if any, direction or -- or understanding you took from that meeting.

8

9 **SERGEANT DeVALLE:** If I recall correctly, it was we were doing some
10 training or in-service training or something at Troop C headquarters. After
11 completion of that -- I believe it was Captain Holmes, I'm not sure, it might
12 have been Lieutenant Finney, I don't recall -- asked to meet with us. And I
13 can't remember if it was in Lieutenant Finney's office or the Captain's. He
14 made the comment of "Just make sure you're where you're supposed to be when
15 you're supposed to be there and doing what you're supposed to be doing." That's
16 what I remember.

17

18 **FIRST SERGEANT SAWYER:** Would you say that meeting was a formal
19 meeting? Was it an official meeting or was it just more of a just off-the-cuff
20 in the hallway-type meeting? How would you -- how would you say the tone of
21 that meeting was?

22

23 **SERGEANT DeVALLE:** Wow. I don't know. I also believe, if my memory
24 serves correctly, it's -- he had made the statement that he's not going to watch
25 me, doesn't -- well, he's not trying to sit up on me. I guess I would take that
26 as it was a friendly meeting. It was just an unofficial, friendly gesture. I
27 don't know how to characterize that, sir.

28

29 **FIRST SERGEANT SAWYER:** Was the door closed in this meeting?

30

31 **SERGEANT DeVALLE:** Yes, sir.

32

33 **FIRST SERGEANT SAWYER:** Who was present in the meeting?

34

35 **SERGEANT DeVALLE:** If I recall correctly -- and I'm assuming the door
36 was closed. I believe it was. I believe it was me, the Captain, Lieutenant
37 Finney and First Sergeant Burton. I don't remember if anybody else came in or
38 out. I --

39

40 **FIRST SERGEANT SAWYER:** Do you recall if you were permitted to speak

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 or ask questions during the meeting or were you pretty much -- was Captain
2 Holmes pretty much doing the speaking, directing --

3
4 **SERGEANT DeVALLE:** Yeah. I was -- I was able to talk. It was -- it
5 wasn't -- wasn't like this setting where it's -- it's clear that this is a
6 formal setting, that there's questions to be asked and answered.

7
8 I asked -- I do remember asking, "What's this about?" I wasn't quite
9 sure. And he -- he -- if I remember correctly, again, he just replied, "Just
10 make sure you're where you're supposed to be, doing what you're supposed to be
11 doing, where you're -- where you're supposed to be when you're supposed to be
12 there and doing what you're supposed to be doing."

13
14 And I had another -- I was done. And I remember me and Lieutenant
15 Finney sitting -- that was -- I do remember me sitting in his office and talking
16 to Lieutenant Finney about that. And I said what -- "What is this about? Where
17 is this coming from?"

18
19 And his statement was that Major Taylor, Wayne Taylor at the time, had
20 made the comment to make sure that he relayed that. And -- and he was relating
21 that in reference to when my patrol car had run out -- whenever we were going to
22 a call for First Sergeant Burton at the community college and my car had run out
23 of gas. But I was behind another trooper. And due to the -- the severity of
24 the scene, I took my shotgun and rode with another trooper to the scene to -- to
25 conduct our business.

26
27 And I find that hard to believe because I had a -- me and Major Taylor
28 ate lunch. And he had said, "Don't worry about it." You know, because I had
29 actually checked on. I was scheduled to work a night shift, but work -- came on
30 early to -- and I was dealing -- helping deal with that.

31
32 So it was very confusing. The whole thing was confusing to me because
33 Lieutenant Finney clearly did not tell me the truth about that incident.

34
35 **FIRST SERGEANT SAWYER:** Let me ask you this, Maurice. The meeting
36 that you had with Captain Holmes --

37
38 **SERGEANT DeVALLE:** Yes, sir.

39
40 **FIRST SERGEANT SAWYER:** -- Captain Holmes was the Troop C commander,

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 correct?

2

3

SERGEANT DeVALLE: That's correct.

4

5

FIRST SERGEANT SAWYER: And your position at the time was a line sergeant in Troop C, District 2.

6

7

8

SERGEANT DeVALLE: That is correct.

9

10

FIRST SERGEANT SAWYER: All right. And you acknowledge the fact the troop commander has the authority and, in fact, has the -- has the duty to supervise members of Troop C, which included you, correct?

11

12

13

14

SERGEANT DeVALLE: Clearly, yes, sir.

15

16

FIRST SERGEANT SAWYER: So he was well within his bounds to call you into his office and give you any direction he saw fit, would you agree with that?

17

18

19

20

SERGEANT DeVALLE: Yes, sir.

21

22

FIRST SERGEANT SAWYER: And notwithstanding any arrangement or understanding you had with any previous troop commander, when Captain Holmes came to be the troop commander of Troop C, would you agree that he has the authority to set whatever expectations that he deems appropriate, notwithstanding any arrangements or anything previous troop commanders may -- may feel or have in place?

23

24

25

26

27

28

SERGEANT DeVALLE: I'm not understanding. I mean, he's --

29

30

31

FIRST SERGEANT SAWYER: His troop -- is Captain --

32

33

SERGEANT DeVALLE: If gives me orders, I have to follow them.

34

35

FIRST SERGEANT SAWYER: Is Captain Holmes within his right to -- to give direction to you?

36

37

38

SERGEANT DeVALLE: He -- he is my captain, absolutely. And I have to follow his orders. However, I was told --

39

40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** So when he told you --

2

3 **SERGEANT DeVALLE:** -- I was told from a higher ranking officer from
4 him something that contradicted what they had stated to me.

5

6 **FIRST SERGEANT SAWYER:** So when Captain Holmes -- talking about your
7 meeting with Captain Holmes.

8

9 **SERGEANT DeVALLE:** Yes, sir.

10

11 **FIRST SERGEANT SAWYER:** When he -- when he directed you to make sure
12 that you were -- you were where you were supposed to be when you were supposed
13 to be there --

14

15 **SERGEANT DeVALLE:** Yes, sir.

16

17 **FIRST SERGEANT SAWYER:** -- was that a directive from the Captain to
18 you -- would you consider that to be an order? Was the Captain telling you,
19 instructing you, ordering you, to make sure you are to be where you are supposed
20 to be when you are supposed to be there?

21

22 **SERGEANT DeVALLE:** Yes, sir.

23

24 **FIRST SERGEANT SAWYER:** Did you take it that way?

25

26 **SERGEANT DeVALLE:** Sir --

27

28 **FIRST SERGEANT SAWYER:** Was there anything about the Captain's telling
29 you that that was unclear or ambiguous or did you understand that the Captain
30 was telling you to make sure you were --

31

32 **SERGEANT DeVALLE:** I didn't understand what he was saying at that
33 particular time. That was not very clear. He did not say you need to be in
34 this district on this date at this time, or you need to be at lunch at this time
35 and that time. It was not that clear. It was not --

36

37 **FIRST SERGEANT SAWYER:** Did he give you the expectation that that you
38 were to be compliant with the Patrol's residency policy?

39

40 **SERGEANT DeVALLE:** That's an interesting question that you bring up

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 there, First Sergeant. Because during our annual inspection -- inspection,
2 the -- on that particular date that he rode in my patrol car, that contradicted
3 exactly that statement right there. Because his exact statement was for the CAD
4 purposes, just make sure you have an address in the CAD that is compliant with
5 this policy. But I'm not riding by checking on you. I won't have anybody
6 checking up on you. Just make sure that you're complying in the CAD what the
7 policy says we have to have.

8
9 So those two statements, sir, is definitely contradicting whatever --
10 each other. And that is why, in my mind, it's -- it's not that clear. I didn't
11 even understand what he was talking about. And he wouldn't elaborate on that
12 statement. He never elaborated on that statement.

13
14 **FIRST SERGEANT SAWYER:** Okay. What -- at the time of this meeting --
15 and I understand -- we all understand the residency policy has changed since
16 then, but at the time, what was your understanding of the requirements of the
17 Patrol's residency policy? What was expected of you?

18
19 **SERGEANT DeVALLE:** It's a 20-mile domicile policy. That I am required
20 to have a residence within 20 miles of my assigned duty station.

21
22 **FIRST SERGEANT SAWYER:** And that's reflected on HP-740?

23
24 **SERGEANT DeVALLE:** I'm not sure what the form number for --

25
26 **FIRST SERGEANT SAWYER:** Well, there's a form. There's a form that
27 reflects --

28
29 **SERGEANT DeVALLE:** That's correct.

30
31 **FIRST SERGEANT SAWYER:** -- what your address is and the mileage?

32
33 **SERGEANT DeVALLE:** Yes, sir.

34
35 **FIRST SERGEANT SAWYER:** And you filed that paperwork?

36
37 **SERGEANT DeVALLE:** Yes, sir.

38
39 **FIRST SERGEANT SAWYER:** And it was approved and filed away?

40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** Yes, sir.

2

3 **FIRST SERGEANT SAWYER:** That policy also required you to check
4 10-86/10-87, travel mode to and from the district; is that correct?

5

6 **SERGEANT DeVALLE:** The policy does state that, yes, sir.

7

8 **FIRST SERGEANT SAWYER:** Did you check 10-86/10-87 when commuting

9

back

10 and forth to your residence?

11

12 **SERGEANT DeVALLE:** No, sir. No, sir.

13

14 **FIRST SERGEANT SAWYER:** Why not?

15

16 **SERGEANT DeVALLE:** Sir, I don't have an answer for that. This is as
17 honest as it can be.

18

19 **FIRST SERGEANT SAWYER:** Well, I appreciate that. I appreciate that,
20 being candid.

21

22 **SERGEANT DeVALLE:** That I did not do -- I did not follow the policy
23 according to how it is written. I violated that policy.

24

25 **FIRST SERGEANT SAWYER:** But according to the policy, if you were
26 checking 10-86/10-87, that travel time from your residence to the district, is
27 that time compensable? Do you get paid for your 10-86/10-87 time?

28

29 **SERGEANT DeVALLE:** No, sir.

30

31 **FIRST SERGEANT SAWYER:** Is it understood by that policy that when your
32 10-41 time -- at your 10-41 time you are to be in your district or area -- area
33 of responsibility?

34

35 If you're working a 7 to 4, 7:00 a.m. to 4:00 p.m., and you have a
36 40-minute drive to the district based on where your residence is, or 30 minute,
37 whatever the time is, what's your understanding of what the policy requires you
38 the time -- what time do you need to leave your house and what time do you need
39 to be at your duty station if you're scheduled a 7 to 4?

40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** If you want to give me the policy, sir. I --

2
3 **FIRST SERGEANT SAWYER:** Well, I'm asking your understanding of the
4 policy.

5
6 **SERGEANT DeVALLE:** I'm not trying to be disrespectful. Please don't
7 take it that way. I want to be the most humble person today, because I am right
8 now. It's just -- I don't want to misquote anything. I don't want to speculate
9 anything. I'm not speculating at all. So --

10
11 **FIRST SERGEANT SAWYER:** Would it be fair to say, if you're scheduled 7
12 to 4 and -- and you're checking on at 7:00 o'clock, checking 10-41 at 7:00 a.m.,
13 then you're to be in your district and your area of responsibility working at
14 the time you checked 10-41?

15
16 **SERGEANT DeVALLE:** I think as a trooper, sir, that's a very accurate
17 statement. But I think as a line sergeant there's times that things are very
18 different. An example of that would be, well, as soon as I check on or right
19 before I check on, I've gotten complaints where I had to call somebody back
20 where I'm dealing with something there at that point. I'm clearly discharging
21 the duties --

22
23 **FIRST SERGEANT SAWYER:** Well, I understand.

24
25 **SERGEANT DeVALLE:** -- of my position as a line sergeant where it does
26 not require me to be in the -- in the district within the -- the county lines of
27 my district to -- to perform the duties of my job.

28
29 **FIRST SERGEANT SAWYER:** We understand there's exceptions. There's
30 exceptions; things come up you've got to deal with. But as a general rule, as a
31 general rule, when you check on, you're supposed to be in the area --

32
33 **SERGEANT DeVALLE:** If you want me to quote the policy, sir, I can't
34 quote it to you.

35
36 **FIRST SERGEANT SAWYER:** Okay.

37
38 **SERGEANT DeVALLE:** I don't know. I'm not trying to be argumentative.
39 I just -- I'm -- I'm very concerned at this point of everything that's going on.
40 And I don't want this truthfulness to be a question at all. I want to be

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 100 percent accurate with any statement that I give you that I can be very
2 comfortable of telling you. And I don't want to misquote myself or anything
3 else. And if I'm not 100 percent accurate -- I don't want to -- don't want that
4 to be a concern.

5
6 **FIRST SERGEANT SAWYER:** Okay. We understand.

7
8 **SERGEANT DeVALLE:** So I -- I apologize for not being able to answer
9 that as direct as you're asking me.

10
11 **FIRST SERGEANT SAWYER:** When the troop commander, when Captain
12 Holmes --

13
14 **SERGEANT DeVALLE:** Yes, sir.

15
16 **FIRST SERGEANT SAWYER:** -- told you and you said it was clear and you
17 understood that you were supposed to be where you were supposed to be when you
18 were supposed to be there, what did you understand that to mean?

19
20 **SERGEANT DeVALLE:** Sir, I -- to go back at that point, I -- I don't
21 know.

22
23 **FIRST SERGEANT SAWYER:** You don't know what the Captain meant by that?

24
25 **SERGEANT DeVALLE:** You're asking me what was going through my head at
26 that particular time, how I interpreted that at that particular time.

27
28 **FIRST SERGEANT SAWYER:** Well, even now. Even now. If the troop
29 commander were to tell you now, your captain called you into the office and
30 said, Maurice, you need to make sure that you're complaint with the policy and
31 that you are where you're supposed to be when you are supposed to be there, what
32 do you take away from that? What do you understand that to mean?

33
34 **SERGEANT DeVALLE:** Sir, and my response to that would be what are
35 you -- what are you talking about? Can you elaborate on that? Please explain
36 further what you're trying to say to me here. Because I don't understand how to
37 direct this -- it's coming out of his mouth to me. That's not that clear. Am I
38 missing my in-service times? Did I -- did I just go somewhere that particular
39 date that I was late somewhere? Or was it -- I have no idea. It can be so many
40 different things. So without elaborating on that, I would have to speculate

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 exactly what he's talking about. Where is this coming from? What do you mean
2 by that?

3
4 **FIRST SERGEANT PARKS:** When you're told to be in compliance with
5 policy, the policy is very clear. And you might not be able to quote it to me
6 right now.

7
8 **SERGEANT DeVALLE:** Correct.

9
10 **FIRST SERGEANT PARKS:** And I understand that and I wouldn't expect you
11 to sit here and regurgitate policy word for word. But the policy is very clear
12 on you being in your assigned duty station --

13
14 **SERGEANT DeVALLE:** Yes, sir.

15
16 **FIRST SERGEANT PARKS:** -- from the point that you're 10-41 and
17 remaining in that duty station until the point you're 10-42. And for members
18 who live outside the district, it even specifies not going for meal. Okay. So
19 when you're being provided a directive by Captain Holmes, and you said that you
20 considered it to be in order coming from him --

21
22 **SERGEANT DeVALLE:** Sir --

23
24 **FIRST SERGEANT PARKS:** I'm not -- I haven't finished my question yet.

25
26 **SERGEANT DeVALLE:** Yes, sir.

27
28 **FIRST SERGEANT PARKS:** And you say that you consider that to be an
29 order, to be where you're supposed to be when you're supposed to be there and be
30 in compliance with policy. Did you take any steps to clarify in policy what
31 policy says about where you're supposed to be and when you're supposed to be
32 there?

33
34 **SERGEANT DeVALLE:** Sir --

35
36 **FIRST SERGEANT PARKS:** Yes or no? Did you go back and look at policy
37 to clarify --

38
39 **SERGEANT DeVALLE:** I asked the Captain directly, "What are you talking
40 about? Where is this coming from?"

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT PARKS:** But where -- where --

2
3 **SERGEANT DeVALLE:** That's clarifying what he's telling me.

4
5 **FIRST SERGEANT PARKS:** Where it it's come from is not --

6
7 **SERGEANT DeVALLE:** What are you talking about?

8
9 **FIRST SERGEANT PARKS:** -- the issue. Where are you supposed to be and
10 when you're supposed to there, be in compliance with policy, did you, yes or no,
11 go back and look at policy and see what policy says about reporting for duty and
12 being in your assigned duty station?

13
14 **SERGEANT DeVALLE:** Well, that's -- that's -- I absolutely want to
15 answer that and --

16
17 **FIRST SERGEANT PARKS:** It's either yes or no. You -- either you
18 looked at policy and --

19
20 **SERGEANT DeVALLE:** That's correct.

21
22 **FIRST SERGEANT PARKS:** -- clarified it or you did not.

23
24 **SERGEANT DeVALLE:** You're exactly right. And, sir, I did not go read
25 the policy right after I left the office with him. No, I did not.

26
27 And also, I tried to clarify exactly what he meant with that by asking
28 him that. And his response was the exact same thing of just make sure where you
29 are -- he repeated the same thing. He didn't clarify it. So I had no further
30 instruction on that.

31
32 And second of all, you -- you quoted me as saying that I'm -- and I'm
33 trying to be very careful with not being untruthful with any of this -- that
34 saying that I took that as a direct order. You're making me answer something
35 that I don't really have an answer for. But you're giving me options that
36 aren't my true opinions of my thoughts at the time, sir. And -- and with a
37 direct order --

38
39 **FIRST SERGEANT PARKS:** No. I'm not putting words in your mouth.

40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** Anything -- you're a first sergeant. So if you
2 tell me something, sir, I'm going to do it. If you tell me something simply
3 because you out rank me.
4

5 **FIRST SERGEANT PARKS:** Okay. With that being said -- and I understand
6 what you're saying.
7

8 **SERGEANT DeVALLE:** If you tell me --
9

10 **FIRST SERGEANT PARKS:** Let me --
11

12 **SERGEANT DeVALLE:** -- don't go get water --
13

14 **FIRST SERGEANT PARKS:** Maurice, listen to --
15

16 **SERGEANT DeVALLE:** -- then I won't go get water.
17

18 **FIRST SERGEANT PARKS:** -- what I'm saying. I understand what you're
19 saying and I agree with you. So did you do what the Captain asked you to do?
20 He set forth clear expectations to you. You said they're not clear. He set
21 forth expectations for you to be in compliance with policy and for you to be
22 where you're supposed to be when you're supposed to be there. Did you do that?
23

24 **SERGEANT DeVALLE:** Sir, I have violated this policy. There is no
25 question about it. I have admitted to these -- this -- this issue right here.
26 That according to that policy, I did not abide by that policy as I'm instructed
27 to do.
28

29 **FIRST SERGEANT PARKS:** Okay.
30

31 **SERGEANT DeVALLE:** The answer is I violated that policy, sir.
32

33 **FIRST SERGEANT PARKS:** Okay. And if you would, tell us how you
34 violated that policy.
35

36 **SERGEANT DeVALLE:** There's been times where I have worked from my
37 residence.
38

39 **FIRST SERGEANT PARKS:** Okay.
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** I'm not saying an entire time. I'm not saying
2 any -- I can't tell you five minutes, ten minutes, an hour, two hours.

3
4 **FIRST SERGEANT PARKS:** Okay.

5
6 **SERGEANT DeVALLE:** But --

7
8 **FIRST SERGEANT PARKS:** How else have you violated that policy?

9
10 **SERGEANT DeVALLE:** Sir, if you want to read it to me, I'll go through
11 that whole thing and tell you exactly what I've done wrong. But without
12 knowing -- again, we -- we've reiterated this again. I can't quote that policy.
13 So again, I don't want to be untruthful with any of it or misleading and leaving
14 anything out. If you want to read it, I'll be glad to go through line for line
15 of everything I've done my whole career of -- of violating any of this. Because
16 I have. I'm not -- I'm not trying to --

17
18 **FIRST SERGEANT PARKS:** As a general practice, were you in your duty
19 station when you checked 10-41?

20
21 **SERGEANT DeVALLE:** Absolutely.

22
23 **FIRST SERGEANT PARKS:** As a general rule, did you remain in your duty
24 station without returning to your residence prior to any of your duty?

25
26 **SERGEANT DeVALLE:** Absolutely.

27
28 **FIRST SERGEANT PARKS:** As a general rule, did you remain in your duty
29 station until after your 10-42 time or after --

30
31 **SERGEANT DeVALLE:** Absolutely.

32
33 **FIRST SERGEANT PARKS:** -- your -- your time that that you were
34 expected to --

35
36 **SERGEANT DeVALLE:** I've eaten so many hours, absolutely.

37
38 **FIRST SERGEANT PARKS:** How often would you say you returned to your
39 residence for a meal?
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** Sir, I don't think I -- I don't know if I've ever
2 returned there. I've taken my meal hour at the beginning of my shift before or
3 I've taken it at the end of my shift before. But in the middle, I don't -- I've
4 never done that, if I -- if I remember correctly.

5
6 **FIRST SERGEANT PARKS:** Okay. So you've never taken a meal during the
7 middle of a shift? Okay.

8
9 **SERGEANT DeVALLE:** No, sir. It's either been before or after. And it
10 would be -- but I -- I can't recall a time that I took a meal hour in the middle
11 of my shift.

12
13 **FIRST SERGEANT PARKS:** In general, how long do you take for meal?

14
15 **SERGEANT DeVALLE:** I didn't watch the clock, sir. I mean an hour.

16
17 **FIRST SERGEANT PARKS:** An hour. Okay.

