TO: Attorney General Matthew J. Platkin

First Assistant Attorney General Lyndsay V. Ruotolo

FROM: OPIA Special Investigations Bureau

DATE: September 22, 2024

SUBJECT: NJSP Observations and Recommendations

Arising out of CJ: 2022-09986 IA: 2023-070

BACKGROUND

In June 2022, the Office of Public Integrity and Accountability (OPIA), Special Investigations Bureau (SIB), was tasked with investigating allegations made by

allegations centered

around the actions of members of the NJSP Office of Professional Standards (OPS) and specifically Lieutenant (LT) Joseph Nitti of NJSP OPS.

The OPIA investigation included the collection of evidence from NJSP, OAG's Office of Law Enforcement Professional Standards (OLEPS), and Office of Equal Employment Opportunity (EEO) investigative files, reports, emails and text messages as well as witness and subject interviews. The results of the investigation have been forwarded to the Office of Attorney General (OAG) Executive Staff for review and action deemed appropriate.

The investigation uncovered conduct and practices that relate to the overall functioning of the NJSP. The following observations are provided to improve the professionalism of the NJSP in fulfilling its mission to provide exemplary service to the people of New Jersey. To be effective, every organization must examine and adjust its practices and policies on an ongoing basis to continue to grow and improve.

DISCUSSION

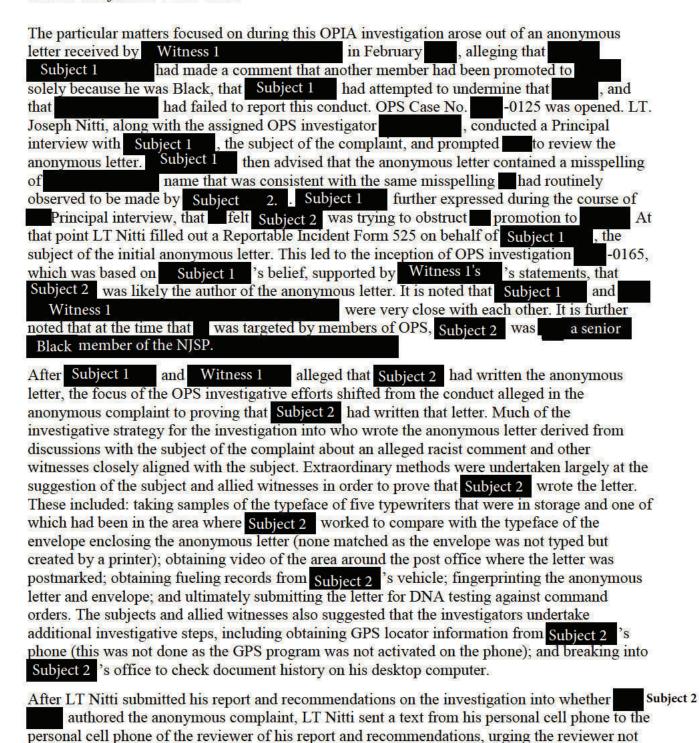
I. OPS Investigation Techniques

This OPIA investigation revealed that on paper the NJSP has robust procedures for conducting internal affairs investigations and it appears that appropriately experienced personnel are, generally, assigned to OPS. However, this investigation revealed the need for additional protocols and training on basic provisions of the Internal Affairs Policies and Procedures (IAPP) that ensure objective, unbiased investigations; maintain confidentiality; and respect the anonymity of anonymous complainants.

As discussed in detail below, this investigation revealed instances of lack of confidentiality in handling IA information, failure to adhere to formal reporting structures, failure to maintain objective and unbiased investigations, and the use of extraordinary and inappropriate investigative techniques in direct violation of commands and the guiding principles of the IAPP.

a. Failure to Conduct Objective, Unbiased Investigations

"The goal of internal affairs is to ensure that the integrity of the agency is maintained through a system of internal discipline where an objective and impartial investigation and review assure fairness and justice." IAPP 4.1.1.



to "pussy out," that is, to accept LT Nitti's recommendations that the allegations against should all be sustained.



In addition, LT Nitti sent copies of his drafts of the confidential IA reports to Witness 2, who had no connection with the underlying investigation or the review process.

Overall, LT Nitti displayed a lack of objectivity in connection with the Subject 2 investigation, as detailed in the Summary and Conclusions focusing on identifying the writer of the anonymous allegations rather than the allegations themselves. The investigation into Subject 2 violated the IAPP and should never have been opened, let alone resulted in sustained findings.

b. Constructive Failure to Accept An Anonymous Complaint

The IAPP requires that anonymous complaints be accepted. <u>See IAPP § 5.1.1</u>; <u>see also 5.1.2</u> (anonymous complaints from members of the public). Section 5.1.7 provides:

Anonymous reports of improper conduct by an officer shall be accepted. All efforts will be made to encourage full cooperation by the complainant. The investigation of anonymous complaints can be troublesome. However, accurate information about officer wrongdoing may be provided by someone who, for any number of reasons, does not want to be identified. Therefore, an anonymous report must be accepted and investigated as fully as possible. In the event an agency receives an anonymous complaint, the officer accepting it should complete as much of the internal affairs report form as he or she can, given the information received.

The rationale for accepting anonymous complaints is obvious—many individuals, including members of the public or of the agency in question, may be reluctant to file complaints for fear that they may suffer adverse consequences. This investigation brought into sharp focus the need to permit anonymous complaints, as many NJSP members expressed fear that if they reported misconduct they would suffer negative career consequences and become the target of retaliation of one type or another.

It is clear that undergoing an investigation to identify the person making an anonymous complaint undermines this policy. Yet, in this case, the prime investigatory focus became determining who made the anonymous allegations, not whether the anonymous allegations were true. As noted above, OPS went to extraordinary lengths to identify who wrote the letter making an anonymous complaint. Thus, while OPS may have gone through the motions of accepting an anonymous complaint, this investigation reveals a constructive violation of the obligation to acceptan anonymous complaint, rather than focusing on detecting the identity of the anonymous complainant.