18
19 **SERGEANT DeVALLE:** Yeah. That's -- it's -- if it was at the beginning
20 of my shift, it was typically an hour. And I would go on unless there was
21 circumstances that dictated something different. And, again, I don't know the
22 dates and times, but I've had many issues that I've had to deal with as soon as
23 I checked on that required me to sit right there to deal with it.

24
25 **FIRST SERGEANT PARKS:** Going back to the meeting, you said -- you were
26 kind of unclear of whether it was a formal or informal meeting. But is it fair
27 statement to say, and is it the truth, that every level of your chain of command
28 was present in that room during that conversation, your First Sergeant,
29 Lieutenant, and Captain?

30
31 **SERGEANT DeVALLE:** Yes, sir.

32
33 **FIRST SERGEANT PARKS:** Okay.

34
35 **SERGEANT DeVALLE:** That whole -- that whole meeting was -- was very
36 confusing. And of course, I've -- that is a progressive thought process that at
37 the time I think it's this. Later on I might think it's this. And then it's so
38 confusing to me. I'm really not sure what that was about. Because if you ask
39 me on a Monday -- if it happened on Monday as soon as I left, I'm thinking
40 that's what direction he's going with it. Then I might talk to First Sergeant

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 Parks, say you were my First Sergeant Burton, and then we talked about that
2 whole thing. And -- and then it was clearly a different thought process at the
3 time for me.
4

5 But I put the pieces together when -- then Finney tells me it was, oh,
6 the Major said this and that. I'm so confused with that whole thing at that
7 point. Because he -- he clearly -- he told -- he was not truthful with that.
8 So I had no idea. But that was not a one-day thought. If you ask me at this
9 minute, yeah, that's what I'm thinking. This minute, it's changing because
10 other pieces of that puzzle are coming together. So it wasn't that clear.
11

12 **FIRST SERGEANT PARKS:** Tell us about any conversations you had with
13 First Sergeant Burton about the expectations set forth in that meeting.
14

15 **SERGEANT DeVALLE:** I don't recall any conversations with him about
16 that.
17

18 **FIRST SERGEANT PARKS:** On the way home, did you talk about the
19 meeting?
20

21 **SERGEANT DeVALLE:** I'm sure we did. I'm absolutely sure we did
22 because that was so fresh. But what I said or thought then --
23

24 **FIRST SERGEANT PARKS:** Well, I didn't ask you that. I said tell us
25 about any conversations or what you took from any conversations you had with
26 First Sergeant Burton regarding that meeting.
27

28 **SERGEANT DeVALLE:** I -- I don't recall, but I'm -- I'm certain that me
29 and him talked about that. It's -- I just -- if we didn't, that would surprise
30 me. If we --
31

32 **FIRST SERGEANT PARKS:** If First Sergeant Burton laid out of a series
33 of -- of conversations you had on the way home, then would you deny that
34 anything that he told us would be clear, factual, and accurate?
35

36 **SERGEANT DeVALLE:** Well, first of all, First Sergeant Burton will
37 never -- he's not -- he's not in my head to know what my thoughts are. I'm
38 going -- I'm going to talk to him and converse with it.
39

40 **FIRST SERGEANT PARKS:** I didn't ask you about the thoughts. I asked

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 you about actual conversations. That's words that that you shared with First
2 Sergeant --

3
4 **SERGEANT DeVALLE:** Did the First Sergeant convey -- convey to me that
5 when you check on, Sergeant DeValle, you be right here; was he that direct with
6 things? I would -- I would definitely argue the fact that we had a discussion
7 like that. Absolutely.

8
9 **FIRST SERGEANT PARKS:** So you're saying you would not have had a
10 discussion about you being in your assigned duty station when it's time to go to
11 work?

12
13 **SERGEANT DeVALLE:** I'm saying he wasn't directly saying you need to be
14 here, here, and here, and make sure you do this and that. I would -- I would
15 definitely not agree with that statement.

16
17 **FIRST SERGEANT PARKS:** Okay. You argue that there's exceptions for
18 sergeants other than troopers for -- for reasons. And of course, there's always
19 things that come up. But as a general rule, does policy set forth any exception
20 for a sergeant to -- to perform or act any differently than -- than its
21 subordinates? Is there any clear delineation in policy at the time that says
22 that you can do things differently than what a trooper does --

23
24 **SERGEANT DeVALLE:** Absolutely.

25
26 **FIRST SERGEANT PARKS:** -- in regards to the policy?

27
28 **SERGEANT DeVALLE:** Absolutely.

29
30 **FIRST SERGEANT PARKS:** And tell me what that is.

31
32 **SERGEANT DeVALLE:** That would be my job description. Five percent of
33 a sergeant's job description is the enforcement portion of what requires my
34 attention in that particular county and it -- for that particular county. But
35 95 percent of what my duties are very different than what a trooper's are.

36
37 **FIRST SERGEANT PARKS:** Absolutely. I agree with that.

38
39 **SERGEANT DeVALLE:** And, sir, I don't mean this with disrespect. I
40 hope you all don't take it that way. Because, man, I don't mean it that way at

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 all. Again, I am humbled here because this is my mess. But if I was at my
2 residence for any length of time, sir, I was working on some sort of portion of
3 a Highway Patrol -- my duties as a sergeant for the Highway Patrol. It wasn't
4 just me trying to take a hot bath or sitting and hang out. Regardless of what
5 reasons why I'm there -- I clearly understand that I'm here because that policy
6 says I can't be there is what it says. I can't be out of my county. But my
7 job, my job description does not designate -- I've got a computer, an air card,
8 I've got files. There's so many different things that my responsibilities are.
9 And that is exactly what I was executing at any time I was ever at my residence.
10

11 FIRST SERGEANT PARKS: Okay. And you bring up a fair point. You
12 acknowledge that policy says you're not to be outside of your assigned duty
13 station. And then you say that your responsibilities are very much different
14 than what a trooper's are.
15

16 SERGEANT DeVALLE: Yes, sir.
17

18 FIRST SERGEANT PARKS: And they are. And I agree. But because your
19 job responsibilities are different than a trooper's, does that give you any
20 authority to -- to work from a location other than your assigned duty station?
21 Is there any policy that says you have the authority to work --
22

23 SERGEANT DeVALLE: There's no policy --
24

25 FIRST SERGEANT PARKS: -- some --
26

27 SERGEANT DeVALLE: -- anywhere that I can recall that mandates I work
28 from any one particular spot.
29

30 FIRST SERGEANT PARKS: Well, is there a policy that says you have to
31 be in your duty station?
32

33 SERGEANT DeVALLE: Absolutely.
34

35 FIRST SERGEANT PARKS: Okay. So then is there --
36

37 SERGEANT DeVALLE: That is exactly --
38

39 FIRST SERGEANT PARKS: -- any policy that says that you're authorized
40 to be outside of your duty station, even if you are doing work-related

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 activities?

2

3 **SERGEANT DeVALLE:** Sir, I've admitted to you numerous times and I'll
4 reiterate that to you. I violated that policy, sir.

5

6 **FIRST SERGEANT PARKS:** Okay. And I just want to be real clear because
7 you say some things are not clear --

8

9 **SERGEANT DeVALLE:** Black and white, the way that --

10

11 **FIRST SERGEANT PARKS:** -- to you and I want to be real clear.

12

13 **SERGEANT DeVALLE:** -- policy is, I am outside the guidelines of
14 exactly how that's written.

15

16 **FIRST SERGEANT PARKS:** Okay.

17

18 **SERGEANT DeVALLE:** There is no question about it. I'm not arguing
19 with you about that.

20

21 **FIRST SERGEANT PARKS:** Okay.

22

23 **SERGEANT DeVALLE:** I'm admitting my -- my faults with that right there
24 and the way I've handled the business, that based on the black and white print
25 of that policy, I did not abide by that policy correctly.

26

27 **FIRST SERGEANT PARKS:** Okay. And if you would, just tell us how often
28 it is that you worked from home.

29

30 **SERGEANT DeVALLE:** Sir, there's no one time that remember -- that I
31 remember. There's nothing that -- it's not like it's once a week, twice a week.
32 It's -- it's a very rare occasion. It would be unusual circumstances. I have
33 no idea to be able to answer something like that.

34

35 **FIRST SERGEANT PARKS:** Okay.

36

37 **SERGEANT DeVALLE:** It's not one. It's not a hundred. I have no idea.

38

39 **FIRST SERGEANT PARKS:** But you say it would be rare and unusual
40 circumstances?

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** It's -- it's definitely unusual, absolutely.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

FIRST SERGEANT PARKS: But you don't deny that from -- and I'm going back to your previous interview that you had with Internal Affairs about some of these allegations, that between the dates of September 30 and November 11th, you don't deny that -- that it's possible you were at your residence -- one, two, three, four, five -- at least six different occasions?

SERGEANT DeVALLE: Sir, again, you're making me answer something that I'm not comfortable answering. You're making me say yes or no to you. And that's not a yes or no answer for me.

FIRST SERGEANT PARKS: Well, what's your answer?

SERGEANT DeVALLE: My answer is I don't know.

FIRST SERGEANT PARKS: Okay.

SERGEANT DeVALLE: I can't tell you that day. I can't tell you what hour I was here. I can't tell you what hour I was there. But you're making me tell you yes or no.

FIRST SERGEANT PARKS: I didn't ask you to answer yes or no.

SERGEANT DeVALLE: And my answer is I don't know.

FIRST SERGEANT PARKS: Okay. Okay. Well, but you didn't deny that you were at home are on the days that the news media saw your vehicle was in the driveway and the dates I referred to were not days that you were not scheduled off.

SERGEANT DeVALLE: Is one of those days when I was sick and I was questioned on that particular day?

FIRST SERGEANT PARKS: One of those days is.

SERGEANT DeVALLE: I believe I was -- sir, if -- if I'm not mistaken, I was asked -- I asked -- and I'll ask you again -- to prove myself right, whether right or wrong, to be the truthful, to give you what I can, to provide to you -- that sheet on those particular dates, so I can try to -- to remember

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 what I was doing on those particular dates. But I was denied access to that; is
2 that correct?

3
4 **FIRST SERGEANT PARKS:** I don't know. I haven't heard.

5
6 **SERGEANT DeVALLE:** I was -- I was denied the opportunity to have that
7 to -- to be more truthful with it, to tell you, because I don't know.

8
9 **FIRST SERGEANT PARKS:** I don't -- I don't know what you're asking.
10 And honestly, I don't know what you're talking about.

11
12 **SERGEANT DeVALLE:** Yes, sir.

13
14 **FIRST SERGEANT PARKS:** What I'm asking is the news media saw your
15 vehicle in the driveway -- okay. And we'll exclude the date that you're talking
16 about where you were questioned by the lieutenant, now captain. So there's five
17 dates that the news media saw your vehicle in your driveway on a date that you
18 were scheduled to work and that you reported through your 201s, annual BEACON
19 entries, that you were on duty at the time, okay?

20
21 **SERGEANT DeVALLE:** Yes, sir.

22
23 **FIRST SERGEANT PARKS:** And we have the 201s and we have the your
24 BEACON entries and we have all of that for those particular dates that show that
25 you were working between the hours of which the news media says they saw you at
26 your residence.

27
28 **SERGEANT DeVALLE:** Yes, sir.

29
30 **FIRST SERGEANT PARKS:** So my question is -- and I go back to the same
31 question. I'm trying to be very specific --

32
33 **SERGEANT DeVALLE:** Yes, sir.

34
35 **FIRST SERGEANT PARKS:** -- and very clear with you --

36
37 **SERGEANT DeVALLE:** Yes, sir.

38
39 **FIRST SERGEANT PARKS:** -- is that you say it's a rare and unusual
40 circumstance whenever you work from the house. And then I said between the

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 dates of September 30th and November 11th you were at your house -- originally, I
2 said six times, but excluding the one -- between those dates, you were at your
3 house while on duty on five different occasions?
4

5 **SERGEANT DeVALLE:** How many -- can you provide that sheet to me and
6 show me the dates?
7

8 **FIRST SERGEANT PARKS:** On September -- on or about September 30,
9 2000- --
10

11 **SERGEANT DeVALLE:** Because three of those dates --
12

13 **FIRST SERGEANT PARKS:** Listen. You asked me a question --
14

15 **SERGEANT DeVALLE:** I apologize.
16

17 **FIRST SERGEANT PARKS:** -- and I'm going to give you the dates.
18

19 **SERGEANT DeVALLE:** I apologize. You're right. I don't mean --
20

21 **FIRST SERGEANT PARKS:** September 30, 2016, at 4:04 p.m., you checked
22 10-42 -- I'm sorry, you checked 10-41 beginning tour of duty in Wayne County at
23 4:04 p.m. and 10-42 at 2:02 a.m. You did not deny the fact that you did not
24 leave your residence for that entire shift.
25

26 **SERGEANT DeVALLE:** Sir, you -- you can read all those to me --
27

28 **FIRST SERGEANT PARKS:** Well, you just asked me to read them and I'm
29 reading them.
30

31 **SERGEANT DeVALLE:** I'm asking you to provide me where I can look at
32 this so I can try to see, visually see what I'm answering to you.
33

34 **FIRST SERGEANT PARKS:** Okay. We can do that.
35

36 **SERGEANT DeVALLE:** And -- and -- and I'm looking at this document
37 right here that --
38

39 **FIRST SERGEANT PARKS:** Well, we're going to give you some 201s. Who
40 does the 201s? Who completes the weekly report for -- weekly report of daily

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 activity for your activity, who does that?

2

3 **SERGEANT DeVALLE:** Sir, I do.

4

5 **FIRST SERGEANT PARKS:** You do that. And do you sign those at the end
6 of the --

7

8 **SERGEANT DeVALLE:** Sure.

9

10 **FIRST SERGEANT PARKS:** Okay.

11

12 **SERGEANT DeVALLE:** Yes, sir.

13

14 **FIRST SERGEANT PARKS:** And is that your signature?

15

16 **SERGEANT DeVALLE:** Yes, sir.

17

18 **FIRST SERGEANT PARKS:** Is that your signature?

19

20 **SERGEANT DeVALLE:** Yes, sir.

21

22 **FIRST SERGEANT PARKS:** Is that your -- well, you didn't sign that one,
23 did you?

24

25 **SERGEANT DeVALLE:** No, sir.

26

27 **FIRST SERGEANT PARKS:** Is that your signature?

28

29 **SERGEANT DeVALLE:** Yes, sir.

30

31 **FIRST SERGEANT PARKS:** Okay. Do you have some more over there, First
32 Sergeant?

33

34 **SERGEANT DeVALLE:** What I'm -- I'm not trying to argue with you.

35

36 **FIRST SERGEANT PARKS:** You asked to see documentation.

37

38 **SERGEANT DeVALLE:** I'm looking --

39

40 **FIRST SERGEANT PARKS:** And I'll be glad to provide it.

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

SERGEANT DeVALLE: I'm looking -- I'm not looking for my 201s, sir. You're asking me about dates where I was somewhere. There was a letter written accusing me of being at my residence on these particular dates. If I could see that document with the dates that I'm being accused of, that's what I'm asking to see. I'm not denying these -- what a 201 is.

FIRST SERGEANT PARKS: Can you hand me the 201 specific to those dates?

FIRST SERGEANT SAWYER: I think they were the first ones that you had.

FIRST SERGEANT PARKS: The first ones?

FIRST SERGEANT SAWYER: Did you see -- did you ever receive a letter from WRAL dated November 16th?

SERGEANT DeVALLE: Yes, sir, I did.

FIRST SERGEANT SAWYER: Okay. Did you read that letter?

SERGEANT DeVALLE: I actually provided you guys with this letter.

FIRST SERGEANT SAWYER: Okay. Well, I'm just -- just for the record, just making sure you know what we're talking about. Are there dates listed in here within the letter?

SERGEANT DeVALLE: Yes, sir. There's --

FIRST SERGEANT SAWYER: Did you look at those dates to see if there was anything you could find for those dates?

SERGEANT DeVALLE: Yes, sir.

FIRST SERGEANT SAWYER: Were you able to -- were you able to find anything?

SERGEANT DeVALLE: Yes, sir. What I did on those -- working wise, yes, sir.

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** Okay. Well, keep them and when we get to
2 those specific dates, we want you to tell us what you did on those dates when --
3 when we get to that.

4
5 **SERGEANT DeVALLE:** Sir, I don't have that with me right here. Both
6 First Sergeants, I said this --

7
8 **FIRST SERGEANT PARKS:** Where did that BEACON sheet go?
9

10 **SERGEANT DeVALLE:** -- this happened in September of 2016. We are now
11 at 3/24. Seven months later. I -- I'm sorry that I can't answer some of these
12 questions a yes or no to seven months later or even three months later,
13 whenever. This was provided two months after that nothing at that particular
14 time stood out to me.
15

16 **FIRST SERGEANT SAWYER:** Well, if we were to ask you specific dates, if
17 we were to ask you specifically on September 30th, October 1st, October 2nd,
18 October 6th, October 14th, those five dates --
19

20 **SERGEANT DeVALLE:** Those are not the same dates that's --
21

22 **FIRST SERGEANT SAWYER:** Previous --
23

24 **SERGEANT DeVALLE:** -- on this letter.
25

26 **FIRST SERGEANT SAWYER:** -- previous to November 11th, which was the
27 date Lieutenant Morton came to your residence --
28

29 **SERGEANT DeVALLE:** Yes, sir.
30

31 **FIRST SERGEANT SAWYER:** -- would you be able to tell us what you were
32 doing on those dates?
33

34 **SERGEANT DeVALLE:** Right now?
35

36 **FIRST SERGEANT SAWYER:** If it was alleged that you were home during
37 the time that you were checked in 10-41, would you be able to tell us what you
38 were doing?
39

40 **SERGEANT DeVALLE:** Absolutely not. I can't tell you where I was; what

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 time I did any of those things, no, sir.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

FIRST SERGEANT SAWYER: Would you deny that on those dates that you were home during the 10-41 time? Because during our first interview -- and this is similar to our first interview, there were -- you acknowledged there were times -- there had been days and times that you checked on for duty at your house and for some period of time did not report to your duty station; is that correct? You -- you couldn't recall specific dates, but you acknowledge that there had been times; is that -- is that correct? Is that still true?

SERGEANT DeVALLE: Yes, sir.

FIRST SERGEANT SAWYER: And there was times that you acknowledged that you perhaps left your duty station before your 10-42 time in and came to your --

SERGEANT DeVALLE: I don't recall saying that.

FIRST SERGEANT SAWYER: Were there any occasions where you reported for duty at your house and never --

SERGEANT DeVALLE: Please --

FIRST SERGEANT SAWYER: -- and never reported to your duty station? Do you recall telling us there was one date that you --

SERGEANT DeVALLE: What -- what I recall is having to answer these questions as yes and no, like you're asking me right now that I gave those answers that you're stating right now. And, sir, and if I recall that correctly is, my answer is I don't know. And I'm being pressed to answer. So I'm forced to say yes or no to something that I don't really have an answer to.

FIRST SERGEANT SAWYER: Well, I'm not asking about specific dates no more. I'm not asking about these specific dates right now.

SERGEANT DeVALLE: Yes, sir.

FIRST SERGEANT SAWYER: Just in general, over the past six months, since last summer to -- to the time these allegations came and you were placed on administrative duty, were there times -- and you know if there were or not -- were there times where you checked on and didn't leave the house? Yes or no?

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 I'm not asking for a specific date, but was there times you checked on -- I'm
2 not talking a minute or two, you run back in the house. I'm talking you stayed
3 there hours, an hour or two or three --
4

5 **SERGEANT DeVALLE:** Yes, sir.
6

7 **FIRST SERGEANT SAWYER:** -- or never went at all. Were there ever
8 occasions in the previous six months that you checked on for duty and never
9 reported to your duty station until sometime later?
10

11 **SERGEANT DeVALLE:** I don't know. And I say that with I'm trying to
12 think of the time frames you're asking me that --
13

14 **FIRST SERGEANT SAWYER:** Well, let me ask you this, every time you
15 checked 10-41 --
16

17 **SERGEANT DeVALLE:** Yes, sir.
18

19 **FIRST SERGEANT SAWYER:** -- did you report to your duty station every
20 time?
21

22 **SERGEANT DeVALLE:** Within this --
23

24 **FIRST SERGEANT SAWYER:** Did you report to work? Did you go to work
25 every time you checked 10-41? Did you leave your residence and go to whatever
26 your assigned duties were for the day?
27

28 **SERGEANT DeVALLE:** No, sir.
29

30 **FIRST SERGEANT SAWYER:** How do you know -- all right. Why not? Why
31 didn't you go to work every day you checked 10-41?
32

33 **SERGEANT DeVALLE:** And I'm -- and that's where I'm trying to be
34 completely truthful with that.
35

36 **FIRST SERGEANT SAWYER:** And on the flip side of that, it would make
37 sense that --
38

39 **SERGEANT DeVALLE:** Sure.
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** -- that if -- if you say you did not go to
2 work every day you checked 10-41, that there were some days that you checked
3 10-41 and did not go to work; would that be fair? Even though we might not be
4 able to nail down exactly what days that was -- that they were, would that --
5 would that be a fair statement?
6

7 **SERGEANT DeVALLE:** I don't know the exact days. No. I'm not going to
8 say there's days. I can't --
9

10 **FIRST SERGEANT SAWYER:** No. I'm saying we can't -- we can't specify
11 what specific days.
12

13 **SERGEANT DeVALLE:** Well, there's not going to be multiple days where
14 I've -- the best that I can remember is there's -- I -- I do remember, I think,
15 one time where I've checked on -- and that's where I'm being truthful with
16 this -- of where I've checked on and worked the entire day from my residence
17 where I never left my residence.
18

19 **FIRST SERGEANT SAWYER:** When was that?
20

21 **SERGEANT DeVALLE:** That day, I can't -- I don't know.
22

23 **FIRST SERGEANT SAWYER:** Was it last summer? Was it last winter? I
24 mean, how long? Just a ballpark?
25

26 **SERGEANT DeVALLE:** The reason why I remember that is because I had a
27 child care issue that particular day and I could not find anybody to watch my
28 child that particular day because my wife was out of the state. So the day,
29 exact day, I don't know. But I am -- that's when you asked me have I ever
30 checked on and not left my residence; the answer is yes to that.
31

32 Did -- now, when you asked did you not go to work; that's not accurate
33 for me. And I'm not trying to play a word game with you. It's that, again,
34 I've brought home many folders and done it on my time where I've conducted
35 background investigations. That particular day, I know I worked. I know I
36 worked that I had my child there. Because I remember I having to say, "Let me
37 handle this call," or I'd be in my room and doing business. So the answer to
38 have I ever checked on and not left my residence is yes.
39

40 **FIRST SERGEANT SAWYER:** Did you receive authorization or were you ever

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 authorized --

2

3 **SERGEANT DeVALLE:** No, sir.