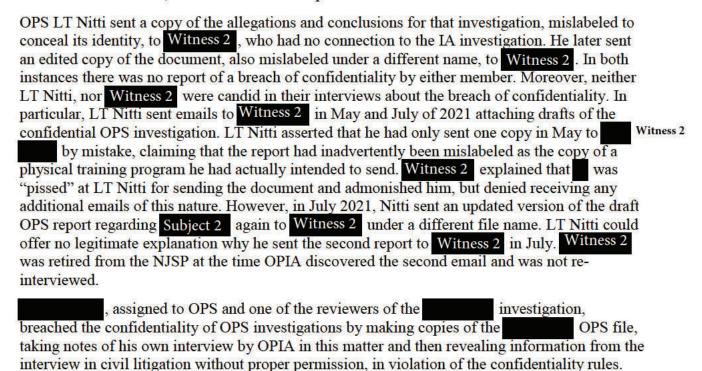
OPIA discovered that this investigation was not the only one in which OPS attempted to discover the identity of an anonymous complainant. While there may be circumstances that would warrant attempting to determine the identity of the complainant, such as a complaint that also constitutes a physical threat, such an investigation should be undertaken only after consultation with the OAG.

c. Breach of IA Confidentiality

The IAPP treats records of internal affairs investigations as highly sensitive and confidential.

The nature and source of internal allegations, the progress of internal affairs investigations, and the resulting materials are confidential information and remain exempt from access under the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1.1 to -13. The contents of an internal investigation case file, including the original complaint, shall be retained in the internal affairs function and clearly marked as confidential. The information and records of an internal investigation shall only be released or shared under [] limited circumstances. IAPP 9.6.1.

The OPIA investigation revealed that there were failures to maintain the confidentiality of internal affairs records, none of which were reported or addressed.



As noted above, LT. Nitti also sent a text from his personal cell phone to the personal cell of a supervisor in his command about the review of the Subject 2 IA matter, asking the reviewer not to "pussy out." This was clearly an attempt to influence the review of an IA matter outside the formal review process and without using any confidentiality protocols.

In addition, as noted in detail below, members assigned to OPS maintained a group chat on their personal cell phones for use as an employee locator, but also used the chat to discuss a case then pending in OPS.

d. Inappropriate Commentary Regarding A Crime Victim, Using Personal Phones for NJSP OPS Business, and Subsequent Roadblocks to Accountability

The OPIA investigation revealed the widespread use of personal phones for NJSP OPS business among investigators within OPS. This can result in a breach of IA confidentiality. This practice can result in the failure to preserve records regarding disciplinary matters that are required to be retained. It also creates an impediment to effective administrative investigation of alleged misconduct that occurred in a designated extension of the workplace. Among other reasons, members were using their personal phones to send daily locators and other information associated with investigations using a group text thread in OPS. Within the thread, LT Nitti sent a text referring to an ongoing criminal investigation into the arrest of a NJSP member for sexual misconduct with an underaged girl, a matter that was already under investigation by OPS when the text string occurred. The text was clearly inappropriate and was investigated as collateral to this investigation. In particular:

- LT Nitti sent a group text referring to a criminal charge that had been brought against who was alleged to have given alcohol to, and inappropriately touched, a 14-year-old girl in a hotel during a school sports trip. In response to a newspaper article about the arrest of the Nitti texted "Can we at least see a pic of her. I'd like to see what all the hubbub is about." This matter was already opened as a matter in OPS at the time of the text.
- This text was received by including . The existence of this text went unreported until this OPIA investigation. It was reported stated that did not report it for fear of negative career consequences.
- LT Nitti had posted an inappropriate text to a group text thread about a member's retirement function, asking if there will be strippers at the event since it cost \$60. That matter was referred to the Office of Equal Employment Opportunity (EEO) and LT Nitti was directed to undergo additional training. LT Nitti received that training prior to the text about the sexual victimization of a 14-year-old.
- As noted above LT Nitti sent another text from his personal phone to the personal phone of the supervisor reviewing his findings in the Subject 2 investigation. This text was part of a series in which LT Nitti was requesting an update on the Bureau level review of the findings. The text read "I hope you guys don't pussy out lol."

The use of personal phones to discuss sensitive internal affairs investigations by OPS should be discontinued. It is recommended that NJSP issue State cell phones to OPS investigators and adopt an SOP specifically covering their usage in connection with OPS investigations in consultation with OLEPS and the DOL.

In addition, the uncovered conduct of the individuals who received this text on their personal phones in responding to this investigation must be addressed. When the attorney assigned by the union to represent certain of these individuals in this investigation, as a Weingarten representative, was unavailable for approximately two weeks, the union was requested to appoint another individual as a Weingarten representative for the witnesses. Ultimately, as permitted by the IAPP, members were notified of their scheduled interviews, but the members failed to show up at the date and time for their interviews. Instead, the interviews occurred later when the same

attorney appointed by the union was present to represent all of the members on the text string. At those interviews the attorney objected to members providing their phones for review or providing information from their phones that directly related to texts between NJSP members referring to matters under investigation by OPS. This exceeds the role of a Weingarten representative. In addition, each member gave almost verbatim accounts in which they claimed they were not offended by the text and attempted to justify Nitti's comments during their interviews. The effort to justify LT Nitti's indefensible comments reflects either a complete breakdown in the culture of the State Police OPS or a choreographed attempt to avoid accountability for blatant misconduct.

All members of the NJSP OPS Squad who received the text from LT Nitti objectifying an underaged victim of alleged sexual misconduct by a trooper and did not report it, and later sought to offer the same justifications for LT Nitti's comment while being represented by the same Weingarten representative, should be transferred out of OPS

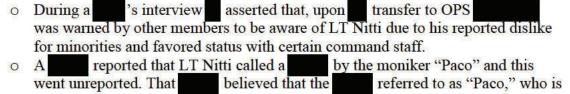
II. Perception that Members Are Not Treated Equally

The investigation revealed that there is a widespread perception, supported by evidence uncovered in this investigation and others, that certain members are "protected" or "favored" (hereafter favored members) based on personal relationships to command staff that permit them to act with relative impunity. These relationships, which typically stem from attending the same academy class or from social relationships outside of work, reinforce the view that NJSP is infused with an "inner circle" mentality (where the "inner circle" is dominated by white males). Multiple members, aside from Subject 2 , including members of rank , all of whom identify as members of underrepresented ethnic and/or racial groups, expressed the view that favored members enjoy:

- Direct access to leadership outside the chain of command, which is used to foster fear in other members;
- o A lack of consequences for misconduct, and
- Different and more favorable paths for promotions and assignments.

a. Fear of Voicing Complaints Against Favored Members, Especially Among Members of Underrepresented Racial and Ethnic Groups

It was observed during this investigation that members of underrepresented ethnic and/or racial groups refrain from reporting misconduct, some of which was directly discriminatory, due to perceptions that complainants themselves routinely become subjects of investigations.