4

5 **FIRST SERGEANT SAWYER:** -- to stay -- stay at your home and work from
6 your residence?

7

8 **SERGEANT DeVALLE:** From First Sergeant Burton, the answer is, no, sir.

9

10 **FIRST SERGEANT SAWYER:** From any supervisor? From anyone? Did you
11 ever receive any authorization to stay at your residence on a specific --

12

13 **SERGEANT DeVALLE:** I have in the past --

14

15 **FIRST SERGEANT SAWYER:** -- day --

16

17 **SERGEANT DeVALLE:** -- yes, sir. From First Sergeant Cary Cain.

18

19 **FIRST SERGEANT SAWYER:** What type of work would you do when you
20 stayed

21 at home to work from the house?

22

23 **SERGEANT DeVALLE:** The exact same thing. Background investigations.
24 And I definitely remember that one from him over there when I was working for
25 him.

26

27 **FIRST SERGEANT SAWYER:** And you said earlier if you -- if you were at
28 home for any length of time, then you were working, you weren't just there, and
29 you said you weren't --

30

31 **SERGEANT DeVALLE:** And I'm not --

32

33 **FIRST SERGEANT SAWYER:** -- in your shorts. I think that's the
34 statement you used.

35

36 **SERGEANT DeVALLE:** And I don't want to tell you all something where
37 I'm misleading and say that I worked for a solid eight hours or ten hours,
38 because that's not true. But I performed the duties as necessary when they came
39 up to handle business accordingly that I had to do.

40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 I do remember — and this — I don't — I still haven't been provided
2 the letter that accused me of all these dates. But what I do have is this
3 letter that I actually provided to you guys because I'm not hiding nothing from
4 you guys. I'm very sorry that — that the Patrol was embarrassed because of
5 this matter. You have no idea the humiliation I have that I brought against
6 this agency that I love. But it's my mistake. But the dates that I have in
7 front of me here are what I can talk to you about and try to — to clarify
8 anything to you.
9

10 But, sir, if I was at my residence, I was working on some matter. And
11 these particular time frames that I see from September to November 11th when
12 Lieutenant Morton or Captain Morton was at my residence was a very — that
13 particular time frame does stand out to me for one particular reason. We have
14 inspections coming up in my district in C2 from, not the troop, but the
15 inspections unit.
16

17 I was in charge of fatals, wrecker inspections, radars. I had so many
18 things that required me to do. I remember making spreadsheets with my wrecker
19 inspections, going through all those. Still going through my fatal files, the
20 video logs; verifying on CAD printouts and the CAD; and then the biannual
21 inspections, those things. So that time frame does stand out to me of what I
22 was particularly doing that kept me more busy than normal. District operations.
23 To try to get prepared for the inspections unit.
24

25 That's the only reason why I remember anything in that particular time
26 frame because those things were stressful. It was a lot going on at that
27 particular time, for me. Not necessarily the other sergeant or first sergeant,
28 but for me. It was a lot of work, paperwork. So I remember doing those things.
29 All of those things, just not the actual time — I can't narrow it down to a
30 time or day.
31

32 **FIRST SERGEANT SAWYER:** So if you were home, you were working on
33 something?
34

35 **SERGEANT DeVALLE:** Yes, sir. Absolutely.
36

37 **FIRST SERGEANT SAWYER:** How about on November 11th?
38

39 **SERGEANT DeVALLE:** Tell me what stands out about that day.
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** That was the day Lieutenant Morton came to
2 your residence. Were you --

3
4 **SERGEANT DeVALLE:** I was sick that day.

5
6 **FIRST SERGEANT SAWYER:** Were you working on patrol?

7
8 **SERGEANT DeVALLE:** I didn't claim a single minute that day because I
9 was sick. No, sir. I told Lieutenant Morton that immediately when he asked me.
10 The very first thing he asked me, "Are you working?" I said, "No."

11
12 That day stands out simply because the Lieutenant was there. That
13 is -- it would be hard to not remember that day, but I answered him immediately.
14 I was not working that day.

15
16 **FIRST SERGEANT PARKS:** Let's go back to our original conversation
17 where I got sidetracked with some --

18
19 **SERGEANT DeVALLE:** And I apologize, sir.

20
21 **FIRST SERGEANT PARKS:** -- forms here. I've got some specific dates,
22 and I'm going to ask you about these, okay?

23
24 **SERGEANT DeVALLE:** Yes, sir.

25
26 **FIRST SERGEANT PARKS:** I'm not asking you to remember precisely what
27 you did on that day. What I'm asking you to do is relate what you see here in
28 front of us.

29
30 So if we go to this first day right here, we have September 30th.
31 I've got the information highlighted. I've got a little arrow here, okay. And
32 you reported that you worked how many hours that day?

33
34 **SERGEANT DeVALLE:** Ten hours, sir.

35
36 **FIRST SERGEANT PARKS:** Okay. And then in correlation to that -- what
37 this is is a BEACON printout and it shows who entered the time. And then it
38 shows who approved the time, and what type of time it was, and how many hours it
39 was total, okay?
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** Yes, sir.

2

3 **FIRST SERGEANT PARKS:** So on the 30th here, it shows that you entered
4 in ten hours into BEACON system that day, okay, as time worked, which is --
5 correlates with your 201, okay?

6

7 **SERGEANT DeVALLE:** Okay.

8

9 **FIRST SERGEANT SAWYER:** Who enters your BEACON time, first of all?
10 Who -- who's responsible for entering your BEACON time?

11

12 **SERGEANT DeVALLE:** Of course --

13

14 **FIRST SERGEANT SAWYER:** Do you enter that yourself?

15

16 **SERGEANT DeVALLE:** Of course every individual is responsible for doing
17 that theirself. I mean, am I missing something with that?

18

19 **FIRST SERGEANT SAWYER:** No I'm just asking -- clarifying, make sure --
20 did you -- you enter your BEACON time every week or --

21

22 **SERGEANT DeVALLE:** No, sir. I have not entered my BEACON time every
23 week.

24

25 **FIRST SERGEANT SAWYER:** All right. Well, not every week. You -- you
26 enter your BEACON time. Who enters your -- who enters your work time on your
27 201 --

28

29 **SERGEANT DeVALLE:** Right now, sir, I don't have a computer. I don't
30 have access to nothing to enter anything.

31

32 **FIRST SERGEANT PARKS:** Prior to being on admin duty.

33

34 **FIRST SERGEANT SAWYER:** Maurice, we're talking about in this time
35 frame. Don't make this something it's not, Maurice. Look --

36

37 **SERGEANT DeVALLE:** I'm not trying to, sir. I just don't want to --

38

39 **FIRST SERGEANT SAWYER:** Who enters -- who is responsible for entering
40 the BEACON time?

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** I'm responsible for entering my own BEACON time.
2
3 **FIRST SERGEANT SAWYER:** Okay.
4
5 **SERGEANT DeVALLE:** Absolutely.
6
7 **FIRST SERGEANT SAWYER:** And you do that?
8
9 **SERGEANT DeVALLE:** Yes, sir.
10
11 **FIRST SERGEANT SAWYER:** Okay. That's -- that's all I was -- that's
12 all I was asking.
13
14 **FIRST SERGEANT PARKS:** And this -- and this form here -- and this form
15 shows that you do that.
16
17 **SERGEANT DeVALLE:** And --
18
19 **FIRST SERGEANT PARKS:** This form shows that you enter your time and
20 you put your time in, that the First Sergeant approves your time. We're not
21 trying to trip you up. We're just trying to --
22
23 **SERGEANT DeVALLE:** And I'm not --
24
25 **FIRST SERGEANT PARKS:** -- lay it all out for you, okay?
26
27 **SERGEANT DeVALLE:** And I'm not trying to be hard to get along with,
28 sir. I apologize if that's how it seems.
29
30 **FIRST SERGEANT PARKS:** Okay. Well, that's what this report shows,
31 that you do, in fact, enter your time in the BEACON. And that you do put your
32 time there and it correlates with the time on your 201s. And that in addition,
33 it shows that the First Sergeant approves your time. That's what you would
34 expect to see on any of these type of reports, okay.
35
36 But on this particular day, which is September 30th, you're showing
37 that you worked ten hours. So you're saying that you worked a ten-hour shift,
38 and you in the performance of your duties for ten hours.
39
40 **SERGEANT DeVALLE:** Okay.

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT PARKS:** I'm asking you, would that be true?

2
3 **SERGEANT DeVALLE:** Yes, sir.

4
5 **FIRST SERGEANT PARKS:** Okay. And then on -- this would be
6 October 1st, you're showing, again, how many hours?

7
8 **SERGEANT DeVALLE:** Sir, I -- if any -- if I'm putting this down here
9 and that's what it says, then that's what it says on every one of these dates
10 that you're saying.

11
12 **FIRST SERGEANT PARKS:** But I'm going to ask you. On that day, how
13 many hours did you show that you worked?

14
15 **FIRST SERGEANT SAWYER:** Ten.

16
17 **FIRST SERGEANT PARKS:** Okay. And then this same date correlates with
18 October 1st. How many hours?

19
20 **SERGEANT DeVALLE:** Ten.

21
22 **FIRST SERGEANT PARKS:** Okay. The same thing for October 14th. You're
23 showing that you worked a total of how many hours?

24
25 **SERGEANT DeVALLE:** Ten hours.

26
27 **FIRST SERGEANT PARKS:** Okay. And October 14th, I've got an arrow here
28 and you showed that you worked?

29
30 **SERGEANT DeVALLE:** Ten hours.

31
32 **FIRST SERGEANT PARKS:** Okay. I mean it's nothing to trip you up. I
33 just want to make -- make it real clear.

34
35 **SERGEANT DeVALLE:** I'm not understanding what you're asking me, to
36 verify --

37
38 **FIRST SERGEANT PARKS:** And then --

39
40 **SERGEANT DeVALLE:** -- what I'm putting -- it's on there, but --

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT PARKS:** -- October -- okay. I'm asking you to verify
2 what you put on your --
3
4 **SERGEANT DeVALLE:** Yes, sir.
5
6 **FIRST SERGEANT PARKS:** -- 201 and what you entered into BEACON.
7
8 **SERGEANT DeVALLE:** Yes, sir.
9
10 **FIRST SERGEANT PARKS:** On October 6th, you showed that you worked how
11 many hours?
12
13 **SERGEANT DeVALLE:** Ten.
14
15 **FIRST SERGEANT PARKS:** And on October 6th, if we come over here and
16 that will correlate with -- right there, sir.
17
18 **SERGEANT DeVALLE:** Ten.
19
20 **FIRST SERGEANT PARKS:** Ten hours. Okay. So you showed that you
21 worked a full ten-hour shift on those days?
22
23 **SERGEANT DeVALLE:** Yes, sir.
24
25 **FIRST SERGEANT PARKS:** Had you not been in the performance of your
26 duties or if you had been at your house during one of these periods of time
27 where you weren't actually doing something, would you claim that as time worked?
28
29 **SERGEANT DeVALLE:** If I wasn't doing my job? If I wasn't --
30
31 **FIRST SERGEANT PARKS:** Yes.
32
33 **SERGEANT DeVALLE:** I don't understand.
34
35 **FIRST SERGEANT PARKS:** If there was a --
36
37 **SERGEANT DeVALLE:** Repeat that, please.
38
39 **FIRST SERGEANT PARKS:** Okay. If there -- if during those days that I
40 just reviewed --

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** Yes.
2
3 **FIRST SERGEANT PARKS:** -- you're showing you worked ten hours --
4
5 **SERGEANT DeVALLE:** Yes, sir.
6
7 **FIRST SERGEANT PARKS:** -- if at some point during that shift you were
8 at the house --
9
10 **SERGEANT DeVALLE:** I'm not saying that.
11
12 **FIRST SERGEANT PARKS:** I'm not -- I didn't ask you to say you were at
13 the house. If you were at the house, would you claim time worked?
14
15 **SERGEANT DeVALLE:** Yes, sir.
16
17 **FIRST SERGEANT PARKS:** Okay. Now, you say that you -- well, you say
18 that you -- when you were at the house, you'd work. You were doing something.
19 You worked. You said you worked on some inspections.
20
21 **SERGEANT DeVALLE:** There's a reason why I'm there, yes, sir.
22
23 **FIRST SERGEANT PARKS:** Right. And you said you did some -- did some
24 inspection stuff. I would assume emails. I mean, we get 5,000 of those a day.
25 Would you be sending emails, responding to troopers, making phone calls to
26 troopers?
27
28 **SERGEANT DeVALLE:** That's part of my duties, yes, sir.
29
30 **FIRST SERGEANT PARKS:** Okay. During those dates I just laid out, you
31 sent two emails and two emails only. And one of the emails you sent was in
32 regards to a Fantasy Football league or something. It deals with Fantasy
33 Football. There it is. I'll show it to you so I'm not hiding anything. It's
34 an email about Fantasy Football and that was during one of the dates in
35 question. That day you sent no other emails at all. And during those same time
36 frames that I showed you, there was no other emails sent except for one. And
37 that one email that you did send, in fact, was a work-related email, but that's
38 the only email. So there's only one work-related email during the time frames
39 that I just specified.
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** Okay.

2

3 **FIRST SERGEANT PARKS:** So --

4

5 **SERGEANT DeVALLE:** Then that's going to reiterate exactly what I said,
6 that I didn't work. Just because I'm there, didn't say I was doing something
7 for ten solid hours of doing something. I'm not trying to say that, sir.
8 And -- and --

9

10 **FIRST SERGEANT PARKS:** I understand what you're saying.

11

12 **SERGEANT DeVALLE:** And I'm repeating that. I'm not saying that just
13 because I was there, I worked for ten solid hours on Highway Patrol stuff
14 because that's not true neither. I'm not trying to tell you that.

15

16 **FIRST SERGEANT PARKS:** Okay. Well, so -- well, and you bring up a
17 good point. So you've told us what you did do during the times you were at the
18 house, but you said not for a solid ten hours. So what were you doing the other
19 times?

20

21 **SERGEANT DeVALLE:** Are you asking me?

22

23 **FIRST SERGEANT PARKS:** Yeah. I mean, I don't know. I'm asking. What
24 were you doing whenever you weren't working on Highway Patrol's stuff during ten
25 solid hours?

26

27 **SERGEANT DeVALLE:** With all due respect, sir, do you really have the
28 expectations of me remembering what I did for every hour of my day seven months
29 ago?

30

31 **FIRST SERGEANT PARKS:** I have the expectation for you to generally
32 know what you were doing.

33

34 **SERGEANT DeVALLE:** Absolutely not. That's unreasonable. I have no
35 idea, sir.

36

37 **FIRST SERGEANT PARKS:** Okay.

38

39 **SERGEANT DeVALLE:** There's absolutely no way I can remember what I did
40 seven months ago for every hour of that day.

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT.2

1 **FIRST SERGEANT PARKS:** I didn't ask you that.

2

3 **SERGEANT DeVALLE:** I can't tell you -- I can't tell you half that day.
4 I can't tell you a lot of those whole days.

5

6 **FIRST SERGEANT PARKS:** Okay. Well, let me ask you this question --

7

8 **SERGEANT DeVALLE:** For you to bring that email up, I had no idea I had
9 even done that. So that -- that -- that's -- sir, there's absolutely --

10

11 **FIRST SERGEANT PARKS:** Well, let me you this question --

12

13 **SERGEANT DeVALLE:** -- no way I can remember that.

14

15 **FIRST SERGEANT PARKS:** -- you said you stayed --

16

17 **SERGEANT DeVALLE:** If you can --

18

19 **FIRST SERGEANT PARKS:** -- home --

20

21 **SERGEANT DeVALLE:** -- you're much smarter than -- you've got a talent.

22

23 **FIRST SERGEANT PARKS:** You said you were home for an entire day and
24 you referred back and you said the reason you can remember that is because your
25 child was sick.

26

27 **SERGEANT DeVALLE:** Yes, sir.

28

29 **FIRST SERGEANT PARKS:** Okay.

30

31 **SERGEANT DeVALLE:** That stands out to me. Absolutely.

32

33 **FIRST SERGEANT PARKS:** Yes, sir. Okay. And I can understand why that
34 would, but you --

35

36 **SERGEANT DeVALLE:** Not only because my child was -- okay. Go ahead.

37

38 **FIRST SERGEANT PARKS:** But I think -- but you were expected to be at
39 work and your duty station on that day by policy. And you said, look, I admit
40 I'm not in compliance 100 percent with the policy with the way it was written.

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 And I appreciate your candor with that.

2

3 My question to you is, is what would have happened if a critical
4 incident would have come up with a trooper with being involved in a collision or
5 a shooting incident or something critical and you were at home tending to your
6 sick child with nobody to take of them, how would you have responded in that
7 circumstance?

8

9 SERGEANT DeVALLE: It's very simple.

10

11 FIRST SERGEANT PARKS: Well, I'll ask you, how?

12

13 SERGEANT DeVALLE: I would have called my first sergeant.

14

15 FIRST SERGEANT PARKS: Okay. And --

16

17 SERGEANT DeVALLE: Said First Sergeant, I am not available to handle
18 this. I'm out of pocket. I can't do it. I've got my child. I can't deal with
19 this appropriately. I need you to -- and this is why I can't do it and I need
20 you to handle this business --

21

22 FIRST SERGEANT PARKS: Okay.

23

24 SERGEANT DeVALLE: -- for the district or whatever comes up.

25

26 FIRST SERGEANT PARKS: Okay. So would it be fair to say that you
27 were -- even though you may have been working on things Highway Patrol related,
28 you were not available to tend to all the district needs and responsibilities of
29 the supervisor?

30

31 SERGEANT DeVALLE: What I am telling you is, I dealt with all the
32 duties and responsibilities of my district on those particular days and nothing
33 came up. So I dealt with it appropriately. Or I dealt with it -- any issues
34 that came up that particular day -- those particular days.

35

36 FIRST SERGEANT PARKS: And fortunately there wasn't any critical
37 incidents.

38

39 SERGEANT DeVALLE: That's right.

40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT PARKS:** But had there been a critical incident, you
2 could not have responded?
3

4 **SERGEANT DeVALLE:** Sir, I'm -- I don't want to speculate anywhere. I
5 mean you can give me an if scenario that I'll always lose.
6

7 **FIRST SERGEANT PARKS:** Maurice, you just said that -- that you
8 couldn't go and you would call the first sergeant and tell him that you were out
9 of pocket and couldn't handle it.
10

11 **SERGEANT DeVALLE:** You gave me an if. So if any of those things
12 occur, sir, at that point, I'm not available, I would have been -- I would have
13 contacted many I first sergeant immediately --
14

15 **FIRST SERGEANT PARKS:** Right.
16

17 **SERGEANT DeVALLE:** -- to tell him that.
18

19 **FIRST SERGEANT PARKS:** Exactly. That's what I'm saying.
20

21 **SERGEANT DeVALLE:** If, that's if --
22

23 **FIRST SERGEANT PARKS:** Right.
24

25 **SERGEANT DeVALLE:** -- it occurred. But it didn't occur, sir.
26

27 **FIRST SERGEANT PARKS:** But we don't have a crystal ball. As a
28 supervisor, we don't know when a critical incident is going to come up on our
29 organization.
30

31 **SERGEANT DeVALLE:** That's right. The same way -- that's -- that's
32 right.
33

34 **FIRST SERGEANT PARKS:** So we need to be available to respond if we're
35 assigned to be --
36

37 **SERGEANT DeVALLE:** Yes, sir.
38

39 **FIRST SERGEANT PARKS:** -- responsible for the district, correct?
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** Not being argumentative. My answer is, you're
2 exactly right, sir. But unfortunately, life is not that black and white.
3 And --

4
5 **FIRST SERGEANT PARKS:** Well, what other options did you have that day?
6 That day that your daughter was sick and you couldn't find anybody, what other
7 options or what other avenues could you have explored to where that wouldn't
8 have been a situation?

9
10 **SERGEANT DeVALLE:** Sir, I don't know because I don't have family here.

11
12 **FIRST SERGEANT PARKS:** Do you have sick time?

13
14 **SERGEANT DeVALLE:** Absolutely.