¹ Several lawsuits by female members of NJSP have been filed in recent years alleging that female members are subjected to discrimination. Those allegations were not part of this investigation and are the subject of a separate evaluation by outside attorney Karol Corbin Walker of Kaufman Dolowich.

- Latino, did not report this because was fearful of retaliation due to the perceived connections that LT Nitti had with command staff members.
- o A reported that LT Nitti referred to a swife as a "typical Puerto Rican." When told of this incident by a the comment should be reported. The comment was never reported by any party.
- As noted in detail above, even though numerous members of OPS received a patently inappropriate text from LT Nitti, objectifying an underage girl who a member had been criminally charged with sexually touching, it went unreported until our investigation. At least one member admitted that did not report it for fear that doing so would negatively affect career.

b. Failure to Adhere to the Supervisory Structure Among Certain Members

NJSP is configured in a para-military structure which serves to enhance the good order and discipline of an organization of this size. That said, there were instances of a relaxed approach to chain of command exhibited by superior officers in the presence of subordinates. The appearance of fraternization between senior and junior officers had a chilling effect on members reporting what they felt would be misconduct committed by some junior officers. During their respective witness interviews, several members, all of whom identify as members of underrepresented ethnic and/or racial groups, reported that they or other members of the NJSP were fearful or intimidated by this and asserted that they were reluctant to report issues regarding LT Nitti due to the belief that doing so would be detrimental to their careers.

In other words, members were fearful of reporting misconduct due to perceptions that the subject of their complaints, including LT Nitti, were protected or favored members who would not be held to account due to their apparent relationship with command staff. Instead, members believed that reporting such favored members would, in effect, put a target on the complainant's back. This perception appears to have been perpetuated by the lack of consequences for observed and reported misconduct and the overt displays of familiarity via informal conversations with command staff on a first-name basis:

- One member reported that members would routinely hear LT Nitti engaging in casual conversation with LTC-2 as Nitti would leave the door to his office open while speaking to and referring to by first name.
- Reviews of emails between LT Nitti and the LTC-2 confirm a close and seemingly informal relationship.
- LTC-2 noted in interview that counted LT Nitti as a friend.
- LT Nitti admitted in an interview that he had a longstanding close friendship with LTC-1 to whom he improperly sent confidential draft OPS investigative reports on two occasions.

It is recommended that NJSP Command Staff take immediate steps to mitigate this perception by implementing appropriate measures and enforcing the Chain of Command structure. Such measures might include command staff or OLEPS management critiques at the Bureau and Unit levels. In addition, creating an established method of filing a complaint through an ombudsman or special route such as through OLEPS or an alternative independent agency within LPS when the complaint involves OPS or command staff should be implemented immediately.

This Office is not suggesting that supervisors and subordinates cannot sustain friendships outside of work or act collegially at work. Instead, personal relationships cannot be abused to break the chain of command—in either direction—or to harm another or benefit another based on those friendships. Moreover, professional obligations, such as maintaining the confidentiality of internal affairs information, cannot be compromised by personal relationships, and it is imperative that personal relationships not chill members from reporting misconduct for fear of retaliation or adverse career consequences.

c. Potential for Manipulation of the Promotional Process

This investigation revealed that the NJSP has a promotional system that is built on outwardly objective factors, but can be subjectively manipulated. It appears that this can be carried out via the use of personnel transfers, position criteria changes, and deliberate selection of candidates over those objectively more qualified. It appears the NJSP has attempted to address the latter aspect of subjectivity by a procedure that if a Commander chooses not to promote a tiered member on three consecutive occasions, that Commander will be challenged by the other Commanders and would then have to defend the decisions. We have no indication from our investigation that this change is adequately addressing the significant issue identified. Indeed, given the time a promotional process takes and the prevalence and frequency of transfers, it seems unlikely that anyone would have three consecutive denials from the same Commander to render the change impactful.

There were other practices observed that should also be addressed. It should be noted that these practices contributed to the perception that favored groups benefit from this manipulation of the promotional system. These observed practices are as follows:

- Multiple personnel interviewed advised that there is a practice routinely used by Branch Commanders of laterally transferring individuals into positions to block other candidates from promotion. After the lateral transfer, the disfavored candidate who would have tiered for the promotion is blocked because the lateral transfer eliminated the promotional opportunity by rendering the position no longer vacant.
- Conversely, a candidate who is not likely to make the tier for a promotion is transferred to another unit with fewer candidates for promotion to ensure that the candidate tiers and can be promoted. For example, when then-DSFC Nitti did not meet the tier of qualified applicants for lieutenant in OPS, he was transferred from OPS Central to a confidential position within the Office of the Deputy Superintendent. He was then promoted to Lieutenant outside of the competitive promotional process, as the position was unclassified. LT Nitti served in this role for a little over a year, after which he was transferred back to OPS Central as a LT.
- During the lead up to the 2022 OPS Central captain promotional process, an and a requested that the long-standing position criteria be changed to remove the need for a member to have experience in conducting meaningful reviews. This was formerly a function of the Internal Affairs Bureau, but it had since become a function designated to a separate Intake and Adjudication Bureau. It is noted that LT Nitti did not have experience in meaningful reviews. To gain that experience, LT Nitti would have to have worked out of Bear Tavern Road.

LT Nitti worked his entire time at OPS in the Toms River office near his home. One minority candidate did have experience in meaningful reviews. The removal of this criteria shifted the balance of the tiering and resulted in LT Nitti being tiered for promotion. This change in criteria, albeit arguably in line with the reconfiguration of Bureau responsibilities and applicable to future promotional announcements, was consistent with the conclusion that the Command Staff was intent on ensuring LT Nitti's promotion.

III. Culture and Practices that Discourage Members from Raising Issues of Concern

The OPIA investigation revealed evidence of organizational practices, policies and culture in NJSP that: discourage members from raising issues of concern; foster an atmosphere of distrust among members; protect the status quo; and discourage honest and open assessment of areas that need improvement. This perception was particularly persistent among many members of underrepresented ethnic/racial groups interviewed in this investigation. The reported culture and practices, which this investigation corroborated, include:

- Members who raise issues, especially issues related to favored members, experience adverse consequences in assignments and promotions;
- OPS targets individuals who do come forward to raise issues.
- Complainants are themselves disciplined for reporting allegations of improper conduct either too late or too soon.
- OPS investigators attempt to determine, at times through extraordinary measures, the identity of those who file anonymous complaints in violation of the Attorney General's Internal Affairs Policy and Procedures (IAPP) – which expressly permits anonymous complaints, rather than focusing on the merits of the complaints themselves.
- Complaints are trivialized and result in no action, even when complaints are elevated to mid-level command, who fail to address issues regarding favored members for fear of jeopardizing their own careers.
- There is no effective procedure to voice concerns when the allegations involve OPS or other higher-level management.
- Members seek transfers rather than confronting issues in a constructive way, leading to continued failure to address underlying problems.

It was also observed that, in certain instances, mid-level supervisors trivialized complaints of harassment and, in at least one instance, the violation of a direct order by a major. This and the aforementioned perceptions prompted members to seek transfers out of these situations rather than pursue misconduct complaints:

- received harassing text messages and telephone calls laced with profanity from LT Nitti and, rather than file a formal complaint, requested a transfer to get away from LT Nitti.
- e reported what believed to be LT Nitti's violation of a direct order to both a Captain and a Major. This was met with the comment from both in effect "that's just Joe [Nitti] being Joe."

, during discussions of investigative strategy related to the anonymous letter at the center of the investigation into produced to send that no DNA testing occur. Nonetheless, LT Nitti directed to send the letter for testing. The reported that LT Nitti did so even though there was no mistaking the order that DNA testing was prohibited. Even though the order and went along with it.
Aside from who reported this violation to OPIA's SIB, no other supervisor filed misconduct complaints. One could reasonably conclude that this was attributable to avoiding potential negative career consequences for those who reported the comments and the perception that command staff would rather that no one "rock the boat" by raising such issues.
RECOMMENDATION REGARDING THE Subject 2 FINDING
The Sustained Finding in OPS Investigation -0625 Against Subject 2 Should Be Vacated
As noted above, an anonymous letter was sent to Witness 1 alleging that Subject 1 made remarks about a being promoted instead of him because he was Black, that had attempted to undermine said and had failed to report the conduct. The OPS investigation of those allegations, OPS -0125, determined the allegation that Subject 1 had made disparaging comments could not be sufficiently proven, as there were no direct witnesses to the comments, Subject 1 denied the comments, and the at issue was unaware of the comments. Likewise, the allegation that to report the comments was also determined to be unfounded.
Notwithstanding the results in OPS — -0125, a misconduct finding against Subject 2 was substantiated for Failure to Notify the Division of Information to Which the Division Would Take Cognizance. This finding was based on Subject 2 's failure to immediately report rumors that Subject 1 had made the very comments that were determined not to have been made in who were Subject 1 's direct supervisors and asked them to speak with said that told that had spoken to Subject 1, that admitted that is a hothead, and that it won't happen again.
Subject 2 explained that did not report the matter formally at the time raised it with because believed that it had been handled. When Subject 1 made the allegations in resolved and made a complaint (-0167) about the alleged comments along with complaint that LT Nitti had conducted an unfair and biased investigation against him.
The allegation that Subject 1 made the alleged comment was not sustained. Although information uncovered during this investigation calls that finding into question, Subject 2 was sustained for failing to report promptly enough a comment that OPS found was not made.

The finding against Subject 2 should be set aside due to the facts and circumstances uncovered in the OPIA investigation of LT Nitti. The investigation of Subject 2 is so thoroughly tainted by the misconduct that occurred that it cannot be permitted to stand.

- The investigation of Subject 2 was not conducted in a neutral and objective manner by LT Nitti as noted herein.
 - o LT Nitti personally filled out a complaint form for Subject 1 alleging that Subject 2 had authored the anonymous complaint.
 - Much of the investigative strategy for the investigation into who wrote the anonymous letter derived from discussions with the subject of the complaint and other witnesses closely aligned with the subject who made the alleged racial comment.
 - o LT Nitti employed extraordinary methods to attempt to prove that wrote the anonymous letter, including: taking samples of the typeface of a typewriter that Subject 2 used to compare to the type of the anonymous letter; obtaining video of the area around the post office where the letter was postmarked; and fingerprinting the letter and envelope.
 - The envelope for the anonymous letter was sent on LT Nitti's orders to the NJSP lab for DNA testing against direct orders not to do DNA testing from
 by submitting a request for DNA analysis
 - LT Nitti sent a text from his personal phone outside the normal review process to the reviewing asking him to uphold LT Nitti's findings against Subject 2 and not to "pussy out."
 - O A witness interviewed by LT Nitti later stated that he had not questioned them in an objective manner, that he had already made up his mind about what happened, and that the witness felt like LT Nitti was trying to get the witness to change their answers.
- LT Nitti breached the confidentiality of the investigation by sharing draft reports with Witness 2, who had no legitimate reason to see the reports, on two separate occasions.
- Subject 2 was singled out for failing to report the incident even though was not a direct witness to the comments. Furthermore, it is apparent that the and who directly supervised the individual who allegedly made the comment, did not report the alleged incident at the time they learned of it. If should have reported the alleged incident immediately, the same would hold true for the and Yet neither was sustained for failure to report the alleged comments.

The treatment of Subject 2 is consistent with the finding above that members are discouraged from making complaints because they will themselves be subject to discipline for reporting matters too early or too late.

ADDITIONAL RECOMMENDATIONS

In light of the above, OPIA submits the following additional recommendations:

Individual Level

•	All members of the NJSP OPS	who received the text from LT Nitti					
	objectifying an underaged victin	eraged victim of alleged sexual misconduct by a trooper and did not					
	report it, and later sought to offer	ought to offer the same justifications for LT Nitti's comment while					
	being represented by the same Weingarten representative, should be transferred out of						
	OPS	23 81					
•							