15
16 **FIRST SERGEANT PARKS:** Could you have called in sick?

17
18 **SERGEANT DeVALLE:** If you're giving me some solutions, I'll answer yes
19 or no if that -- if you think's a solution for you, then absolutely, that is --
20 that is an answer and a solution for that particular problem, absolutely.

21
22 **FIRST SERGEANT PARKS:** And why didn't you explore that option, just
23 out of curiosity?

24
25 **SERGEANT DeVALLE:** I don't know. I mean that's -- you know what, that
26 probably would have handled this whole thing a lot better than where I am right
27 now. I agree with that. I've admitted to you that I've done some wrong. I'm
28 not denying those facts, sir. All I can tell you is I've made some mistakes
29 here. That right there, absolutely, clearly a much better solution than how I
30 chose to do it that particular time. You're right. I -- I made the mistake.
31 I'm wrong.

32
33 **FIRST SERGEANT PARKS:** Do you have an expectation of your troopers to
34 respond and to be available to respond at any given point in time while they're
35 on duty?

36
37 **SERGEANT DeVALLE:** The answer is, yes, sir.

38
39 **FIRST SERGEANT PARKS:** Okay. And should that expectation be any
40 different for you?

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** No, sir. And I say all those things to you, First
2 Sergeant. My hands get a little worked up. I apologize. That's nothing
3 personal. I'm not trying to argue with you about any of this. Man, I'm wrong.
4

5 **FIRST SERGEANT PARKS:** And I appreciate your candor. And that --
6

7 **SERGEANT DeVALLE:** I'm wrong. Your -- your -- your responses, it's --
8 there's better ways I could have done with a lot of things. I'm wrong. I want
9 to -- I want to be accountable for my actions that I've done wrong, sir.
10

11 **FIRST SERGEANT SAWYER:** Well, and you say that. And -- and,
12 Maurice --
13

14 **SERGEANT DeVALLE:** I can't answer every question as direct as you want
15 me to answer them though.
16

17 **FIRST SERGEANT PARKS:** Well, I understand that. And -- and -- but
18 what I do expect is an answer and --
19

20 **SERGEANT DeVALLE:** Absolutely.
21

22 **FIRST SERGEANT PARKS:** -- and I do expect you to provide an answer to
23 your questions that we've asked. And you're -- you --
24

25 **SERGEANT DeVALLE:** I'm trying.
26

27 **FIRST SERGEANT PARKS:** I understand that you're saying that -- that
28 you have made some mistakes along the way. And that's what we're trying to
29 point out and get through your head to relay to us is what could you have done
30 differently? What could you have done -- what could you have done differently
31 to avoid the situation that we're in here today?
32

33 **SERGEANT DeVALLE:** Sure. Sure. I could have called any time -- any
34 time I got a complaint over the phone or to call somebody or a trooper calls in
35 with a concern, I could have immediately called my first -- there's a million
36 better way -- there's -- there's different ways I could have done it that would
37 have been more appreciate and could have kept -- clarified some of these things
38 then that I can't answer now. I could have called the First Sergeant, hey, I'm
39 still at my house. But I've got this complaint going on. I just want to let
40 you know this is why I'm still here. But this is the Monday morning

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 quarterback, me looking back that, man, I dealt with that very -- I didn't deal
2 with it appropriately.

3
4 **FIRST SERGEANT PARKS:** Well, and, you know, we deal with it obviously
5 here. And I deal with complaints every day. Do you have to call immediately
6 right then, that second, or can you wait until you get into the county into the
7 district office where you can sit down with a notepad and the telephone and get
8 prepared for -- for answering and dealing with that particular complaint? I'll
9 ask you.

10
11 **SERGEANT DeVALLE:** No, you don't have to do it right then.

12
13 **FIRST SERGEANT PARKS:** Okay.

14
15 **SERGEANT DeVALLE:** But there's times where if the phone call comes
16 into you or if -- just like we said, I could have dealt with things differently.
17 I think the biggest problem that -- or a problem I see is the communication from
18 me to my first sergeant to communicate some of these things better that would
19 have clarified a lot of this. It would have eliminated some of this. And,
20 i.e., would be, hey, I've got this going on. So if somebody sees my car at the
21 house, this is why. Me communicating to that.

22
23 **FIRST SERGEANT PARKS:** Let me ask you this. It's not just --

24
25 **SERGEANT DeVALLE:** And I don't mean to be short, sir.

26
27 **FIRST SERGEANT PARKS:** No, no. You're not being short.

28
29 **SERGEANT DeVALLE:** All I mean is it's 1:05. I've got a doctor's
30 appointment today where I have a lump on me that I'm concerned that may be
31 cancerous and today was the first day I had a chance to go. I called the
32 doctor's office immediately after I got it. By no means, please, don't take it
33 disrespectful, but I have got to leave in the next five minutes to make my
34 doctor's appointment because my life is very concerning to me.

35
36 **FIRST SERGEANT PARKS:** Well, I know. Everybody's life is concerning.

37
38 **SERGEANT DeVALLE:** And I understand that I'm -- I understand that I'm
39 in an IA investigation. And I want to please reiterate that I'm not trying to
40 be disrespectful to you. I tried to -- I brought to the attention approximately

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 two or three hours ago, that I'm not making this up, that this is when I needed
2 to leave. And we're doing our best to do this. And, sir, I apologize to have
3 to even say that.

4
5 **FIRST SERGEANT SAWYER:** All right. Well, I'm going to take you in a
6 new direction.

7
8 **SERGEANT DeVALLE:** Yes, sir.

9
10 **FIRST SERGEANT SAWYER:** And let's talk about some other points that we
11 just want to clarify from our initial interview.

12
13 **SERGEANT DeVALLE:** Yes, sir.

14
15 **FIRST SERGEANT SAWYER:** And if we need to come back and revisit
16 **BEACON**
17 times and days worked, we will.

18
19 On November 11th when Lieutenant Morton came to your residence --

20
21 **SERGEANT DeVALLE:** Yes, sir.

22
23 **FIRST SERGEANT SAWYER:** -- when he knocked on the door, where were
24 you
25 located in your residence?

26
27 **SERGEANT DeVALLE:** I was in my bedroom. I was sick.

28
29 **FIRST SERGEANT SAWYER:** Did you check on for duty that day?

30
31 **SERGEANT DeVALLE:** Yes, sir.

32
33 **FIRST SERGEANT SAWYER:** About what time did you check on for duty?

34
35 **SERGEANT DeVALLE:** I have no idea, sir. I mean, I'm not --

36
37 **FIRST SERGEANT SAWYER:** I'm going to give you the activity log --

38
39 **SERGEANT DeVALLE:** Yes, sir.

40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** -- from November 11, '16. What was your 10-41
2 time that day?

3
4 **SERGEANT DeVALLE:** It looks 2:53.

5
6 **FIRST SERGEANT SAWYER:** At 2:53. And at what time did you check 10-42
7 that day? We're still on the 11th.

8
9 **SERGEANT DeVALLE:** Okay. Okay. I'm sorry. 7:35.

10
11 **FIRST SERGEANT SAWYER:** Okay. When did you check off in relation to
12 when Lieutenant Morton arrived at your residence?

13
14 **SERGEANT DeVALLE:** Lieutenant Morton came to my house. I went to my
15 door. The first thing Lieutenant Morton asked me, "Are you working?" I said
16 "No, sir." That was the first thing, "No, sir." We had approximately a
17 30-second conversation. He brought up him coming to my house about my wife that
18 I took very personal.

19
20 **FIRST SERGEANT SAWYER:** Maurice, I -- let's -- I don't want go down
21 that road. We discussed that conversation in your original interview and -- and
22 that's not a point.

23
24 **SERGEANT DeVALLE:** We discuss all this in my original interview.

25
26 **FIRST SERGEANT SAWYER:** That's not a point. The point that we want to
27 clarify is when did you check 10-42?

28
29 **SERGEANT DeVALLE:** I immediately walked in as soon as he was done. He
30 clearly made a point to say "Well, you're on the CAD." I said, "Well, I
31 shouldn't be." I immediately walked in my house and checked off immediately.

32
33 **FIRST SERGEANT SAWYER:** Where was your MDT at?

34
35 **SERGEANT DeVALLE:** Right beside -- it was in my bedroom.

36
37 **FIRST SERGEANT SAWYER:** So you had your MDT in the bedroom with you?

38
39 **SERGEANT DeVALLE:** Yes, sir.
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT SAWYER:** And you checked on -- did you check on that
2 day using your MDT?

3
4 **SERGEANT DeVALLE:** I don't recall. If you -- I mean if you want to
5 look and see. I don't remember. I don't recall.

6
7 **FIRST SERGEANT SAWYER:** What's your registry number?

8
9 **SERGEANT DeVALLE:** 1966.

10
11 **FIRST SERGEANT SAWYER:** Will this indicate the user that checked on
12 and off in your experience with CAD?

13
14 **SERGEANT DeVALLE:** I'm not familiar with how this works out.

15
16 **FIRST SERGEANT SAWYER:** Okay.

17
18 **SERGEANT DeVALLE:** I'm familiar with this side of it.

19
20 **FIRST SERGEANT SAWYER:** Okay.

21
22 **SERGEANT DeVALLE:** I just -- I have no idea what I'm looking at right
23 there, the users or --

24
25 **FIRST SERGEANT SAWYER:** All right. But --

26
27 **SERGEANT DeVALLE:** I see my number is 1966, yes, sir.

28
29 **FIRST SERGEANT SAWYER:** But you recall that you checked 10-42 on your
30 MDT in your bedroom?

31
32 **SERGEANT DeVALLE:** Yes, sir.

33
34 **FIRST SERGEANT SAWYER:** Was Lieutenant Morton still on your front
35 porch when you did that?

36
37 **SERGEANT DeVALLE:** He was probably in my driveway. I mean we had
38 spreaded ways. So I don't know if he was in his car or -- I don't know where he
39 was because I immediately walked back in the house and checked 10-42.
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **FIRST SERGEANT PARKS:** And this was at the conclusion of your
2 conversation with Lieutenant Morton on the front porch.

3
4 **SERGEANT DeVALLE:** Yeah. It was maybe a 30-second deal of me and him
5 talking. And that wasn't -- that was -- yes. I walked back in and so I have no
6 idea where he was at that point.

7
8 **FIRST SERGEANT PARKS:** So he -- just to clarify, he come to the door?

9
10 **SERGEANT DeVALLE:** Yes, sir.

11
12 **FIRST SERGEANT PARKS:** You come to the door. You all had a
13 conversation on the front porch about things that you already discussed in your
14 previous interview?

15
16 **SERGEANT DeVALLE:** Sure.

17
18 **FIRST SERGEANT PARKS:** And then you walked back in, checked 10-42?

19
20 **SERGEANT DeVALLE:** Sure.

21
22 **FIRST SERGEANT PARKS:** And then went about your day?

23
24 **SERGEANT DeVALLE:** Maybe --

25
26 **FIRST SERGEANT PARKS:** And then he left and went about his way?

27
28 **SERGEANT DeVALLE:** Yeah. He wasn't at the house, so yes, sir. Yes,
29 sir.

30
31 **FIRST SERGEANT SAWYER:** And just for a point of clarification, once --
32 once you checked 10-42, did you have any further contact with Lieutenant Morton
33 on your front porch after you checked 10-42?

34
35 **SERGEANT DeVALLE:** Not that I recall.

36
37 **FIRST SERGEANT PARKS:** And did he come back to your house at any time
38 later?

39
40 **SERGEANT DeVALLE:** I don't think so.

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

FIRST SERGEANT PARKS: Okay.

SERGEANT DeVALLE: He -- I don't even -- I mean I'd have to look at these times to even see what time he got there. I don't -- I don't really remember. I mean I know he got there. He came, but...

FIRST SERGEANT SAWYER: So just so we're clear, you didn't check 10-42 before you went to the door?

SERGEANT DeVALLE: Sir?

FIRST SERGEANT SAWYER: Did you know Lieutenant Morton was at the door and checked 10-42 prior to going to the door because you knew you were at your residence and thought maybe you shouldn't be?

SERGEANT DeVALLE: No, sir.

FIRST SERGEANT SAWYER: You checked 10-42 on your MDT in your bedroom after Lieutenant Morton left?

SERGEANT DeVALLE: My computer stayed on all the time. I was never unavailable to help some -- help do what I needed to do. So it wasn't a matter of turning it on and off. It always stayed on even --

FIRST SERGEANT PARKS: So it was a matter --

SERGEANT DeVALLE: Even when I was off.

FIRST SERGEANT PARKS: So it was a just a matter of hitting the 10-42 and transmit pretty much?

SERGEANT DeVALLE: That's right. It happens just like that.

FIRST SERGEANT PARKS: Okay. It was --

FIRST SERGEANT SAWYER: And I believe you told us before and I'll ask you again, was that -- is that a common practice for you to check on and off using your MDT?

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

SERGEANT DeVALLE: Yes, sir.

FIRST SERGEANT SAWYER: And you do that from the -- from your residence?

SERGEANT DeVALLE: Car, residence. Yeah. Yes, sir. Because, you know, I just told you I don't 10-86/10-87, so yes, sir.

FIRST SERGEANT SAWYER: Okay. I'm going to change gears real quick and ask you another pointed question and then we're going to take a break.

Since this whole investigation has started, any aspect of this investigation, have you had any contact with anybody at TSU about anything?

SERGEANT DeVALLE: About how to -- no, sir. I called over there because my NCID password, so I've called over there --

FIRST SERGEANT SAWYER: About this investigation, have you had -- have you contacted anyone with TSU --

SERGEANT DeVALLE: Not that I recall, no, sir.

FIRST SERGEANT SAWYER: -- regarding anything about this investigation?

SERGEANT DeVALLE: No, sir. Nothing that's -- WR -- every -- everybody in this state knows about this.

FIRST SERGEANT SAWYER: Have you had any specific contact with Paul Nelson at TSU about anything, this investigation or otherwise?

SERGEANT DeVALLE: I asked for my emails. So did I -- did I elaborate on the investigation; I -- I don't think so. I asked for emails for the simple reasons that I'm looking for these particular dates trying to figure out what I was doing on those particular dates because nothing stood out to me. I was trying to figure it out to provide some documentation for you guys.

FIRST SERGEANT SAWYER: When was it, if you recall, did you do that?

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** I sent him an email. I didn't --

2 **FIRST SERGEANT SAWYER:** When? What time frame? Was it after your
3 interview with IA the first time or before or last week or when -- when did you
4 do that?

5
6 **SERGEANT DeVALLE:** I think it was after the first one trying to
7 clarify -- I don't know if it was the first one or not. I don't remember the --
8 if it was before. It was -- it was close to the beginning. I asked if he could
9 provide my emails. I think the response was, you can go into somewhere else on
10 there. I wasn't able to find them that way, so therefore, I didn't have -- I
11 couldn't find anything on my computer to -- to help me prove what I was doing on
12 these particular days for my job.

13
14 **FIRST SERGEANT SAWYER:** And you had possession of your computer at
15 that time?

16
17 **SERGEANT DeVALLE:** Yes, sir. I just want able to find it anywhere on
18 the computer, what he was saying. And I never contacted him back to -- to get
19 him -- excuse me -- to get those --

20
21 **FIRST SERGEANT SAWYER:** So how was that left? Did you ever receive
22 anything from TSU?

23
24 **SERGEANT DeVALLE:** No, sir. I asked my secretary to go in any of
25 these dates to show where anything -- had all sergeants on it so it could
26 show -- for me to kind of put timelines together. So I had those particular
27 emails from her in -- in that time frame to help me try to put together the
28 pieces of that pie.

29
30 **FIRST SERGEANT SAWYER:** Okay. The time is 1:14 p.m. We're going to
31 take a short break.

32
33 (Recess was taken from 1:14 p.m. to 1:28 p.m.)

34
35 **FIRST SERGEANT SAWYER:** The time is 1:28 p.m. We are resuming the
36 interview with Sergeant Maurice DeValle.

37
38 **SERGEANT DeVALLE,** during our break, did you have an opportunity to
39 discuss this case with anyone?
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 **SERGEANT DeVALLE:** No, sir.

2 **FIRST SERGEANT SAWYER:** You referred to the times you stayed at the
3 house and worked -- worked from home.

4 **SERGEANT DeVALLE:** Yes, sir.

5
6 **FIRST SERGEANT SAWYER:** On those occasions, would you be dressed in
7 uniform waiting to respond or would you be in civilian -- shorts or shorts or
8 whatever?
9

10 **SERGEANT DeVALLE:** I mean I -- I changed. There was times -- it's --
11 I'm not trying to be deceptive with this at all. It's just like, if I eat, when
12 I eat -- maybe I'm weird. I know I'm weird in my own little ways. But when I
13 eat, I eat in my underwear and t-shirt. Even when -- for 20 years, when I
14 worked as a trooper and my -- when I was working in the district that I lived,
15 if I'd go home and take a meal, you know, I'd eat in my underwear and t-shirt.
16 So there was times where my uniform wouldn't be on the whole time. Was I
17 prepared and absolutely ready to go to work; absolutely. I was -- everything
18 was available. But I'm certain there's times where all my uniform was not on,
19 no, sir.
20

21 **FIRST SERGEANT SAWYER:** Do you have anything?
22

23 That's all I questions we have. Anything else you would like to say
24 regarding this investigation? Anything you feel was not answered or something
25 that's -- wasn't shed in the -- the light that you intended it to be? Anything
26 you want to clarify from your interview today?
27

28 **SERGEANT DeVALLE:** Sir, I don't want to shed any light one way or
29 another. I -- I want to try to be as truthful to you guys as I can.
30

31 I do want to touch on something that was not really brought up or
32 allowed to address much today was I remember the last time that you guys asked
33 me if I was insubordinate and if I felt that I was insubordinate to
34 Lieutenant Morton. And at that time, I felt like I was pushed in a corner to
35 say yes or no to an answer. And -- and I would like to elaborate a little more
36 on that to say when he asked me personal things about my wife that has
37 absolutely nothing to do with the matter that he was dealing with on that
38 particular day, it wasn't professional. And I was -- I feel that I was simply
39 defending the right to stand up for myself at that point, that it was -- had
40

TRANSCRIPT OF SGT DeVALLE'S FOLLOW-UP INTERVIEW - PT 2

1 absolutely nothing to do with the Highway Patrol or anything when he brought
2 that personal matter to me at that particular time.

3
4 With that being said, so was I being insubordinate at that -- if
5 that's how any of you interpret that, the Patrol interprets that, I can't change
6 that. I was defending my rights, sir, for my family where it had absolutely no
7 place at that time.

8
9 But with that, should I -- should you ever say anything hateful to
10 anybody else; no. So should I have answered and responded the way I did to him;
11 no, sir. And it wasn't an insubordinate thing to me. It was just being a human
12 being and treating fair and right where that's where I say I shouldn't have said
13 anything at all in those matters, personal attacks in return. So I don't want
14 to be that person. But with the reference to the things -- so that's all I want
15 to say with that.

16
17 But with the rest of the things, sir, I've made mistakes. I know I
18 have. Not only did I humiliate myself, but the agency. That I'm sorry for. I
19 can't take any of it back. Would I do things very differently; absolutely.
20 Have I learned many things in this process; absolutely. Am I perfect; no.

21
22 I appreciate your wisdom of how you would deal with some of these
23 things differently. I didn't deal with everything appropriately. I accept my
24 punishment of being accountable for these action that I've admitted that I've
25 done wrong. And I'm just sorry. I'm sorry for you two because people know
26 you're a trooper. And I embarrassed you guys along with my department and
27 myself. I'm sorry. And that's all.

28
29 **FIRST SERGEANT SAWYER:** The time is 1:33 p.m. and this concludes our
30 interview.

31
32 Transcribed by Donna Rowe

1966 - Damm
Rd #

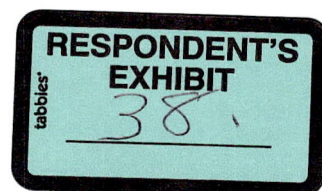
P 161111 UNIT ACTIVITY BROWSE BY PARAMETER 11/14/2016 09:01 HPDS146
012-UNTLOG END-OF-FILE REACHED

SEARCH ARGUMENT DATES(START/END): 161111/161114

| DATE | HHMMSS | UNIT NAME | 10- | SIG | HIWAY | LOCATION | STAT | MT:# | DATE | RADIO | ASGN |
|--------|--------|-----------|------------|-----|--------|--------------------|-------|------|--------|--------|-------|
| PARMS> | **** | C223 | ***** | ** | ** | ***** | ***** | ** | **** | | ** |
| 161111 | 145309 | 0C223 | DEVALLE, M | 41 | 10-41 | | | | 1966 | 161111 | CA C2 |
| 161111 | 193501 | 0C223 | DEVALLE, M | 42 | SIGNOF | | | | 1966 | 161111 | CA C2 |
| 161112 | 135428 | 0C223 | DEVALLE, M | 41 | 10-41 | | | | 1966 | 161112 | CA C2 |
| 161112 | 151537 | 0C223 | DEVALLE, M | 07 | | CELL | | | 1966 | 161112 | CA C2 |
| 161112 | 154327 | 0C223 | DEVALLE, M | 08 | | | | | 1966 | 161112 | CA C2 |
| 161113 | 014117 | 0C223 | DEVALLE, M | 42 | SIGNOF | | | | 1966 | 161113 | CA C2 |
| 161113 | 160024 | 0C223 | DEVALLE, M | 41 | 10-41 | | | | 1966 | 161113 | CA C2 |
| 161113 | 160920 | 0C223 | DEVALLE, M | 07 | | CELL | | | 1966 | 161113 | CA C2 |
| 161113 | 160942 | 0C223 | DEVALLE, M | 08 | | | | | 1966 | 161113 | CA C2 |
| 161113 | 214054 | 0C223 | DEVALLE, M | 50 | F | SR1575 BARTLETT RD | BU | 7271 | 161113 | CA C2 | |
| 161113 | 234518 | 0C223 | DEVALLE, M | 08 | | | | | 7804 | 161113 | CA C2 |
| 161114 | 021758 | 0C223 | DEVALLE, M | 42 | SIGNOF | | | | 1966 | 161114 | CA C2 |

P = PARAMETER ENTRY SCREEN----- (F11) I = INQUIRY (CURSOR)----- (F5)
F = NEXT PAGE----- (F8) R/G = UNIT ACTIVITY/SYSTEM MENU- (F2/F1)

4-© § 1 Sess-1 192.168.200.2 HPT6036 1/2



FILED
OFFICE OF ADMINISTRATIVE HEARINGS
02/27/2020 2:37 PM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle,
Petitioner,

v.