Organization Level

- Though limits on OAG's ability to unilaterally discipline NJSP personnel prevent more sweeping reform, OAG, operating in part through OLEPS, should increase its oversight of OPS, and should refer this report to OLEPS for further investigation, review, and recommendations.
- Consistent with OAG's and OLEPS's existing oversight authority, the Superintendent of NJSP should be directed to present OAG with a plan for improved oversight and management over OPS.
- NJSP should be directed to cooperate with increased oversight by OLEPS, especially as it relates to the internal affairs function of NJSP.
- The IAPP requires that misconduct by Chiefs and certain high-ranking members of the municipal police agencies be reported and investigated by the County Prosecutors or the Attorney General. See IAPP 5.1.8. By analogy, investigations into misconduct by high-ranking members of the NJSP should be conducted by OPIA or another suitable designee selected by the Attorney General. In addition to continuing this current practice, NJSP should be required to affirmatively notify OPIA when OPS receives an allegation of misconduct by a high-ranking member of NJSP command or a member of OPS. In keeping with current practice, in response to such a notification, OPIA will either conduct the investigation itself or work with the Division of Criminal Justice to assign to a County Prosecutor's Office as is done with other conflict cases.
- An alternative mechanism for reporting misconduct within NJSP should be established, especially when the alleged misconduct is committed by OPS or command staff. This alternative mechanism must provide the means for anonymous reporting of misconduct.
- The practice and frequency of transfers within NJSP should be reviewed and addressed by OLEPS so that the IA function and transfer process cannot be used by command staff to impose inappropriate punishment and/or favoritism, including the manipulation the promotional process, or to otherwise chill the reporting of misconduct.

STATE OF NEW JERSEY

DEPARTMENT OF LAW AND PUBLIC SAFETY

OFFICE OF PUBLIC INTEGRITY & ACCOUNTABILITY



SUMMARY AND CONCLUSIONS REPORT

Bureau/Unit:	Division Case Number:	Case Title:
Special Investigations Bureau	C.J. 2022-09986	IA-2022-070

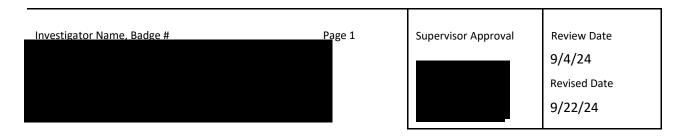
Subject: Lieutenant Joseph Nitti New Jersey State Police

Please refer to investigative report generated for this case for context and background information related to these findings. This report has been authored to serve as an independent reference to the allegations against New Jersey State Police Lieutenant (LT) Joseph Nitti. All cited rules and regulations are attached hereto.

Summary of Allegations

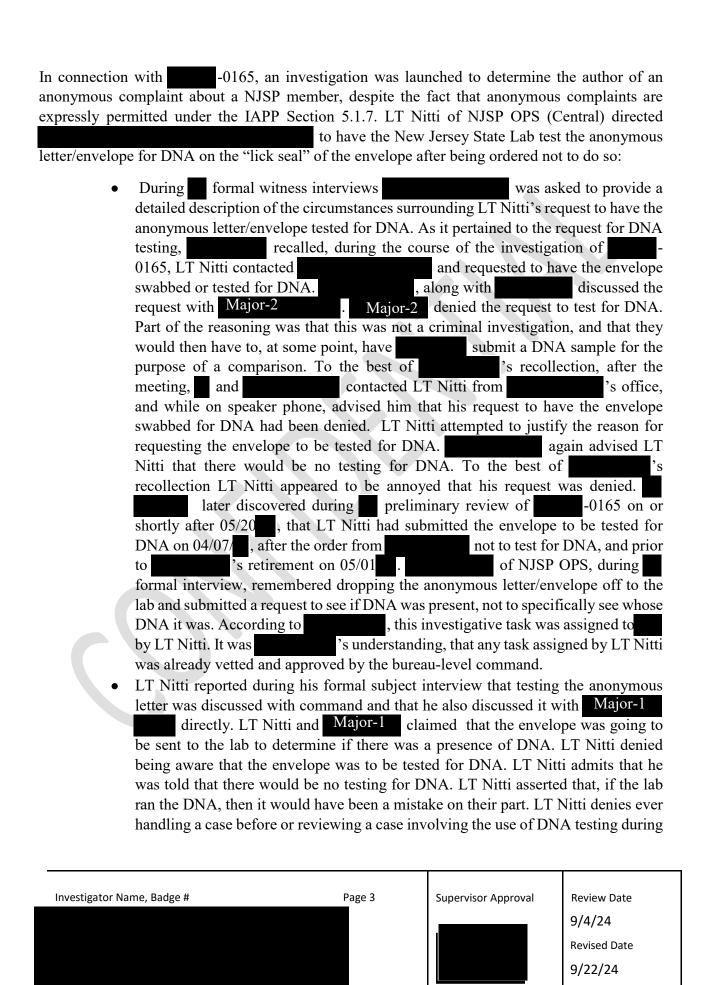
The allegations at issue in this investigation relate to alleged misconduct by LT Nitti while he served as a member of the Office of Professional Standards (OPS) in the New Jersey State Police (NJSP). The OPS is charged with, among other things, performing the internal affairs function in compliance with the Internal Affairs Policy & Procedures (IAPP) promulgated by the Attorney General. Many of the allegations discussed herein pertain to LT Nitti's conduct relevant to specific internal affairs investigations. By way of background, a brief overview of the internal affairs investigations referenced herein is provided below:

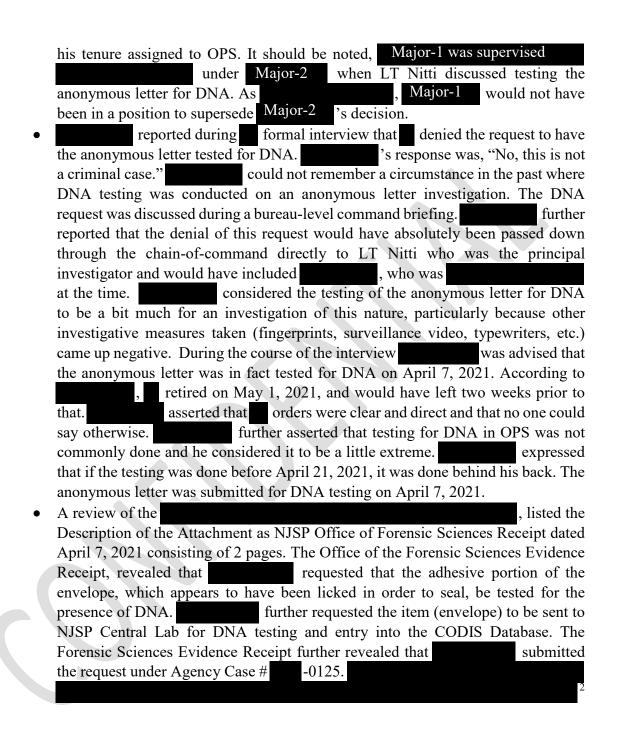
• IA 070 was opened on 06/06 , in response to allegations of racism, bias, and official misconduct among members in the Division of the Office of Professional Standards (OPS). These allegations were related specifically to an internal affairs investigation into