NC Sheriffs Education and Training
Standards Commission,
Respondent.

**ORDER TO FILE
PROPOSED FINAL DECISIONS**

Respondent's counsel indicated that transcripts were requested on December 18, 2019 and that pursuant to the terms of the Transcript Request Form, such transcripts were to be delivered to the parties via regular delivery. Regular delivery, as indicated on the form, is "15 days from [the] last day of hearing via electronic means." However, as of the date of this Order, the parties, nor OAH, has received the transcripts in this matter.

The parties are ORDERED to file Proposed Final Decisions on or before thirty (30) days from the date of the parties' receipt of transcripts in this matter.

This the 27th day of February, 2020.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael C Byrne
Self Employed
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

Benjamin Zellinger
North Carolina Department of Justice
bzellinger@ncdoj.gov
Attorney For Respondent

Ryan Frank Haigh
North Carolina Department of Justice
rhaigh@ncdoj.gov
Attorney For Respondent

This the 27th day of February, 2020.



Jerrod Godwin
Administrative Law Judge Assistant
N.C. Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285
Phone: 919-431-3000

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
03/12/2020 3:32 PM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A Devalle,
Petitioner,

v.

NC Sheriffs Education and Training
Standards Commission,
Respondent.

**AMENDED ORDER TO FILE
PROPOSED FINAL DECISIONS**

Upon review of the undersigned's Order to File Proposed Final Decision, and the recent filing of both volumes of transcripts in this matter, with Volume I having been filed on March 6, 2020, and Volume II having been filed on March 12, 2020, the parties are ORDERED to file Proposed Final Decisions in this matter on or before **April 14, 2020**.

This the 12th day of March, 2020.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Michael C Byrne
Self Employed
michael@mbyrnelawnc.com
Attorney For Petitioner

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

Benjamin Zellinger
North Carolina Department of Justice
bzellinger@ncdoj.gov
Attorney For Respondent

Ryan Frank Haigh
North Carolina Department of Justice
rhaigh@ncdoj.gov
Attorney For Respondent

This the 12th day of March, 2020.



Jerrod Godwin
Administrative Law Judge Assistant
N.C. Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285
Phone: 919-431-3000

STATE OF NORTH CAROLINA
COUNTY OF WAYNE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

Maurice A. DeValle,

Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

RESPONDENT'S PROPOSAL
FOR DECISION

This case proceeded to hearing on December 3, 2019, before Administrative Law Judge Melissa Owens Lassiter, in Raleigh, North Carolina. This case was heard after Respondent requested, pursuant to N.C.G.S. § 150B-40(e), designation of an Administrative Law Judge to preside at the hearing of a contested case under Article 3A, Chapter 150B of the North Carolina General Statutes.

APPEARANCES

Petitioner: Michael C. Byrne
Attorney for Petitioner
150 Preston Executive Center Drive
Suite 201
Cary, NC 27513

Respondent: Ryan Haigh
Attorney for Respondent
N.C. Department of Justice
Special Prosecutions and Law Enforcement Section
9001 Mail Service Center
Raleigh, North Carolina 27699-9001

ISSUES

1. Whether Respondent's proposed denial of Petitioner's justice officer certification for the commission of the Class B misdemeanor offense of Willful Failure to Discharge his Duties, in violation of N.C.G.S. § 14-230, was supported by a preponderance of the evidence?
2. Whether Respondent's proposed denial of Petitioner's justice officer certification for failing to meet the minimum standards for justice officer certification based upon his lack of good moral character was supported by a preponderance of the evidence?

APPLICABLE RULES and STATUTES

N.C.G.S. § 14-230
12 NCAC 10B .0204(d)(2)
12 NCAC 10B .0103(10)(b)
12 NCAC 10B .0301(a)(8)
12 NCAC 10B .0204(b)(2)

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, and the entire record in this proceeding, the undersigned Administrative Law Judge makes the following FINDINGS OF FACT.

In making the FINDINGS OF FACT, the undersigned Administrative Law Judge has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate facts for judging credibility, including, but not limited to, the demeanor of the witness, any interests, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences, about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case.

FINDINGS OF FACT

1. Both parties are properly before this Administrative Law Judge, in that jurisdiction and venue are proper, both parties received notice of hearing, and that the Petitioner received by certified mail, the proposed denial letter (Respondent's Exhibit 2), mailed by Respondent, the North Carolina Sheriffs' Education and Training Standards Commission (hereinafter "the Commission"), on January 28, 2019.
2. The Commission has the authority granted under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10B, to certify justice officers and to revoke, suspend, or deny such certification under appropriate circumstances, with valid proof of a rule violation.

3. Petitioner is an applicant for deputy sheriff certification through the Columbus County Sheriff's Office where Petitioner began employment on or about August, 2017.
4. Respondent previously certified Petitioner via the Cabarrus County Sheriff's Office where he served as a deputy sheriff from 1996 to 1998.
5. The North Carolina Justice Education and Training Standards Commission previously certified Petitioner through the Department of Public Safety / NC State Highway Patrol where he served as a trooper from November 25, 1998 through April 24, 2017.
6. The NC State Highway Patrol (hereinafter "Patrol"), dismissed Petitioner after it was determined that he violated the Patrol's policies with regard to truthfulness, neglect of duty, insubordination, and violation of rules establishing residence policies.
7. Petitioner's duty station with the Patrol was Wayne County, North Carolina.
8. In November 2016 it was Patrol policy that a trooper must live within 20 miles of his or her duty station.
9. Respondent's Exhibit 1, which was entered into evidence, notes that in February 15, 2015, Respondent requested to reside in Johnston County at 400 Hillside Drive. This residence was within the 20 mile requirement. This was approved. Petitioner admitted during the internal affairs investigation that he never stayed, resided, or parked his patrol car at this residence.
10. Petitioner thereby submitted a falsified official document in the course of his duties with regard to his residency status.
11. In fact, Petitioner resided on Blue Ridge Road, in Southern Wake County.
12. Petitioner's residence was approximately 35 miles from the county line of Wayne County and approximately 44 miles from Troop C, District 2, District Office, in violation of Patrol policy at that time.
13. Petitioner admitted that he violated Patrol policy in this regard.
14. The State Highway Patrol Policy Manual, Directive H.1, paragraph XV provides that:

Members shall report for duty at the time and place required by assignment or orders and shall be capable of performing their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they can immediately perform their duties.
15. Pursuant to this rule, in November, 2016, Highway Patrol protocol required troopers not to call in as being on-duty until they reached their duty station.

16. In early 2016, Petitioner met with Captain Holmes, Lieutenant Finney and First Sergeant Gerald Burton (hereinafter "Burton") to ensure that Petitioner understood that "he was to be where he was supposed to be and doing what he was supposed to be doing."
17. Later that day, Burton, Petitioner's direct supervisor, followed up with Petitioner and emphasized that this meant that Petitioner should be in Wayne County when he was supposed to be working.
18. Petitioner later admitted to Internal Affairs for the Patrol that he understood he was supposed to be in Wayne County when working.
19. At no time was Petitioner granted permission while assigned to Wayne County to work from home while on-duty. Petitioner never requested to do so.
20. On Friday, November 11, 2016, at approximately 2:53 P.M., Petitioner signed into the Highway Patrol CAD system as being on-duty from his residence in Wake County.
21. Petitioner was at home and not dressed for work when he signed on as being on-duty at his duty station – Wayne County.
22. Captain Christopher Morton (hereinafter "Morton"), upon orders from superiors, went to Petitioner's residence at approximately 7:00 P.M., and found Petitioner still present and out of uniform.
23. Petitioner acknowledged that the system was still showing him as on-duty.
24. Petitioner alleged that he had attempted to sign off for the first time around 5:00 P.M., over two hours after he had claimed to be on-duty at his duty station.
25. Petitioner admitted that during this two hour period he was lying in bed and showering, and had not been engaged in work-related activity.
26. Petitioner admitted that he had been at his residence, out of uniform, the whole day.
27. Petitioner, however, never called anyone on the Patrol for coverage or notified anyone that he was ill.
28. Petitioner did actually sign-off without issue at approximately 7:35 P.M., immediately after Morton left his residence in Wake County.
29. Petitioner refused Morton's request to have Petitioner come to Patrol, and stated that he wasn't leaving his home. He instead questioned Morton's leadership style and the legacy he was leaving at the Patrol. Morton was a superior in Petitioner's chain of command at the time.
30. Petitioner signed in to work eight days between September 22, 2016, and October 6, 2016.

31. Petitioner claimed 767 miles driven during that period on his Weekly Reports of Daily Activity.
32. The Patrol fuel logs which keep track of vehicle mileage demonstrated that Petitioner had only driven 292 miles during that period.
33. If Petitioner had merely driven to the Wayne County line from his residence in Wake County on eight days, it would have required a minimum of 560 miles. Having driven a total of 292 miles, Petitioner could have made it to the Wayne County line and back only three times during these eight working days.
34. Petitioner was not present at his duty station in Wayne County during this period at times when he claimed that he was present and on-duty.
35. At no time did Petitioner contact Patrol troopers or superiors and let them know that he was not at his duty station and that he needed coverage.
36. Petitioner admitted that on occasion he drove home for lunch and stayed at home for extended periods of time.
37. Petitioner admitted that on multiple occasions he returned to his residence prior to the end of his shift and remained there for the remainder of his shift.
38. Petitioner admitted that he signed on as on-duty and stayed home for his entire shift.
39. Petitioner admitted that when he was on-duty at his residence he should have been in Wayne County.
40. Petitioner admitted this was a violation of Patrol policy.
41. Petitioner admitted that time spent at his residence was nonetheless time that he claimed hours worked with the Patrol.
42. Despite these hours spent at home while on-duty, Petitioner did not modify his time sheets accordingly by deducting this time from hours worked.
33. Petitioner attempted to justify these circumstances by stating that a "very, very small percentage" of his job duties involved being on patrol.
43. However, Petitioner filled out weekly reports of daily activity and claimed that approximately 40% of his time was spent on patrol in Wayne County.
44. Additionally, for the period of eight days reviewed between September 22, 2016, and October 6, 2016, in which Petitioner was allegedly spending time on administrative duties, Petitioner only sent two emails - one of which was for fantasy football.

45. Petitioner was responsible for overseeing troopers that were his junior as part of his responsibilities as a supervisor.
46. The public was injured by Petitioner's conduct. The State paid Petitioner to perform duties in Wayne County when Petitioner was not in Wayne County, and accordingly could not perform those duties. Wayne County was deprived of his services. The public paid Petitioner for work that he did not fulfill. Petitioner was also unable to provide training and support to troopers under his command in light of his absence from Wayne County. Petitioner's conduct also created an inherent lack of trust and dispersion of the reputation of the Patrol, which is also a public injury.
47. Transcripts of Petitioner's statements to Patrol Internal Affairs on November 15, 2016, November 18, 2016, and March 27, 2017, corroborate testimony regarding Petitioner's former admissions. They also provide substantial statements of Petitioner made closer in time to the events in question, shedding light on facts that Petitioner allegedly no longer recalls.
48. Petitioner's conduct while testifying demonstrated a lack of candor and veracity with regard to his statements. In fact, the record demonstrates that Petitioner feigned lack of memory, or confusion when Respondent sought answers to questions about 2016, even after his recollection was refreshed with his prior statements. In contrast, Petitioner readily recollected circumstances from this period when questioned by his own counsel without having to review any materials. This demonstrates a profound lack of candor and truthfulness on the part of Petitioner.
49. The foregoing demonstrates that his lack of truthfulness remains an issue.

BASED ON the foregoing findings of fact, the undersigned makes the following:

CONCLUSIONS OF LAW

1. The parties are properly before the undersigned Administrative Law Judge and jurisdiction and venue are proper.
2. The Office of Administrative Hearings has personal and subject matter jurisdiction over this contested case. The parties received proper notice of the hearing in this matter. To the extent that the Findings of Facts contain Conclusions of Law, or that the Conclusions or Law are Findings of Fact, they should be so considered without regard to the given labels.
3. The party with the burden of proof in a contested case must establish the facts required by N.C.G.S. § 150B-23(a) by a preponderance of the evidence. N.C.G.S. § 150B-29(a). The

administrative law judge shall decide the case based upon the preponderance of the evidence. N.C.G.S. § 150B-34(a).

4. Petitioner has the burden of proof in the case at bar. Overcash v. N.C. Dep't. of Env't & Natural Res., 172 N.C. App 697, 635 S.E.2d 442 (2006).
5. Respondent, pursuant to 12 NCAC 10B .0204(d)(2), has authority to deny certification of a criminal justice officer when the Commission finds that the applicant has committed a Class B misdemeanor within five years.
6. 12 NCAC 10B .0103(10)(b) states that a Class B Misdemeanor means an act committed or omitted in violation of any common law, criminal statute or criminal traffic code of this State which is classified as a Class B Misdemeanor as set forth in the "Class B Misdemeanor Manual" as published by the North Carolina Department of Justice.
7. Willfully failing to discharge duties, in violation of North Carolina General Statute § 14-230, is a Class B Misdemeanor according to the "Class B Misdemeanor Manual."
8. The essential elements of the offense of willfully failing to discharge duties are: (1) that the defendant was an official of a State institution, (2) that he willfully failed to discharge the duties of his office, and (3) that injury to the public resulted. State v. Birdsong, 325 N.C. 418, 384 S.E.2d 5 (1989).
9. The role of being a Patrol officer satisfies the first element of the offense. See, e.g., State v. Fesperman, 264 N.C. 160, 141 S.E.2d 255 (1965); State v. Teeter, 264 N.C. 162, 141 S.E.2d 253 (1965); State v. Stogner, 264 N.C. 163, 141 S.E.2d 248 (1965); State v. Hord, 264 N.C. 149, 141 S.E.2d 241 (1965).
10. The facts tend to show that Petitioner's duties required him to be present in Wayne County when on-duty, as that was his duty station. In early 2016, numerous superiors emphasized this fact to Petitioner. Between September 22, 2016 and November 11, 2016, failed to leave his home and report to his duty station on numerous occasions. Thus, Petitioner willfully failed to discharge his duties.
11. The facts further show that Petitioner, nonetheless, claimed that he worked during these periods and received compensation for his alleged working hours. The State was therefore deprived of the services for which it subsequently paid Petitioner based upon his false assertions, and Wayne County was deprived of his Patrol services. This amounts to injury to the public.
12. Accordingly, competent evidence was presented to support Respondent's contention that Petitioner committed the crime of willfully failing to discharge duties, in violation of North Carolina General Statute § 14-230.

13. Respondent, pursuant to 12 NCAC 10B .0204(b)(2), has the authority to, and is required to, deny the certification of a criminal justice officer when he or she has been found to have failed to maintain any of the employment or certification standards required by 12 NCAC 10B .0300.
14. One of these minimum standards of employment is that the applicant be of good moral character pursuant to 12 NCAC 10B 0301(a)(8).
15. Good moral character has been defined as “honesty, fairness, and respect for the rights of others and for the laws of the state and nation.” In re Willis, 288 N.C. 1, 10, 215 S.E.2d 771, 779 (1975), appeal dismissed, 423 U.S. 976, 96 S. Ct. 389, 46 L. Ed. 2d 300 (1975).
16. Petitioner was not honest when he alleged on his time sheets that he was performing his duties as a trooper assigned to Wayne County, when in fact he was at home in Wake County. It was not fair that he was paid for these hours. He did not respect the rights of those members of Wayne County who are entitled to law enforcement protection – rights which he was sworn to protect. He certainly did not uphold the laws of this State as a Patrol officer while being present at home.
17. In the present matter, an individual submitted false time and mileage sheets, thereby defrauding the State, falsely claimed to have been actively serving members of the community, and yet still is bold enough to argue that he is in possession of good moral character.
18. Although not alleged to have committed the felony of obtaining property by false pretenses, the fact that Petitioner submitted false time sheets purporting to accurately reflect the hours he worked, that the State was deceived by these false reports, and that Petitioner thereby obtained compensation to which he was not entitled, certainly satisfies the elements of this crime.
19. Generally, isolated instances of conduct are insufficient to properly conclude that someone lacks good moral character. In Re Rogers, 297 N.C. 48, 59, 253 S.E. 2d 912, 919 (1979).
20. In Petitioner’s case, the aforementioned conduct did not occur one time. It was a scheme which Petitioner carried out over the course of weeks or months, even after being cautioned about such conduct by his superiors.
21. Moreover, Petitioner has not established that he has restored or regained his good moral character. In fact his profound lack of candor and truthfulness while testifying under oath demonstrates that truthfulness is still a challenge for Petitioner.

22. Petitioner did not offer substantial evidence that he possesses the good moral character required of a justice officer.
23. Therefore, competent evidence was presented to support Respondent's contention that Petitioner lacks the required good moral character to satisfy the minimum standards required to be certified as a justice officer.

PROPOSED ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is proposed that Respondent **DENY** Petitioner's justice officer certification for a period of **not less than five (5) years** for the commission of the Class B Misdemeanor offense of Willful Failure to Discharge his Duties, in violation of N.C.G.S. § 14-230, and that Respondent **INDEFINITELY DENY** Petitioner's justice officer certification because he lacks the good moral character required of a justice officer.

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this Proposal for Decision, to submit proposed Findings of Fact, and to present oral and written arguments to the agency. N.C.G.S. § 150B-40(e).

The agency that will make the final decision in this contested case is the North Carolina Sheriffs' Education and Training Standards Commission.

This the ____ day of _____, 2020.

Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **PROPOSAL FOR DECISION** has been electronically filed using the Office of Administrative Hearings electronic filing system and duly served upon **Petitioner's counsel** via same to the address below:

Michael C. Byrne
mbyrne@mbyrnelawnc.com

This the 26th day of March, 2020.

JOSHUA H. STEIN
Attorney General

/s/ Ryan F. Haigh
Ryan F. Haigh
Special Deputy Attorney General
ATTORNEY FOR THE COMMISSION

WITNESSES

Called by Petitioner: Petitioner, Stedman Jody Greene, Jeremiah Johnson

Called by Respondent: Sirena Jones, Petitioner, Gerald Burton, John Christopher Morton, James Wingo,

PRELIMINARY MATTERS

1. Petitioner made a motion to exclude witnesses from the hearing room, which the Court granted.
2. The Court granted an exclusion of evidence motion based on failure to timely produce documents in discovery.

ISSUE

Whether Respondent properly found probable cause to deny Petitioner's certification as a deputy sheriff for lack of good moral character on the basis that Petitioner committed the Class B misdemeanor of "Willful Failure to Discharge Duties" in violation of N.C.G.S. Chapter 14-230

BURDEN OF PROOF

The parties having briefed the issue, the Court finds it both appropriate and legally correct to place the burden of proof on the Respondent, as Petitioner is currently certified as a law enforcement officer in North Carolina and this case involves an allegation that Petitioner committed a crime for which he has never been charged, convicted, pleaded guilty, or otherwise found responsible for.

PARTY REPRESENTATIVES

The Petitioner's party representative per the sequestration order was Petitioner. The Respondent's was Sirena Jones.

FINDINGS OF FACT

In making the Findings of Fact, the undersigned has weighed all the evidence and assessed the credibility of the witnesses. The undersigned has taken into account the appropriate factors for judging credibility of witnesses, including but not limited to the demeanor of the witness, any interests, bias, or prejudice the witness may have. Further, the undersigned has carefully

considered the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case. After careful consideration of the sworn witness testimony presented at the hearing, the documents and exhibits admitted into evidence, and the entire record in this proceeding, the undersigned makes the following FINDINGS OF FACT:

FINDINGS OF FACT

Petitioner, a certified law enforcement officer in North Carolina, served for nearly 20 years with the North Carolina Highway Patrol. Up until the incidents that comprise the Respondent's evidence in this case, Petitioner's service with the Patrol appears to have been largely distinguished and discipline free. The evidence in this hearing demonstrated that Petitioner's superiors were generally aware of Petitioner's residential status and raised few or no complaints until the issue arose in the media. T. 1, 253-254.

After media reports surfaced that Petitioner was living in Wake County, North Carolina while his duty station was in Wayne County, North Carolina, the Highway Patrol conducted an internal investigation. Ultimately, Petitioner was dismissed from employment for several violations of Patrol policies. Notably, the Highway Patrol in terminating Petitioner did not find that Petitioner committed the criminal offense of Willful Failure to Discharge Duties in violation of N.C.G.S. 14.-230, though it did find Petitioner violated Patrol policies with respect to his duties.

Petitioner grieved his dismissal and the Office of Administrative Hearings ultimately found just cause to uphold Petitioner's termination from the Highway Patrol. The issue of whether Petitioner was properly dismissed from the Highway Patrol is not before this Tribunal.

The offense described in N.C.G.S. 14-230 section has two components: (1) That the defendant be an official of a State institution, and (2) that he willfully fail to discharge the duties of his office; additionally, injury to the public is a judicially recognized element of the crime. State v. Birdsong, 325 N.C. 418, 384 S.E.2d 5 (1989). Specifically, injury to the public must occur as a consequence of the omission, neglect or refusal. State v. Rhome, 120 N.C. App. 278, 462 S.E.2d 656 (1995).

The Tribunal specifically finds as facts that Petitioner has never been convicted of the crime of “neglect of duty,” nor has he pleaded guilty to it. Petitioner has never been found civilly responsible for any such crime. Petitioner has never been charged, arraigned, or been indicted by a grand jury for the crime Respondent alleges he committed. T. 1, 59-60.

The allegation that Petitioner committed the crime alleged arose following an investigation by an employee of Respondent, Sirena Jones, when Petitioner sought certification as a deputy sheriff. Since 2017, Petitioner has served as a deputy sheriff school resource officer at East Columbus High School.

Sirena Jones has no background in law enforcement or legal areas. She has no law degree. She has never served as a law enforcement officer, including as a deputy sheriff. She has never taken Basic Law Enforcement Training. Her college degree was in sociology with a minor in criminal justice. In the course of conducting her investigation regarding Petitioner’s fitness to serve as a deputy sheriff, Jones did not interview the sheriff under whom Petitioner serves. She did not interview Petitioner’s supervisor. *Q. “Did you interview anybody with respect to how my client has discharged his duties as a deputy sheriff at all?” A. “No.”* T. 1, 56-57.

Despite agreeing that interviewing persons with knowledge is one of the primary methods by which an investigator would find facts, Jones did not conduct any interviews before making her report to Respondent’s Probable Cause Committee, which ultimately led to the allegation that Petitioner committed a criminal offense. T. 1, 57-58. In addition to failing to interview Petitioner’s supervising sheriff and school principal, Jones did not interview Petitioner himself. T. 1, 58-59.

Ultimately, Jones admitted that she interviewed no one in the course of her investigation, including any persons having knowledge of how Petitioner performed his duties as a deputy sheriff. T. 1, 56. Indeed, during the hearing, Respondent failed to put on any evidence at all regarding Petitioner’s performance of his duties as a deputy sheriff, or any evidence concerning activities that took place at a time more recent than 2016, which was almost four years ago at the time of the hearing.

When Jones wrote her report for the Respondent’s Probable Cause Committee, she was essentially

writing what someone else said in the Highway Patrol's Internal Affairs report, by her own admission. Likewise by her own admission, the statements in her report were not the result of an independent investigation by Jones herself. T. 1, 57. This included her findings regarding Petitioner's time slips versus his hours worked, as Jones could not confirm that she actually reviewed the time slips at issue. T. 1, 57. These time slips were admitted to attempt to bolster Respondent's case that Petitioner was untruthful; however, this information was never submitted to the Respondent nor considered by the Respondent in connection with its probable cause determination.

Jones, at hearing, was unable to state the elements of the crime of "neglect of duty." T. 1, 63.

Jones was unable to state what Petitioner's job was when he was employed by the Highway Patrol. T. 1, 65. She was likewise unable to state whether his job duties included regularly responding to calls. T. 1, 65. When asked how she could claim that Petitioner neglected his duties to the extent of committing a crime if she does not know the duties that a Highway Patrol sergeant performed, Jones replied, "That was the finding of the Highway Patrol." T. 1, 65. However, as noted, at no time did the Highway Patrol find that Petitioner committed a crime; rather, it found that Petitioner violated Highway Patrol policies.

Jones, at hearing, was unsure which file she had reviewed in connection with her investigation of Petitioner. She initially stated that she reviewed an "SBI" file, only to correct herself after being led by Respondent's counsel that she reviewed a Highway Patrol investigative file.

Despite admitting that Petitioner had been working as a deputy sheriff for two and a half years, Jones had no knowledge of what Petitioner did while working in that position. T. 1, 67. She had no information at all about Petitioner that was less than four years old. T. 1, 56.

James Wingo, a retired member of the Highway Patrol, testified for Respondent in reference to the mileage and travel data referenced above.¹ Wingo had never discussed any of this information with Petitioner or asked him about it. T. 1, 177. Jones never interviewed Wingo in the course of her

¹ The fuel logs (Exhibit 20) were not entered by Petitioner. T. 1, 172-173.

investigation and none of the information Wingo testified to was shared with or considered by Respondent's Probable Cause Committee, and likewise is not reference in the Probable Cause memorandum. T. 1, 167-168. Wingo testified that he did not have any firsthand knowledge as to how Petitioner conducted himself in terms of truthfulness or conformance with policies during his service as a deputy sheriff in Columbus County. T. 1, 168-169.

Multiple witnesses testified regarding Petitioner's dismissal from the Patrol. None of these witnesses were interviewed by Jones or any person employed with Respondent as a part of Respondent's investigation. None of these witnesses alleged that Petitioner committed the crime of "Willful Neglect of Duties" in violation of N.C.G.S. 14-230. None of these witnesses had any knowledge of Petitioner's conduct during his two and half (at the time) years of service in the position for which he is seeking certification. None of these witnesses testified that Petitioner lacked good moral character, either generally or to serve as a deputy sheriff in the State of North Carolina. It is again notable that none of these witnesses were interviewed by any investigator or employee of Respondent prior to Respondent finding probable cause that Petitioner committed a crime.

While at least one witness testified that he visited Petitioner at home when he was "checked in" on duty and found him in street clothes, there was no surveillance presented to demonstrate that Petitioner was not actually working while he was at home or was not doing Patrol work when he claimed to be doing so.

The Highway Patrol witnesses were consistent in testifying that most of Petitioner's duties could be accomplished remotely. As to those that could not be, no witness testified as to a finding that Petitioner failed to complete any of those duties as expected.

No witness testified that as a direct result of Petitioner's actions, any task went undone or any call went unanswered. There was no competent evidence produced of actual injury to the public caused by Petitioner's actions while employed by the Highway Patrol, and all the evidence produced regarding Petitioner's service as a deputy sheriff, which was notably more recent, was that

Petitioner performed that service commendably and meeting all expectations of his superiors. See, e.g., T 1, 250-252.

Steadman Jody Greene is the Sheriff of Columbus County, Whiteville, North Carolina. Petitioner works for Sheriff Greene as a deputy in the capacity of the school resource officer. In this capacity Petitioner is armed with both lethal and non-lethal weapons. T. 1, 31. Petitioner serves at the pleasure of the Sheriff. T. 1, 32. Sheriff Greene, who had been hospitalized, left the hospital to testify on behalf of Petitioner on the day of the hearing. T. 1, 30.

Sheriff Greene was aware that Petitioner has been dismissed from the Highway Patrol as Petitioner had informed him of it. When asked, Sheriff Greene was satisfied that Petitioner had good moral character T. 1, 32. Sheriff Greene stated that he had special trust and confidence in Petitioner because of the importance of the school resource officer position today. T. 1, 32-33.

Sheriff Greene testified that if Petitioner was unable to serve as a deputy, it would negatively impact his force, and that he was satisfied that Petitioner had performed his duties “above and beyond.”

Like I said, that's why I'm sitting here today to tell y'all how important this man is to my agency, what he does for us.

Q. And you recommend him to serve with no hesitation whatsoever?

A. None whatsoever. None.

Q. And you are perfectly satisfied with the way he's performed his duties?

A. Above and beyond.

T. 1, 34.

Based on Petitioner’s service as a deputy sheriff, Sheriff Greene had no hesitation as to Petitioner’s truthfulness or ability to tell the truth. T. 1, 38.

Jeremiah Johnson is principal at East Columbus High School in Lake Waccamaw, North Carolina. T. 1, 233. Johnson knows Petitioner in two capacities. Petitioner serves as East Columbus High School’s school resource officer, and he also serves as an assistant football coach and track coach. Id.

Petitioner, as noted, has served as a school resource officer at East Columbus High School since 2017. Johnson has the opportunity to watch Petitioner perform those duties “every day” that school is in session. T. 1, 233.

Johnson stated that Petitioner in his duties as a school resource officer was “dedicated to the school, dedicated to the students, dedicated to the staff. He comes to school -- comes to work every day, is there to serve and protect. He's part of my administrative team. He's almost my right-hand man.” T 1, 234.

When asked whether he had had an opportunity to form an opinion as to Petitioner’s character, Johnson said that he had: “He is an awesome person. He is an awesome man. And I'm not just saying that for me. I'm saying that for my kids at my school.” T 1, 234. When asked whether Petitioner had ever committed any act that would cause Johnson to doubt Petitioner’s capacity to be truthful, Johnson answered, “No.” *Id. Q. “And to be clear, is there any doubt in your mind based upon what you observed that Deputy DeValle lacks the character to serve in the role he is serving at your institution?” A. “He does not lack that character.”* T. 1, 239.

Johnson testified that he would not have permitted Petitioner to serve as an assistant football coach and track coach, in addition to serving as a school resource officer, if he had any doubts about Petitioner’s character. T. 1, 235.

If Petitioner was no longer able to serve East Columbus as a school resource officer, Johnson said, the lack of Petitioner’s presence would make the school less safe. T. 1, 236. Johnson also spoke of the strong professional bond that exists between himself as principal and Petitioner as the school resource officer. *Id. Q. “And in terms of interaction with the students, would that suffer if he was not able to be there?” A. “Tremendously, it would. Like I said, these kids, they look up to him.”* T 1, 239.

Johnson stated that Petitioner was the best of the school resource officers he had worked with. *Q. In your experience working with SROs, has any other predecessor been able to do that better? A.*

No. He does -- he's done it the best, and I've worked and trained many SROs as a school administrator." T 1, 239.

Johnson completed his testimony by describing an event where Petitioner intervened to help a student stay in school after a traumatic family event. That student recently signed a letter of intent to play college football. T. 1, 240. Johnson also testified to examples of Petitioner helping other students and concluded: "He's bought shoes for kids. He's given them their lunch. He's given them their food. You know, we all -- he's where he -- he's where he belongs." T. 1, 240

No one from the Respondent, including Jones, ever contacted Johnson regarding Petitioner's performance of his duties as a school resource officer, his character, or anything else. T. 1, 238.

Respondent's counsel asked no questions of Johnson. T. 1, 241.

Petitioner admitted that he violated Highway Patrol policy on establishing a residency outside the county in which his duty station was assigned. T. 1, 214. However, this policy violation was unrelated to the reasons the Respondent acted in this case. T. 1, 215.

Petitioner also admitted that he violated Highway Patrol policy by checking in for duty at times before he arrived at his duty station. T. 1, 216.

Petitioner consistently denied violating the Highway Patrol's policy on truthfulness. Petitioner admitted that he violated Patrol policy and was fired for it; however, Petitioner vehemently denied committing any crime. T. 1, 257-258. Petitioner confirmed that he had never been charged with, tried for, indicted for, convicted of, or pleaded guilty to any criminal offense in connection with his dismissal from the Patrol. T. 1, 258-259.

Petitioner testified that Respondent's finding of probable cause that he committed the crime of "Willful Neglect of Duties" occurred more than two years after the conduct giving rise to the offense, i.e., after the expiration of the statute of limitation for the criminal offense. T. 1, 259. Respondent's witnesses did not contest this evidence.

When asked who would have a better knowledge of his moral character, Ms. Jones or the persons he has worked with in Columbus County, Petitioner answered, "It's not even close. It's the people I've worked with for the last two and a half years that's seen who I am as a person that's been with me on a daily basis." T. 1, 261-262. These are persons, again, whom neither Ms. Jones nor any other employee of Respondent spoke to in connection with Respondent's investigation of Petitioner. T. 1, 262.

CONCLUSIONS OF LAW

Based on the Findings of Fact the undersigned makes these Conclusions of Law:

1. Both parties are properly before this Administrative Law Judge. Jurisdiction and venue are proper and both parties received proper notice of the hearing.
2. The North Carolina Sheriffs' Education and Training Standards Commission (hereafter the Commission) has certain authority under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10B, to certify justice officers and to suspend, revoke or deny certification under appropriate circumstances with valid substantial proof of a rule violation.
3. 12 NCAC 10B.0301(a)(8) requires that justice officers certified in North Carolina shall be of good moral character.
4. The totality of the evidence demonstrates that Petitioner has been a person of good moral character and a dedicated professional law enforcement officer in North Carolina for many years. The evidence regarding Petitioner's two and a half years of service as a deputy sheriff is nothing but strongly commendable both of that service and of Petitioner's character while engaging in that service. Both the country sheriff and the principal where Petitioner works were of the opinion not only that Petitioner was of good moral character, but that his absence would actually be harmful

to the students of East Columbus High School and to the sheriff's force, and would make the school less safe.

5. Moral character is a vague and broad concept. E.g. Jeffrey Royall v. N.C. Sheriffs' Education and Training Standards Commission, 09 DOJ 5859; Jonathan Mims v. North Carolina Sheriff's Education and Training Standards Commission, 02 DOJ 1263, 2003 WL 22146102 at page 11-12 (Gray, ALJ) and cases cited therein. See Mims at page 11.

6. The United States Supreme Court has described the term "good moral character" as being "unusually ambiguous." In Konigsberg v. State, 353 U.S. 252, 262-63 (1957), the Court explained: The term good moral character ... is by itself ... unusually ambiguous. It can be defined in an almost unlimited number of ways for any definition will necessarily reflect the attitudes, experiences, and prejudices of the definer. Such a vague qualification, which is easily adapted to fit personal views and predilections, can be a dangerous instrument for arbitrary and discriminatory denial ... (emphasis added).

7. Police administrators, officers and others have considerable differences of opinion as to what constitutes good moral character. Royall at page 13; Mims, supra. at page 12, Conclusion of Law 12. In Mims, the Respondent Commission offered the testimony of someone who claimed to be knowledgeable regarding moral character; he testified that there are six components to good moral character of law enforcement officers: trustworthiness, respect, responsibility, fairness, citizenship and being a caring individual. Mims, page 7 at Finding of Fact 48. Here, no witness testified to the opinion that Petitioner lacked any of these qualities, and in the two witnesses with the most direct, comprehensive, and recent knowledge of Petitioner testified at length as to his trustworthiness, responsibility, and being a caring individual.

8. Because of these concerns about the flexibility and vagueness of the good moral character rule, any suspension or revocation of an officer's law enforcement certification based on an allegation of a lack of good moral character should be reserved for clear and severe cases of misconduct. Royall, supra at 14, Mims, supra. at page 12 and 13.

9. Generally, isolated instances of conduct are insufficient to properly conclude that someone lacks good moral character. See Royall, supra.; In Re Rogers, 297 N.C. 48, 58 (1979) (“whether a person is of good moral character is seldom subject to proof by reference to one or two incidents.”); Daniel Brannon Gray v. N.C. Sheriffs Education and Training Standards Commission, 09 DOJ 4364 (March 15, 2010; May, ALJ).

10. Under In Re Rogers, an instance of conduct amounting to poor judgment, especially where there is no malice or bad faith, would not ordinarily rise to the high level required to reflect a lack of good moral character. Here, Petitioner admitted violating Patrol policy in more than one manner, and admitted that he was terminated for doing so. There is no question that Petitioner used poor judgment. However, Petitioner’s superiors were widely aware, per the evidence, of Petitioner’s living arrangements. There was no affirmative testimony of failure to perform duties in such a manner that caused malefactors to go unpunished or any member of the public to be either endangered or unserved.

12. Police officers and others make occasional honest mistakes and sometimes exercise poor judgment. Royall supra at 15; Andreas Dietrich v. N.C. Highway Patrol, 2001 WL 34055881, 00 OSP 1039 (August 13, 2001, Gray, ALJ), (“Ideally, it is desired that law enforcement officers be near perfect; however, that is not a realistic standard”).

13. In reviewing the evidence where character is “a direct issue in the case”, 1 Brandis on North Carolina § 102, opinion testimony is much more freely admitted, both, to show good character and bad. Our Supreme Court has concluded: “In such cases, character may be proved, not only by reputation, but also by the opinions of witnesses who have first hand knowledge of it and by specific good or bad acts of the person whose character is in question.” State v. Taylor, 309 NC 570, 576 (1983). All persons who had first hand knowledge of Petitioner’s character, and expressed an opinion on it, praised Petitioner unreservedly.

14. The Tribunal concludes that Petitioner has good moral character generally and is fully fit to serve as a deputy sheriff in North Carolina.

15. The offense described in 14-230 has two components: (1) That the defendant be an official of a State institution, and (2) that he willfully fail to discharge the duties of his office; additionally, injury to the public is a judicially recognized element of the crime. State v. Birdsong, 325 N.C. 418, 384 S.E.2d 5 (1989). Injury to the public must occur as a consequence of the omission, neglect or refusal. State v. Rhome, 120 N.C. App. 278, 462 S.E.2d 656 (1995). The statute appears to be intended to address behavior by public officials that was “willful and corrupt.” Battle v. Rocky Mount, 156 N.C. 329, 72 S.E. 354, 1911 N.C. LEXIS 183

16. It is undisputed that none of the traditional methods of imputing criminal liability to a citizen exist in this case. Petitioner was never charged with or indicted for this crime, or tried for it. He was never convicted of or pleaded guilty to it (or any lesser included offense that may exist), and he was never found civilly responsible for this criminal offense by any court proceeding.

17. That Petitioner was dismissed from the Patrol and that dismissal was upheld by this Office does not swing the matter in favor of Respondent. The issue of whether a person was dismissed for just cause, here for violations of policy, is quite different in terms of determining whether a citizen committed a criminal offense. If it did, any person who challenged his or her dismissal could, assuming they were a licensed individual, by doing so potentially expose themselves to criminal liability. Such a situation is untenable and antithetical to the very due process this Office exists to provide.

18. A problematic aspect of the case arises at the outset, given that the statute of limitations for this criminal offense, a misdemeanor, is limited to two years under N.C.G.S 15-1. The events which Respondent contends to be a crime took place in 2016. The Respondent’s finding of probable cause was dated January 28, 2019. This is certainly more than two years after the date of alleged criminal offense. It is noted that the notice of probable cause indicates that alleged criminal offense took place “in the year 2016.”

19. There was no evidence that Petitioner’s conduct was undiscovered until after 2016; indeed, the probable cause finding itself notes that “your actions were documented by a local investigative news team.”

20. Accordingly, no court could have lawfully tried and convicted Petitioner for this criminal offense in 2019. Respondent made no presentation and presented no case law demonstrating why an administrative agency would not be subject to a statute of limitation whereas a criminal court, whose purpose is to establish guilt or innocence in criminal cases, would be.

21. Assuming arguendo that the Respondent is entitled to ignore statutes of limitation which are enacted to protect the citizenry, there is no question that Petitioner, as a member of the Highway Patrol, was a public official.

22. Respondent did not demonstrate that Petitioner “willfully neglected” his duty in the type of “corrupt” fashion demonstrated by the statute. Petitioner’s actions show less a neglect of his duties than a failure to perform those duties in the time and especially place mandated by Highway Patrol policy. Simply put, there was no evidence shown that Petitioner substantially failed to do his duty; his primary offense was to do it in the wrong place (at home) at various occasions instead of in Wayne County. The evidence did not show any failure to perform Petitioner’s essential duties as a result of his actions, nor was surveillance presented to demonstrate that when Petitioner was working at home, as he admitted he did, that he was regularly engaged in doing something other than Patrol duties. The few issues that were brought up, such as Petitioner watching his child, do not rise the level of a criminal offense.

23. Respondent also failed to establish the element of “injury to the public.” The probable cause letter does not so much as allege that Petitioner’s conduct caused injury to the public, let alone state what that supposed injury was. Though Respondent attempted to show disparities between hours worked and time claimed, such as when Petitioner was eating a meal during or at the end of a shift, in the neglect of duty context “injury to the public” would seem to be shown by an injury to the public caused by Petitioner neglecting his duty as a member of the Highway Patrol – a criminal uncaught, a motorist unassisted, a drug dealer not arrested, to cite a few examples. Simply put, this was not shown.

24. Notably, Respondent made no attempt per the evidence to investigate or even consider Petitioner's two and half years of service as a deputy sheriff – the role for which he is seeking certification, did not interview anyone concerned with that service (or indeed anyone at all) and considered nothing in Petitioner's history more recent than 2016.

25. Based on the above, the Tribunal also concludes that Respondent failed to prove that Petitioner committed the criminal offense alleged, or that he lacked good moral character because of it.

PROPOSED DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, and all the competent evidence at hearing, the Court finds that the Respondent's finding of probable cause to deny Petitioner's certification is neither supported by substantial evidence nor correct as a matter of law. Accordingly, the undersigned recommends that the proposed denial be REVERSED, and that the Respondent grant Petitioner's certification.

ORDER AND NOTICE

This is a recommended decision in conformance with N.C.G.S.150B, Article 3A. The final agency decision will be made by the North Carolina Sheriff's Education and Training Standards Commission

SO ORDERED

This the ____ day of _____, 2020.