an anonymous letter received by		of the N	lew Jersey State	
Police. IA -0125, was opened on 02/26 in response to an anonymous letter received by alleging that a Black colleague claiming that a promotion was based on his race. The OPS did not sustain any allegations against at the conclusion of this investigation, and instead launched a separate investigation in response to the anonymous complaint. The finding for IA -0125 as it pertained to was UNFOUNDED, on the grounds that there was insufficient evidence uncovered to support the allegations. IA -0165, opened on 03/18, was originated by LT Nitti on behalf of to determine the origins of the anonymous letter that formed the basis of an investigation into racist comments allegedly made by review of the anonymous complaint against him during the course of his Principal interview, LT Nitti drafted a Reportable Incident Form 525 on allegations that promotion to was charged and arrested on four criminal charges for Indecent Assault of a Person Less Than 16-years-old, Furnishing Liquor to a Minor, Unlawful Contact with a Minor, and False Imprisonment. was suspended without pay on . As a result of this investigation, was terminated on .				
Allegation #1: Inappropriate Standard of Conduct-Insubordination				
This allegation, if sustained would be a violation of Article IV , Section 3(b) , of the Rules and Regulations of the Division , entitled General Provisions, which reads in part:				
"Not willfully disobey any lawful verbal or written order of any superior commissioned officer, superior non-commissioned officer, or other member placed by competent authority in a position of supervision over such member. Should any such lawful order conflict with a previously issued order, or any provision of these Rules and Regulations, the member to whom such order is given shall respectfully call attention to such conflict of orders, and if the member giving the last order does not reissue same so as to obviate such conflict, the order shall stand and the responsibility shall be that of the member giving such order, and the member obeying such order shall not be disciplined."				
¹ Additional information came to light during the investigation that implicated thereby halting the continuation of the administrative investigation, until such time as those issues could be resolved.				
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9/22/24



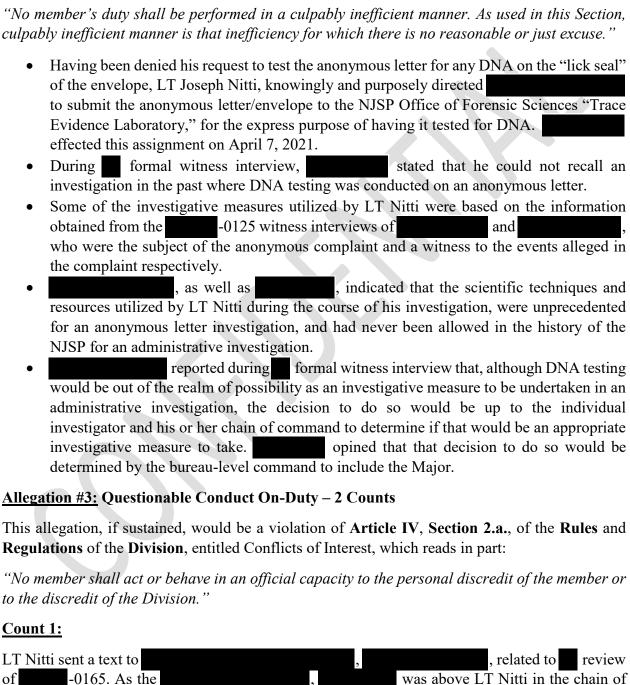


² This Summary Report focuses on the conduct of LT Nitti.

Allegation #2: Culpably Inefficient Supervision

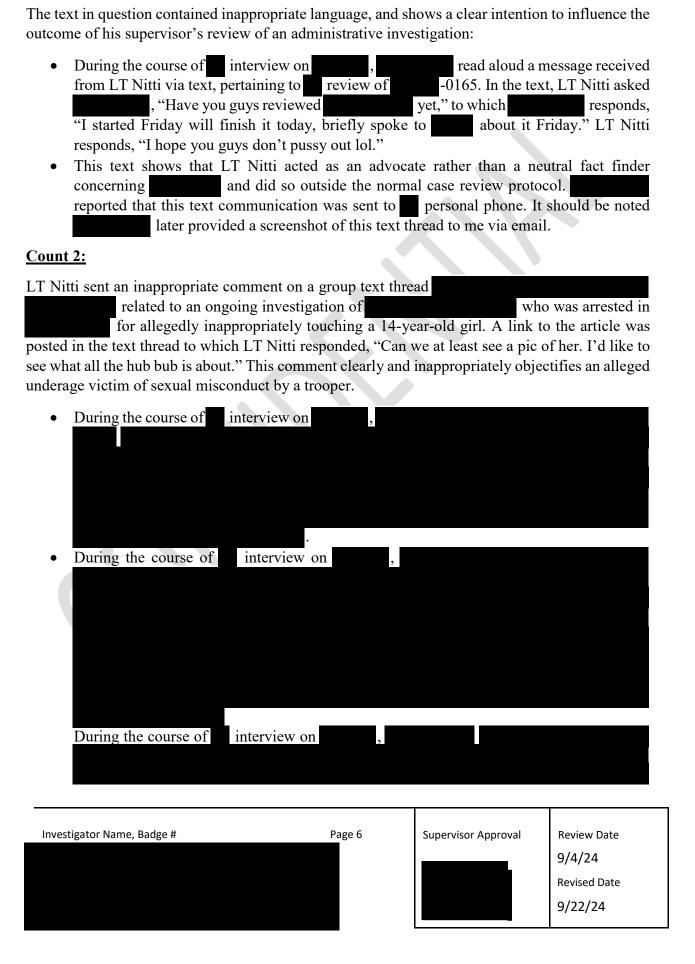
This allegation, if sustained, would be a violation of Article V, Section 5, of the Rules and **Regulations** of the **Division**, entitled Performance of Duties, which read in part:

"No member's duty shall be performed in a culpably inefficient manner. As used in this Section, culpably inefficient manner is that inefficiency for which there is no reasonable or just excuse."



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command and was responsible for reviewing and approving LT Nitti's IA investigative reports.





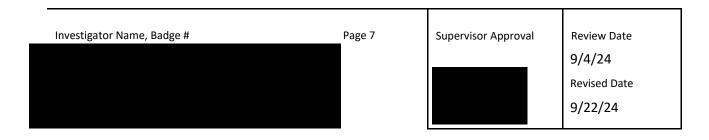
During his interview on LT Nitti affirmed that he recalled receiving a text on the group text exchange on 6/30/22, that involved an open source news article regarding a NJSP Trooper that was arrested in the for alleged illicit sexual conduct with an underage female. LT Nitti was shown a copy of the screen shot that contained the group text in question to refresh his memory. LT Nitti asserted that OPS was not investigating the matter involving the arrest of the NJSP Trooper at the time the news article was released. LT Nitti further confirmed that it is possible that this matter could have been referred to OPS for administrative review after the criminal investigation concluded. He did not recall the details related to the arrest in the news article; he only recalled that someone posted the article.

As to his comment posted to the group text, "Can we at least see a pic of her. I would like to see what the hub-bub is about," LT Nitti did not believe the comment to be inappropriate. Nitti explained what he meant to convey with the comment was, as an investigator, when he sees an article related to the solicitation of a minor, the first thing that sticks out in his mind is how old is the person, and what do they look like--is it a teen that looks like she is eighteen (18), is it a kid that looks like they are twelve (12)? He would need to see what the victim looks like so he could make a better determination of the mindset of the perpetrator. LT Nitti denied that he was making a comment about a victim of assault, claiming that he was making a comment about what the facts are, and as an investigator he would like a little more information.

During their respective witness interviews,

after being shown a copy of the screenshot of the group text message in question, each affirmed that they received and read the message. None of them claimed to find LT Nitti's comment regarding the 14-year-old to be offensive. Instead, in general they gave very similar accounts that as investigators seeing a photograph of the 14-year-old girl could factor into the investigation in that the accused, a NJSP Trooper may have believed she was older than her actual age. None of the afore-referenced members interviewed believed that LT Nitti's comment should have been reported to EEO. All of the members interviewed admitted that they received the group text message on their personal cellular devices. None would provide their personal cell phones to be reviewed in connection with the investigation

It should be noted that legally, it is no defense to sexual misconduct toward a minor that "she



looked older." Especially in this case - where the trooper knew that the victim was attending a high school wrestling event with her age was never a legitimate investigative issue.				
It should be further noted that represented by the same union attorney, scheduled to appear at an earlier date and w representative, because attorney was no to appear at the date and time scheduled for their	t available.	to obtain a different	ent Weingarten	
Allegation #4: Breach of Confidentiality Regar	ding an Int	ternal Affairs Invest	tigation	
This allegation, if sustained, would be a violation of Article XIII, Section 19 (b) and (c), of the Rules and Regulations of the Division, entitled Conflicts of Interest, which reads in part:				
b . "Treat as confidential, unless the contrary is specifically authorized by competent Division authority, any matters or information which pertain to the Division, its operations, investigations or internal procedures."				
c. "Not disseminate, distribute or supply to any unauthorized member or any other person, an original, copy or abstract of any Division document, unless specifically authorized by competent Division authority."				
During the review of LT Nitti's email exchange, requested on 8/13/22, there were two (2) emails with attachments related to IA -0165 sent to LTC-1, who had no supervisory authority over OPS matters.				
 5/20/21-Subject: let me know if you like this running program - Attachment: running program.docx This document contained LT Nitti's Internal Affairs Allegations and Conclusions for IA 0165 dated 5/17/21. 7/2/21- No Subject - Attachment: 1.docx This document contained LT Nitti's revised Internal Affairs Allegations and Conclusions for IA 0165 dated 7/1/21. 				
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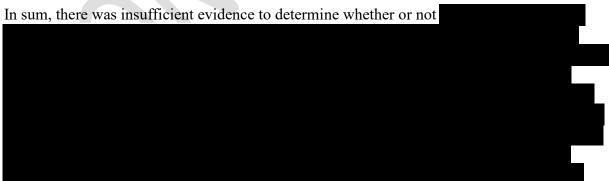
When asked if any files or documents should be sent to any NJSP member outside of OPS, LT Nitti reported during his formal interview on 12/19/22, that he knew where we were going with this. LT Nitti stated that while on his way to this interview, he spoke to his Weingarten regarding this email (referring to Email 1). LT Nitti expressed that he is a very close friend of LTC-1 of twenty-four (24) years. LT Nitti continued to explain that plays is an avid runner and LTC-1 asked LT Nitti for a running program to help Lacrosse. . LT Nitti further explained that he reached out to for a running program and when emailing the same to LTC-1 , he inadvertently sent the wrong file which was the Internal Affairs Allegations and Conclusions for -0165. LT Nitti further asserted that he has "hundreds" of files on his computer desktop and attached/sent the wrong one. LT Nitti described LTC-1 being, "the last boy scout," and as such, LTC-1 immediately called him and berated him for sending him a confidential document. LT Nitti apologized to LTC-1 for sending the document. LT Nitti did not self-report this matter to his bureau level command. LT Nitti further explained that he found this email while looking through his emails related to the cases discussed during the course of this interview in preparation for the same. It should be noted, that upon further review of the 5/20/21 email (Email 1) above, it was determined

- experience in OPS and supervised LT Nitti, all reported during their respective formal witness interviews that it was not acceptable for OPS-related files/reports/documents to be forwarded to anyone outside of OPS.
- A voluntary formal interview was conducted with LTC-1 was informed, that during his formal interview, LT Nitti disclosed that LTC-1 sometime in , he inadvertently sent LTC-1 an email with an attachment containing information regarding a confidential investigation that he was assigned. LT C-1 asked if this was concerning to which I responded it was. further remarked, "Did he tell you how pissed off I was that he sent it?" LTC-1 asked to provide any details could recall regarding the email sent. LTC-1 explained that LT Nitti has who is a very good runner and played LTC-1 asked LT Nitti for assistance, as he was aware that lacrosse. a distance runner. LTC-1 asked LT Nitti for suggestions, to which he responded that

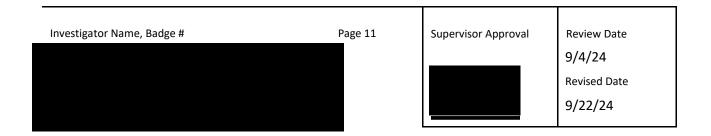
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This allegation, if sustained, would be		nds in part:	
Allegation #5:			
• When asked if that was the only C-1 responded that could n or after receiving this email. and was not reinterviewed.	not recall any other		lvertently, before il was uncovered
When asked if could recall he had to do with something in regard			recalled that it
he would send something vidocument about running, but con C-1 called LT Nitti and asked, it was inadvertently sent.		regarding	case. LT





Allegation #6: Candor



This allegation if Sustained would be a violation of Article V, Section 15, of the Rules and Regulations of the Division, which reads in part:

"No member shall knowingly, under any circumstances, make or cause to be made, any false or misleading official statement or intentionally misrepresent any facts."