By: _____
Melissa Owens Lassiter
Administrative Law Judge

A copy of the foregoing was mailed to:

Michael Byrne
150 Preston Executive Center Drive
Suite 201
Cary, NC 27513
ATTORNEY FOR PETITIONER

Ryan F. Hight
North Carolina Department of Justice
Post Office Box 629
Raleigh, NC 27602
ATTORNEY FOR RESPONDENT

This the ____ day of _____, 2020

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
(919) 431-3000
Fax: (919) 431-3100

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

COUNTY OF WAKE

MAURICE A DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMMISSION,

Respondent.

NOTICE OF GENERAL APPEARANCE

NOW COMES the undersigned attorney and enters a Notice of General Appearance on behalf of the Petitioner in the above-styled action. All further notices and copies of pleadings, papers, and other material relevant to counsel's representation should be directed to and served upon the undersigned counsel.

This, the 22nd day of May, 2020.

/s/Jennifer J. Knox
Jennifer J. Knox
Attorney for the Petitioner
4600 Marriott Drive, Suite 200
Raleigh, NC 27612
919-624-5171
jennifer@jenniferknoxlaw.com
NC State Bar No. 29302

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document on Respondent, by E-file to: Ryan Frank Haigh, North Carolina Department of Justice.

This, the 22nd day of May, 2020.

/s/Jennifer J. Knox
Jennifer J. Knox
Attorney for the Petitioner
4600 Marriott Drive, Suite 200
Raleigh, NC 27612
919-624-5171
jennifer@jenniferknoxlaw.com
NC State Bar No. 29302

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF COLUMBUS

19 DOJ 01619

MAURICE A. DEVALLE,

Petitioner,

v.

NC SHERIFFS' EDUCATION AND
TRAINING STANDARDS COMM'N

Respondent.

**NOTICE OF WITHDRAWAL OF
APPEARANCE**

COMES NOW undersigned counsel Michael C. Byrne, pursuant to Rule 16 of the General Rules of Practice, respectfully noticing his withdrawal of appearance on behalf of the Petitioner, as the following circumstances exist:

1. The undersigned is leaving the private practice of law effective June 1, 2020.
2. Ms. Jennifer Knox, Attorney at Law, has made a general appearance in this case and will be representing Petitioner going forward.
3. The Petitioner has been notified of the above and has consented to Ms. Knox's appearance and the undersigned's withdrawal. Accordingly, no hearing is required.
4. The undersigned respectfully requests that the Tribunal issue appropriate acknowledgment of the undersigned's withdrawal of appearance.

May 22, 2020.

LAW OFFICES OF MICHAEL C. BYRNE

By: /s/ Michael C. Byrne
Michael C. Byrne
150 Fayetteville Street, Suite 1130,
Raleigh, NC, 27601

Tel: (919) 865-2572
NC Bar # 22690

CERTIFICATE OF SERVICE

The undersigned has this day served a copy of this document by OAH server to:

Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice

Maurice DeValle
Jennifer Knox
4600 Marriott Drive, Suite 200
Raleigh, NC 27612

By: /s/ Michael C. Byrne
Michael C. Byrne

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
06/01/2020 9:45 AM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

| | |
|---|--|
| <p>Maurice A Devalle
Petitioner,</p> <p>v.</p> <p>NC Sheriffs Education and Training
Standards Commission
Respondent.</p> | <p>ORDER EXTENDING
FILING OF ALJ'S DECISION</p> |
|---|--|

It appearing that the presiding administrative law judge has requested an extension of time because of the complexity of this case and issues involved and that the same constitutes good cause; now, therefore,

For good cause shown, and under the authority in 26 NCAC 03 .0127(d), IT IS HEREBY ORDERED that Judge Melissa Owens Lassiter shall have until **June 15, 2020** to file the Decision in this case.

This the 1st day of June, 2020.



Julian Mann III
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Jennifer J Knox
The Law Firm of Jennifer Knox, PC
jenknox74@gmail.com
Attorney For Petitioner

Ryan Frank Haigh
North Carolina Department of Justice
rhaigh@ncdoj.gov
Attorney For Respondent

Marie H Evitt
NC Department of Justice
mevitt@ncdoj.gov
Attorney For Respondent

Benjamin Zellinger
North Carolina Department of Justice
bzellinger@ncdoj.gov
Attorney For Respondent

This the 1st day of June, 2020.



Lisa J Garner
North Carolina Certified Paralegal
N. C. Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285
Phone: 919-431-3000

FILED
OFFICE OF ADMINISTRATIVE HEARINGS
06/03/2020 2:42 PM

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
19 DOJ 01619

| | |
|---|------------------------------|
| Maurice A Devalle
Petitioner,

v.

NC Sheriffs Education and Training
Standards Commission
Respondent. | PROPOSAL FOR DECISION |
|---|------------------------------|

On December 3-4, 2019, Administrative Law Judge Melissa Owens Lassiter conducted a hearing in this matter in Raleigh, North Carolina pursuant to N.C. Gen. Stat. § 150B-40(e) and Respondent's request for designation of an Administrative Law Judge to preside at a hearing, under Article 3A, Chapter 150B of the North Carolina General Statutes regarding Respondent's denial of Petitioner's application for justice officer certification.

APPEARANCES

For Petitioner: Michael C. Byrne
Attorney for Petitioner
Law Offices of Michael C. Byrne
Raleigh, North Carolina

For Respondent: Ryan Haigh
Special Deputy Attorney General
North Carolina Department of Justice
Raleigh, North Carolina

ISSUES

1. Does substantial evidence exist for Respondent to deny Petitioner's application for justice officer certification for committing the Class B misdemeanor offense of "Willfully Failing to Discharge his Duties"?

2. Does substantial evidence exist for Respondent to deny Petitioner's application for justice officer certification for failure to maintain good moral character in violation of 12 NCAC 10B .0301(a)(8)?

APPLICABLE RULES AND STATUTES

Article 3A, N.C. Gen. Stat. § 150B
N.C. Gen. Stat. § 14-230
12 NCAC 10B .0103(10)(b)
12 NCAC 10B .0204 (b) and (d)
12 NCAC 10B .0201 & .0205
12 NCAC 10B .0301(a)(8)
12 NCAC 10B .0204(b)(2)

EXHIBITS ADMITTED INTO EVIDENCE

For Petitioner: 1

For Respondent: 1, 2, 7, 8-10, 15-17, 20-22, 32-36, 38
Offer of Proof: 3-6, 11, 13

WITNESSES

For Petitioner: Petitioner, Stedman Jody Greene, Jeremiah Johnson

For Respondent: Sirena Jones, Petitioner, Gerald Burton, John Christopher Morton, James Wingo, Rodney Sawyer

FINDINGS OF FACT

After careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits admitted into evidence, after weighing the evidence, and assessing the credibility of the witnesses including their demeanor, any interests, bias, or prejudice the witnesses may have, the opportunity of the witnesses to see, hear, know or remember the facts or occurrences, whether the testimony of the witnesses was reasonable, and whether the testimony is consistent with all other believable evidence in the case, the undersigned finds as follows:

Notice of Probable Cause to Deny Certification

1. Both parties are properly before this Administrative Law Judge, in that jurisdiction and venue are proper, and both parties received notice of the hearing.

2. On January 29, 2019, Respondent ("the Commission") notified Petitioner that its Probable Cause Committee had found probable cause to believe that Petitioner's justice officer certification should be denied based upon:

(1) Commission of the Class B misdemeanor offense of "Willfully Failing to Discharge Duties" in violation of N.C. Gen. Stat. § 14-230 in 2016 when Petitioner, while employed as a law enforcement officer with the N.C. State

Highway Patrol ("the Patrol") was untruthful in reporting his work time and failed to report for duty on numerous occasions. Respondent based this determination on Petitioner using his patrol-issued MDC to check on and off duty while remaining at his residence, and the N.C. State Highway Patrol's investigation and determination that Petitioner had neglected his duty by remaining at his Wake County residence on numerous occasions when he was supposed to be performing supervisor and patrol duties in Wayne County. The Patrol's investigation had also determined that Petitioner had reported false, misleading, and inaccurate information into the Beacon Payroll System, resulting in Petitioner being compensated for hours he did not work. In 2017, the Patrol terminated Petitioner's employment after it found Petitioner violated the Patrol's policies, and

(2) No longer possessing the good moral character required of all justice officers due to Petitioner's untruthfulness and the circumstances surrounding his actions while holding his justice officer certification and based on the totality of Petitioner's actions.

Respondent informed Petitioner that it would deny his justice officer certification for five years for committing the Class B misdemeanor of "Willfully Failing to Discharge Duties" while certified as a law enforcement officer, and deny such certification indefinitely based upon a lack of good moral character. (Resp. Ex. 2)

3. The Commission has the authority granted under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10B, to certify justice officers and to revoke, suspend, or deny such certification under appropriate circumstances with valid substantial proof of a rule violation.

Background Facts

4. Petitioner applied for deputy sheriff certification through the Columbus County Sheriff's Office where Petitioner began employment on or about August 2017.

5. Respondent had previously certified Petitioner with the Cabarrus County Sheriff's Office as a telecommunicator from 1996 to 1998, as a detention officer from September 1996 to October 1996, and as a deputy sheriff from September 1996 to May 1998.

6. The North Carolina Criminal Justice Education and Training Standards Commission had previously certified Petitioner through the N.C. Department of Public Safety/N.C. State Highway Patrol ("the Patrol") from November 25, 1998 through April 24, 2017.

7. Petitioner was employed with the Patrol for 19 years, from November 25, 1998 through April 24, 2017, during which time Petitioner received one disciplinary action in the form of a written warning.

8. In November 2016, a local news station reported to the Patrol that Petitioner spent various days at his residence in Wake County, North Carolina while he was supposed to be working at his duty station in Wayne County.

9. After conducting an internal investigation, on April 24, 2017, the Patrol terminated Petitioner from employment for substantiated untruthfulness, neglect of duty, and insubordination in violation of the Patrol's policies, and for violating the Patrol's policy on residency. The issue of whether the Patrol had just cause to dismiss Petitioner from employment is not before this Tribunal.

Respondent's Investigation

10. On April 28, 2017, Respondent Commission received an Affidavit of Separation from the N.C. State Highway Patrol that it had dismissed Petitioner from employment on April 24, 2017 for violating the Patrol's policies regarding Truthfulness, Neglect Of Duty, and Insubordination, and for violating the Patrol's Rules Establishing Residence Policies. (Resp. Ex. 1)

11. 12 NCAC 10B .0201 INVESTIGATION OF VIOLATION OF RULES provides:

(b) Before taking action against an agency, school, or individual for a violation, the Division shall investigate the alleged violation and, when required by the Director, shall present a report of its findings to the Probable Cause Committee of the Commission.

12. Respondent's Sirena Jones investigated Petitioner's application for certification with the Columbus County Sheriff's Department. Ms. Jones has been employed by Respondent for approximately 15 years.

13. Ms. Jones has no background in law enforcement and no law degree. She has never served as a law enforcement officer, including as a deputy sheriff. She has never taken Basic Law Enforcement Training. She obtained a college degree in Sociology with a minor in Criminal Justice.

14. Ms. Jones' investigation consisted of reading the Patrol's Internal Affairs ("IA") investigative file, drafting a written summary of the Patrol's IA file, and reviewing Petitioner's applicant/officer profile and the Patrol's Report of Separation (Form F-5B). Resp. Ex. 1

15. Ms. Jones drafted a Memorandum for Respondent's Probable Cause Committee and attached her summary of the Patrol's IA file, the applicant/officer profile, and the Patrol's Report of Separation to such memorandum. Resp. Ex. 1, Attachments 1-3. Ms. Jones sent a copy of her memorandum and attachments to the Probable Cause Committee before its probable cause hearing on Petitioner's justice officer certification application. T. pp. 50-54. In her summary of the Patrol's IA file, Ms. Jones referenced

fuel logs for Petitioner's patrol vehicle for September 2, 2016 to November 13, 2016, and Petitioner's weekly report of work activity from September 30, 2016, October 1-2, 2016, October 6, 2016, October 11, 2016 and October 14, 2016. Personnel Charge Sheets from the Patrol's IA file were also attached to Jones' memorandum. Resp. Ex. 1.

16. By her own admission at hearing, Ms. Jones agreed that her summary of the Patrol's IA file was "essentially writing what someone else said in the Patrol's IA report." T. p. 57.

17. Ms. Jones admitted that her summary was not the result of an independent investigation into Petitioner's time slips. T. p. 57. Ms. Jones could not recall if she actually reviewed Petitioner's time slips at issue. T. p. 57. She acknowledged that she did not obtain any information from Beacon, the State of North Carolina Human Resources Payroll system, showing what hours Petitioner had recorded his time worked for the Patrol. T. p. 58.

18. Ms. Jones was unable to state what was Petitioner's job when he was employed by the Highway Patrol. T. p. 65. She was likewise unable to state whether Petitioner's job duties included regularly responding to calls. T. p. 65. When asked how she could claim that Petitioner neglected his duties to the extent of committing a crime if she does not know the duties that a Highway Patrol sergeant performed, Jones replied, "That was the finding of the Highway Patrol." T. p. 65.

19. Despite agreeing that interviewing persons with knowledge is one of the primary methods by which an investigator would find facts, Ms. Jones admitted that she interviewed no one in the course of her investigation. T. pp. 56-58.

20. Ms. Jones did not interview Petitioner. She explained she didn't interview Petitioner because he was interviewed by the Patrol. T. pp. 59-60.

21. Despite knowing that Petitioner had been working as a deputy sheriff for two and a half years, Ms. Jones did not interview the Columbus County Sheriff or the school principal for whom Petitioner served as a school resource officer since August 2017. Ms. Jones had no knowledge of what Petitioner did while working as a school resource officer or how he discharged his duties as a school resource officer. T. pp. 56-57, 67.

22. When asked if Petitioner was ever charged by any district attorney, arrested by law enforcement, arraigned in court or tried in court for the crime of "Willful Neglect of Duties," Ms. Jones responded, "To my knowledge, no." T. pp. 59-60. Ms. Jones failed to advise the Probable Cause Committee, in her memorandum, that Petitioner was never charged with the crime of "Willfully Failing to Discharge Duties." T. p. 61.

23. At no time did the Highway Patrol find that Petitioner committed a crime of "Willfully Failing to Discharge Duties" or "Willfully Neglecting his duties" in violation of N.C. Gen. Stat. § 14-230.

24. The Tribunal specifically finds as fact that Petitioner has never been charged for the crime of "Willfully Failing to Discharge Duties." Petitioner has never been found civilly responsible for any such crime. Petitioner has never been charged, arraigned, or been indicted by a grand jury for the crime Respondent alleges he committed. T. pp. 59-60.

25. Despite having no legal or law enforcement background, and relying solely based upon the Patrol's IA investigation for her investigative results, Ms. Jones advised the Probable Cause Committee that this matter was before them to determine whether sufficient evidence exists to establish probable cause to believe that "in 2016, Maurice Devalle committed the felony offense of "Obtaining Property by False Pretenses" in violation of N.C. Gen. Stat. § 14-100, such that certification should be denied as set out in Rule .0204(a)(1)." Resp. Ex. 1, p. 2.

26. Ms. Jones also advised the Probable Cause Committee, in her memorandum:

You may also wish to consider whether there is sufficient evidence to show Maurice Devalle committed the class B offense of "Willful Fail to Discharge Duties" in violation of NC General Statute § 14-230, such that certification should be denied as set out in Rule .0204(d)(1).

Resp. Ex. 1, p. 2. Lastly, Ms. Jones stated that "[b]ased upon Mr. Devalle's untruthfulness in the reporting of his work time, failing to report for duty and/or the commission of criminal offenses," this matter is before the Probable Cause Committee to determine whether Petitioner possesses the good moral character required of all justice officers. Resp. Ex. 1, p. 2.

27. At the Probable Cause Committee hearing, Ms. Jones read her memorandum to the Committee, and Petitioner was allowed an opportunity to present evidence. Petitioner did not see or receive a copy of Ms. Jones' memorandum to the Probable Cause Committee. T. pp. 266-267.

Neglect of Duty

28. The State Highway Patrol Policy Manual, Directive H.1, paragraph XV Reporting for Duty provided:

Members shall report for duty at the time and place required by assignment or orders and shall be capable of performing their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they can immediately perform their duties.

Resp. Ex. 10, p. 5.

29. In November of 2016, pursuant to the Patrol's policy on Reporting for Duty, Highway Patrol protocol required Patrol employees to check in as being on-duty when they reached their assigned duty station. The Patrol employees used the code 10-41 to designate in the Patrol's computerized automated dispatch system ("CAD") that they were in uniform and on duty in their assigned duty station. All Patrol employees were required to remain in their duty station until the time they were supposed to end work. After ending work, they could then travel to their residences in an off-duty travel status. Resp. Ex. 10, p. 5; T. p. 113.

30. At all times relevant to this case, Petitioner's duty station with the Patrol was Wayne County, North Carolina where he served as a sergeant.

31. At all times relevant to this case, Petitioner's residence was in Wake County, approximately 35 miles from the county line of Wayne County and approximately 44 miles from Troop C, District 2, District Office in violation of Patrol policy regarding residency requirements. At this hearing, Petitioner admitted that he violated the Patrol's policy on residency requirements by living in Wake County.

32. At the time of his dismissal, Petitioner's chain of command was First Sergeant Jerry Burton (now retired) as Petitioner's direct supervisor, Troop C Lieutenants Christopher Morton and Steve Finney, and Captain Jeffrey O'Neill Holmes (now retired).

33. At all times relevant to this case, Sgt. Burton, Capt. Holmes, Capt. Henderson, Lt. Morton, all knew Petitioner was living in Wake County.

34. In early 2016, Petitioner met with Capt. Holmes, Lt. Finney, and First Sgt. Gerald Burton. Captain Holmes told Petitioner that "he was to be where he was supposed to be and doing what he was supposed to be doing." Petitioner and First Sgt. Burton acknowledged to Capt. Holmes they understood what he was telling them.

35. Later that day, First Sgt. Burton discussed Captain Holmes' statements from earlier that day with Petitioner and emphasized that this meant that Petitioner should be in Wayne County when he was supposed to be working. T. p. 319.

36. During the Patrol's Internal Affairs interview, Petitioner admitted that he understood he was supposed to be in Wayne County when working.

37. Petitioner's prior supervisor in Durham County, First Sgt. Cain, had approved Petitioner to work from home. When Petitioner began working in Wayne County, he continued to work from home while on duty.

38. The undisputed evidence proved that Sgt. Burton, Petitioner's direct supervisor, never granted Petitioner permission to work from home while on-duty and assigned to Wayne County. In fact, Petitioner never requested to do so. T. pp. 319-321. Petitioner never informed Sgt. Burton that he was working from his home in Wake County.

39. After Hurricane Matthew hit Wayne County in 2016, Sgt. Burton never told Petitioner he could work from home instead of working in Wayne County. Sgt. Burton advised Petitioner and Sgt. Whitley that they were strictly in a response mode, they were not going to be taking preventive patrol action, and as supervisors, we needed to make sure troopers had what they needed. Sgt. Burton told Petitioner and Sgt. Whitley that when they were not specifically going to meet the needs of the troopers or the citizens of the county, they should be stationary so they're not burning fuel and that "we should be just ready to go." T. pp. 320, 329.

40. On Friday, November 11, 2016, at approximately 2:53 p.m., Petitioner signed into the Highway Patrol CAD system as being on-duty while he remained at his residence in Wake County.

41. At approximately 7:00 p.m. that day, and upon orders from his superiors, Captain Morton visited Petitioner's residence. Petitioner's patrol vehicle was parked in the driveway. Petitioner came to the door wearing shorts and a t-shirt. Morton asked Petitioner if he was on-duty. Petitioner replied that he was off-duty, but he thought the CAD was showing him as on-duty. Petitioner told Capt. Morton he had attempted to sign off-duty from the CAD system at 5:00 p.m. through his mobile data computer (MDC), but realized he had not done so. Petitioner acknowledged that he had not left the house that day. He indicated he was sick, and that he would not be leaving his home and reporting to the Patrol's district office in Wayne County. Petitioner questioned Morton's leadership style and the legacy Morton was leaving at the Patrol.

42. Immediately after Lt. Morton left Petitioner's residence, at approximately 7:35 p.m., Petitioner signed off-duty on the Patrol's CAD system.

43. At hearing, Petitioner admitted that during this two-hour period on November 11, 2016, he was lying in bed and showering, and had not been engaged in work-related activity. Petitioner admitted that he had been at his residence and out of uniform the whole day. Petitioner never called anyone on the Patrol for coverage or notified anyone, including Sgt. Burton, that he was ill.

44. Petitioner signed in for work eight days between September 22, 2016 and October 6, 2016. T. p. 149. During that period, Petitioner claimed 767 miles driven on his Weekly Reports of Daily Activity.

45. The Patrol's fuel logs for Petitioner's vehicle established that Petitioner had only driven a total of 292 miles during the September 22 to October 6, 2016 period. If Petitioner had driven to the Wayne County line from his residence in Wake County on eight days, it would have required a minimum of 560 miles. T. pp. 149-151. Having driven a total of 292 miles, Petitioner could have made it to the Wayne County line and back only three times during these eight working days. Resp. Exs. 15, 20, 21.

46. Substantial evidence at hearing proved that Petitioner was not present at his duty station in Wayne County from September 22, 2016 through October 6, 2016 at times when he claimed that he was present and on-duty.

47. At no time did Petitioner contact Patrol troopers or his superiors and tell them that he was not at his duty station and that he needed coverage.

48. Petitioner admitted that on occasion he drove home for lunch and stayed at home for extended periods of time while he was on-duty. Petitioner admitted that on multiple occasions, he returned to his residence before the end of his shift and remained there for the remainder of his shift.

49. Petitioner also admitted that he signed on as on-duty and stayed home for his entire shift on some days. Petitioner admitted that when he was on-duty at his residence he should have been in Wayne County. Petitioner admitted this was a violation of Patrol policy.

50. Petitioner admitted that time spent at his residence was nonetheless time he claimed hours worked for the Patrol.

51. At hearing, Petitioner attempted to justify his working from home while on-duty by stating that a "very, very small percentage" of his job duties involved being on patrol. However, Petitioner completed weekly reports of daily activity claiming approximately 40% of his time was spent on patrol in Wayne County.

52. The transcripts of Petitioner's statements to the Patrol's Internal Affairs on November 15, 2016, November 18, 2016, and March 27, 2017 corroborate Petitioner's above-cited admissions. They also provide substantial statements of Petitioner made closer in time to the events in question, shedding light on facts that Petitioner allegedly no longer recalls.

53. Petitioner alleged that during the eight days he was on-duty between September 22, 2016, and October 6, 2016, he was allegedly spending time on administrative duties. He described his duties as a sergeant as including answering and sending e-mails, scheduling, preparing documentation for wrecker inspections, and personnel file inspections. T. pp 274-75. However, during that period, Patrol records showed Petitioner only sent two emails – one of which was for fantasy football. T. pp. 155-156.

54. At hearing, Sgt. Burton opined that sergeants could fulfill most of their supervisory duties while located outside their assigned county, and from anywhere in the State, as they have mobile computers and air cards in their cars. T. p. 321.

55. However, sergeants must be located in their assigned duty station to meet with the troopers they supervise to ensure the troopers have all they need, to oversee the troopers' completion of paperwork, completion of inspection inventory and evidence, their

completion of wrecker files and inspections, and to review video from the troopers' in-car videos. Sergeants must interview people who file complaints and handle evidence at the district office. Sergeants are also required to meet and build rapport with the community by participating in numerous community activities. T. p. 322.

56. Part of Petitioner's responsibilities as a supervisor was overseeing troopers that were his junior. The undisputed evidence at hearing established that Petitioner supervised between one and seven troopers daily in his district. Petitioner acknowledged that his duty was to assist troopers in the field when they called for assistance and review their work. T. pp. 220-221.

57. The State paid Petitioner to perform his duties in his assigned duty station of Wayne County. However, for multiple days, Petitioner was not in Wayne County, and accordingly, Petitioner could not perform his duties as assigned. Common sense dictates that Petitioner was unable to provide training and support to troopers under his command in light of his absence from Wayne County. As a result, Wayne County was deprived of Petitioner's services and the public paid Petitioner for work that he did not fulfill. Petitioner's conduct also created an inherent lack of trust and dispersion of the reputation of the Patrol, which is also a public injury.

Good Moral Character

58. Steadman Jody Greene is the Sheriff of Columbus County, Whiteville, North Carolina. Petitioner works for Sheriff Greene as a deputy in the capacity of the school resource officer. In this capacity, Petitioner is armed with both lethal and non-lethal weapons. T. p. 31. Petitioner serves at the pleasure of the Sheriff. T. p. 32. At the time of hearing, Sheriff Greene had just been released from the hospital and voluntarily came to testify that Petitioner does a fine job for him and how important Petitioner is to his agency. T. p. 30.

59. When Sheriff Greene hired Petitioner, he was aware that Petitioner had been dismissed from the Patrol. Petitioner had told him. Sheriff Greene is satisfied that Petitioner has good moral character. Given the importance of the school resource officer, Greene must place someone in that position upon which he has a special trust and confidence. Sheriff Green has that special trust and confidence in Petitioner. T. pp. 32-33. He hired Petitioner based upon the principal, school board members, parents and students all recommending him and not based upon the past. T. p. 31. Sheriff Greene is satisfied that Petitioner had performed his duties "above and beyond." T. p. 34. If Petitioner was unable to serve as a deputy, it would negatively impact Greene's force.

60. Based on Petitioner's service as a deputy sheriff, Sheriff Greene has no hesitation as to Petitioner's truthfulness or ability to tell the truth. T. p. 38.

61. Jeremiah Johnson is the principal at East Columbus High School in Lake Waccamaw, North Carolina. T. p. 233. Johnson knows Petitioner in two capacities: as the school resource officer at East Columbus High School and as an assistant football coach

and track coach at that school. Petitioner has served, and continues to serve, in those capacities since 2017. T. p. 233. Johnson has had the opportunity to watch Petitioner perform those duties “every day” that school is in session. T. p. 233. Johnson described Petitioner, in performing his duties as a school resource officer, as “dedicated to the school, dedicated to the students, dedicated to the staff. He comes to school – comes to work every day, is there to serve and protect. He's part of my administrative team. He's almost my right-hand man.” T. p. 234.

62. When asked whether he had had an opportunity to form an opinion as to Petitioner's character, Johnson said, “He is an awesome person. He is an awesome man. And I'm not just saying that for me. I'm saying that for my kids at my school.” T. p. 234. When asked whether Petitioner had ever committed any act that would cause Johnson to doubt Petitioner's capacity to be truthful, Johnson answered, “No.” T. p. 234.

63. Mr. Johnson has no doubt, based on what he's observed from Petitioner, that Petitioner does not lack the character necessary to serve as a school resource officer at Johnson's high school. T. p. 239. Johnson would not have permitted Petitioner to serve as an assistant football coach and track coach, in addition to serving as a school resource officer, if he had any doubts about Petitioner's character. T. p. 235.

64. Mr. Johnson opined that if Petitioner was no longer able to serve East Columbus as a school resource officer, the lack of Petitioner's presence would make the school less safe. T. p. 236.

65. Johnson also spoke of the strong professional bond that exists between himself as principal and Petitioner as the school resource officer. T. p. 236. Johnson thinks that Petitioner is the best school resource officer he has ever worked with and as a school administrator, Johnson has trained many SROs. T. p. 239. He opined that interaction with the students would suffer tremendously if Petitioner was not at East Columbus High. “. . . These kids, they look up to him.” T. p. 239. Johnson explained how Petitioner has helped other students such as buying shoes for kids, bought lunch for kids, and given them food. “You know, we all – he's where he – he's where he belongs.” T. p. 240.

66. Johnson completed his testimony by describing an event where Petitioner intervened to help a student stay in school after a traumatic family event. That student recently signed a letter of intent to play college football. T. p. 240.

67. No one from the Respondent, including Jones, ever contacted Johnson regarding Petitioner's performance of his duties as a school resource officer, his character, or anything else. T. p. 238.

68. Neither Ms. Jones nor Respondent presented any evidence at hearing regarding Petitioner's performance of his duties as a Columbus County deputy sheriff. Respondent failed to present any evidence concerning any activities involving Petitioner that took place more recently than 2016. T. p. 56. While four witnesses from the Patrol

testified regarding Petitioner's dismissal from the Patrol, none of those witnesses possessed any first-hand knowledge of how Petitioner has conducted himself in terms of truthfulness or conformance with policies while employed as a deputy sheriff in Columbus County. T. pp. 168-169. None of those witnesses opined that Petitioner lacked good moral character, either generally, or to serve as a deputy sheriff in this State.

69. At hearing, Petitioner's testimony exhibited a lack of candor and sincerity during cross-examination by Respondent's counsel. During Respondent's questions, Petitioner was evasive and feigned a lack of memory or confusion in response to Respondent's questions about Petitioner's conduct with the Patrol in 2016. Petitioner remained evasive and elusive even after having his recollection refreshed with his prior statements. In contrast, Petitioner readily recollected circumstances from this period, when questioned by his own counsel, without having to review any materials.

70. During his case in chief, Petitioner presented significant evidence demonstrating that Petitioner has rehabilitated and rebuilt his career since 2016 and 2017 while working as a school resource officer at East Columbus High School. Such evidence showed that Petitioner has exhibited highly favorable traits, including but not limited to helping, teaching, and serving as positive role models for students at East Columbus High School not only as a school resource officer, but as a coach in two sports. Sheriff Greene and Principal Johnson opined that Petitioner's absence from their respective entities would have a negative impact on their workplaces. The scope and magnitude of Petitioner's character traits, as witnessed by Sheriff Greene and Principal Johnson, qualify as extenuating circumstances which the Respondent should consider in determining whether Petitioner possesses the good moral character required of a justice officer.

CONCLUSIONS OF LAW

1. The parties are properly before the undersigned, and jurisdiction and venue are proper. The Office of Administrative Hearings has personal and subject matter jurisdiction over this contested case. The parties received proper notice of the hearing in this matter. To the extent that the Findings of Facts contain Conclusions of Law, or that the Conclusions or Law are Findings of Fact, they should be so considered without regard to the given labels. *Charlotte v. Heath*, 226 N.C. 750, 755, 40 S.E.2d 600, 604 (1946); *Peters v. Pennington*, 210 N.C. App. 1, 15, 707 S.E.2d 724, 735 (2011).

2. A court need not make findings as to every fact that arises from the evidence and need only find those facts which are material to the settlement of the dispute. *Flanders v. Gabriel*, 110 N.C. App. 438, 440, 429 S.E. 2d 611, 612, *aff'd*, 335 N.C. 234, 436 S.E. 2d 588 (1993).

Article 3A Case Procedure

3. Pursuant to 12 NCAC 10B .0201(b), before taking action against an agency, school, or individual for a violation, Respondent "**shall investigate** the alleged violation

and, when required by the Director, shall present a report of its findings to the Probable Cause Committee of the Commission.” (Emphasis added) After an investigation, Respondent’s Probable Cause Committee may convene to consider investigative reports and determine whether probable cause exists that the Commission’s rules have been violated, or it may delegate authority to the Director for further action.

4. If a person appeals the Probable Cause Committee’s finding of probable cause to take an agency action, then N.C. Gen. Stat. § 150B-38(b) requires the agency, before taking any action, to give the parties an opportunity for a hearing without undue delay and notice not less than 15 days before the hearing. Notice to the parties shall include:

- (1) A statement of the date, hour, place, and nature of the hearing;
- (2) **A reference to the particular sections of the statutes and rules involved; and**
- (3) **A short and plain statement of the facts alleged.**

(Emphasis added)

5. N.C. Gen. Stat. §§ 150B-40, 150B-41, and 150B-42 establish how an Article 3A contested case hearing is conducted including the presentation of evidence, arguments on the issues or policies, and the evidence to be considered during such hearing. N.C. Gen. Stat. § 150B-41(b) specifically states that “[o]ther factual information or evidence shall not be considered in determination of the case, except as permitted under subsection (d) of this section.” Likewise, N.C. Gen. Stat. § 150B-42(a) declares that “Findings of Fact shall be based exclusively on the evidence and on matters officially notices.” The plain language of N.C. Gen. Stat. § 150B-38, read in conjunction with the other statutes under Article 3A, Chapter 150B of the North Carolina General Statutes, is clear that the evidence at a contested case hearing is limited to the particular statutes and rules involved, the facts alleged in Respondent’s Notification of Probable Cause issued to an applicant or certified officer, and evidence submitted in rebuttal.

6. Pursuant to the requirements of N.C. Gen. Stat. § 150B-38(b) and Respondent’s January 28, 2019 Notification of Probable Cause, the particular statutes and rules involved and the facts at issue in this case were whether substantial evidence exists to deny Petitioner’s application for justice officer certification for:

- (1) committing the Class B misdemeanor offense of “Willfully Failing to Discharge Duties” in violation of N.C. Gen. Stat. § 14-230 in 2016 while employed as a certified law enforcement officer with the North Carolina State Highway Patrol officer, and
- (2) no longer possessing the good moral character required of all justice officers. Resp. Ex. 2.

Commission of Class B Misdemeanor

7. 12 NCAC 10B .0204(d)(2) provides that Respondent may deny certification of a criminal justice officer when the Commission finds that the applicant has committed a Class B misdemeanor within five years prior to the date of appointment.

8. 12 NCAC 10B .0103(16) provides that the term "Commission" as it pertains to criminal offenses means:

[A] finding by the North Carolina Sheriffs' Education and Training Standards Commission or an administrative body, pursuant to the provisions of G.S. 150B, that a person **performed the acts necessary to satisfy the elements of a specified criminal offense.**

(Emphasis added)

9. 12 NCAC 10B .0103(10)(b)(i) defines a "Class B Misdemeanor" as:

[A]n act committed or omitted in violation of any common law, criminal statute or criminal traffic code of this State which is classified as a Class B Misdemeanor as set forth in the "Class B Misdemeanor Manual" as published by the North Carolina Department of Justice.

10. "Willfully Failing to Discharge Duties" in violation of North Carolina General Statute § 14-230 is a Class B Misdemeanor according to the "Class B Misdemeanor Manual."

11. The essential elements of the offense of "Willfully Failing to Discharge Duties" described in N.C. Gen. Stat. § 14-230 has two components: (1) that the defendant be an official of a State institution, and (2) that he willfully failed to discharge the duties of his office. Additionally, injury to the public is a judicially recognized element of the crime. *State v. Birdsong*, 325 N.C. 418, 384 S.E.2d 5 (1989). Specifically, injury to the public must occur as a consequence of the omission, neglect or refusal. *State v. Rhome*, 120 N.C. App. 278, 462 S.E.2d 656 (1995).

12. In this case, Petitioner's role of being a Highway Patrol officer satisfies the first element of the subject offense. See, e.g., *State v. Fesperman*, 264 N.C. 160, 141 S.E.2d 255 (1965); *State v. Teeter*, 264 N.C. 162, 141 S.E.2d 253 (1965); *State v. Stogner*, 264 N.C. 163, 141 S.E.2d 248 (1965); *State v. Hord*, 264 N.C. 149, 141 S.E.2d 241 (1965).

13. Respondent's investigation into Petitioner's conduct as a Patrol sergeant was adequate enough for the Probable Cause Committee to find probable cause for a hearing on the merits in this matter. However, such investigation was insufficient, standing alone, to prove the charges at issue in this contested case hearing.

14. Once probable cause is found to exist, and the Notice of Probable Cause is appealed to a contested case hearing, the scope of evidence allowed during such hearing is established Article 3A, Chapter 150B of the North Carolina General Statutes.

15. The substantial evidence, through testimony and documentation, at this contested case hearing on the merits established the second element of the "Willful Failing to Discharge Duties" offense.

a. Petitioner's duties required him to be present in Wayne County when on-duty, as that was his duty station. In early 2016, numerous superiors emphasized this fact to Petitioner. However, between September 22, 2016 and November 11, 2016, Petitioner failed to leave his home and report to his duty station on numerous occasions.

b. At no time did Petitioner contact Patrol troopers or his superiors and tell them that he was not at his duty station and that he needed coverage.

c. Petitioner admitted that on occasion he drove home for lunch and stayed at home for extended periods of time while he was on-duty. Petitioner admitted that on multiple occasions, he returned to his residence before the end of his shift and remained there for the remainder of his shift. Petitioner also admitted that he signed on as on-duty and stayed home for his entire shift on some days. Petitioner admitted that when he was on-duty at his residence he should have been in Wayne County. Petitioner admitted this was a violation of Patrol policy.

16. Petitioner admitted that time spent at his residence was nonetheless time he claimed hours worked for the Patrol. Petitioner received compensation for his alleged working hours. The State was deprived of the services for which it subsequently paid Petitioner based upon his false assertions, and Wayne County was deprived of his Patrol services. This amounts to injury to the public.

17. Accordingly, substantial evidence presented at hearing support the Probable Cause Committee's finding that Petitioner committed the crime of "Willfully Failing to Discharge Duties" in violation of North Carolina General Statute § 14-230.

Maintain Good Moral Character

18. Pursuant to 12 NCAC 10B .0204(b)(2), Respondent "shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer: "fails to meet or maintain any of the employment or certification standards required by 12 NCAC 10B .0300." One of these minimum standards of employment is that the applicant be of good moral character pursuant to 12 NCAC 10B. 0301(a)(8).

19. Good moral character has been defined as “honesty, fairness, and respect for the rights of others and for the laws of the state and nation.” *In re Willis*, 288 N.C. 1, 10, 215 S.E.2d 771, 779 (1975), *appeal dismissed*, 423 U.S. 976, 96 S. Ct. 389, 46 L. Ed. 2d 300 (1975).

20. In this case, Petitioner was dishonest and untruthful when he reported he was performing his duties as a Patrol sergeant assigned to Wayne County, when in fact he was at home in Wake County on numerous occasions. He did not respect the rights of those members of the public of Wayne County who are entitled to law enforcement protection – rights which he was sworn to protect. He failed to uphold the laws of this State as a Patrol officer while remaining at his home while on-duty for the Patrol.

21. In addition, Petitioner submitted false time and mileage sheets, thereby defrauding the State, and falsely claiming to have been actively serving members of the community. Petitioner’s untruthfulness in such actions demonstrate a lack of good moral character at that time.

22. Generally, isolated instances of conduct are insufficient to properly conclude that someone lacks good moral character. *In Re Rogers*, 297 N.C. 48, 59, 253 S.E. 2d 912, 919 (1979).

23. In Petitioner’s case, the aforementioned conduct did not occur one time, but occurred multiple times over the course of weeks or months in 2016, even after being cautioned about such conduct by his superiors. Moreover, Petitioner’s profound lack of candor and truthfulness while testifying under oath at this contested case demonstrated that truthfulness is still a challenge for Petitioner.

24. Nonetheless, Sheriff Greene and Principal Johnson established that Petitioner has rehabilitated and rebuilt his character, since being fired by the Patrol, and as a deputy sheriff, and as school resource officer and coach at East Columbus High School. For two and a half years, Petitioner’s service as a deputy sheriff has been nothing but exemplary both of that service and of Petitioner’s character while engaging in that service. Both Sheriff Greene and Principal Johnson, who have supervised and worked with Petitioner since 2017, opined not only was Petitioner of good moral character, but that his absence would actually be harmful to the students of East Columbus High School and to the Sheriff’s force, and would make the school less safe. Such testimony was credible, honest, and believable. Even given Petitioner’s cross-examination testimony at hearing, the totality of the evidence rebutted the finding by the Probable Cause Committee that Petitioner lacks the good moral character required of a justice officer and showed that Petitioner has rehabilitated his character since 2017.

25. 12 NCAC 10B .0205 provides:

When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be:

- (3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is: . . .
 - (b) failure to meet or maintain the minimum standards of employment or certification;
 - . . .
 - (d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2) . . .

The Commission may either reduce or suspend the periods of sanction where revocation, denial or suspension of certification is based upon the Subparagraphs set out in 12 NCAC 10B .0204(d) or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension.

26. The sanction for the charges as issue here, under 12 NCAC 10B .0205(3)(b) and (d), continues for so long as the stated deficiency exists. As held in *In re Dillingham*, 188 N.C. 162, 124 S.E.130 (1924), when one seeks to establish a restoration of a character, the question becomes one of “time and growth.”

27. The credible and persuasive testimonies by Sheriff Greene and Principal Johnson demonstrated that Petitioner has restored his character so that he now possesses the good moral character required to continue certification as a deputy sheriff.

28. Based upon the foregoing Findings of Fact and Conclusions of Law, extenuating circumstances exist for the Commission to exercise its discretion under 12 NCAC 10B .0205 and reduce the sanction required under 12 NCAC 10B .0205(3).

PROPOSAL FOR DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby proposes that Respondent **DENY** Petitioner’s justice officer certification indefinitely based on the commission of the Class B Misdemeanor offense of “Willfully Failing to Discharge Duties” in violation of N.C. Gen. Stat. § 14-230. Extenuating circumstances exist to justify the Commission exercising its discretion and reducing the sanction in this case under 12 NCAC 10B .0205.

NOTICE

The **North Carolina Sheriffs' Education and Training Standards Commission** will make the Final Decision in this contested case. As the Final Decision maker, that agency is required to give each party an opportunity to file exceptions to this proposal for decision, to submit proposed findings of fact, and to present oral and written arguments to the agency pursuant to N.C. Gen. Stat. § 150B-40(e).

The undersigned hereby orders that agency to serve a copy of its Final Decision in this case on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6700.

This the 3rd day of June, 2020.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Jennifer J Knox
The Law Firm of Jennifer Knox, PC
jenknox74@gmail.com
Attorney For Petitioner

Ryan Frank Haigh
North Carolina Department of Justice
rhaigh@ncdoj.gov
Attorney For Respondent

Benjamin Zellinger
North Carolina Department of Justice
bzellinger@ncdoj.gov
Attorney For Respondent

This the 3rd day of June, 2020.




Jerrod Godwin
Administrative Law Judge Assistant
N.C. Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285
Phone: 919-431-3000

CERTIFICATE OF SERVICE FOR RULE 9(d) DOCUMENTARY EXHIBITS

I certify that today, I caused the foregoing Rule 9(d) Documentary Exhibits to be served on counsel by United States mail, first-class postage prepaid, addressed to:

J. Michael McGuinness
The McGuinness Law Firm
P.O. Box 952
Elizabethtown, NC 28337
jmichaelmcguinness@mcguinnesslaw.com
910-862-7087

This the 24th day of March, 2022.



Ameshia Cooper Chester
Special Deputy Attorney General
N.C. State Bar No. 45949
acooper@ncdoj.gov
North Carolina Department of Justice
P.O. Box 629
Raleigh, NC 27602
919-716-6590

Attorney for Respondent-Appellant