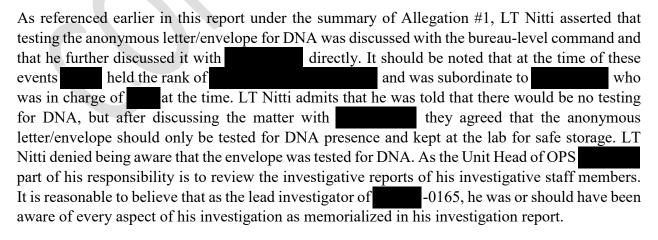
Standing Operating Procedure B10 Conduct of Investigations, Section XI, Paragraph D, which reads in part:

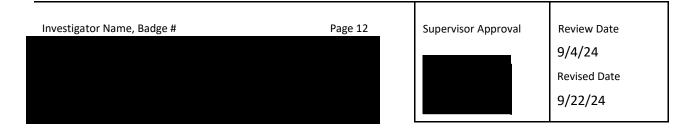
"All members of the Division are obligated to answer questions and provide full and complete information to investigating officers during internal investigations. Less than complete candor during any statement may lead to serious disciplinary sanctions, which may include suspension or termination."

Count 1:

As referenced earlier in this report under the summary of Allegation #4, LT Nitti asserted that he
sent LTC-1 emails containing information related to -0165 inadvertently. LT
Nitti provided a long explanation as to how this happened, referencing his choosing the wrong file
from the crowded desktop of his computer. During his follow up interview, it was brought to LT
Nitti's attention that he sent a second email to LTC-1 again containing information related to
-0165. This attachment was an amended version of the first attachment sent in his previous
email. LT Nitti appeared to be taken totally by surprise and could not offer any response other than
he would have not had any reason to send the second email to LTC-1. Based on how the
emails were titled, and the explanation provided by LT Nitti, it is reasonable to conclude that he
was not truthful about the circumstances surrounding his sending confidential information related
-0165. The importance of confidentiality in internal affairs investigations is clearly
outlined in the Office of the Attorney General's Internal Affairs Policy and Protocol (IAPP).

Count 2:

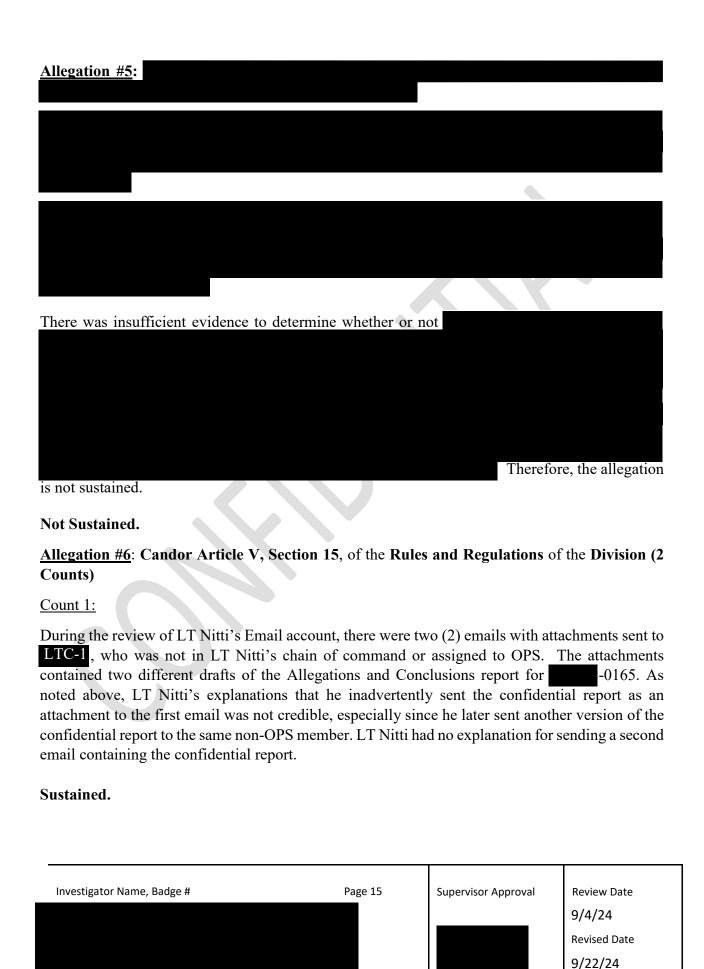




In his follow-up formal subject interview, in his initial formal subject interview and the envelope for DNA. In his previous state and they agreed that the anonymous kept for safe storage at the State Lab. LT with DNA was denied. LT Nitti could not recall attention that he tested the envelope for DC contradicted himself again stating he did a lab tested the envelope for DNA when they his initial formal subject interview, he is anonymous letter/envelope for DNA and in Clearly, the details provided by interviews contradict LT Nitti's account anonymous letter/envelope for DNA.	now said that he catement he asserted is letter/envelope we Nitti denied having where he anyone in the burn NA after his requested having a conty were only suppostated that he was after they did it would	could not recall who d that he had a discurrence of the tested for Ding a conversation via is request for testing reau-level command est to test it was deninversation with used to test it for pressions unaware the State I have been a mistake in their respective	approved testing assion with NA presence and a conference call the envelope for bringing it to his ed. However, he that the ence of DNA. In a Lab tested the e on their part.	
Furthermore, a review of the Description of the Attachment as NJSP Office of Forensic Sciences Receipt dated April 7, 2021 consisting of 2 pages. The Office of the Forensic Sciences Evidence Receipt, revealed that requested that the adhesive portion of the envelope, which appears to have been licked in order to seal, be tested for the presence of DNA. Furthermore, an additional request was made by for the item (envelope) to be sent to NJSP Central Lab for DNA testing and entry into the CODIS Database.				
LT Nitti's attempt to differentiate between testing for the presence of DNA and testing for DNA is inconsistent with the practice of the NJSP lab as well as asking for entry into the CODIS database. The NJSP lab does not differentiate between testing for the presence of DNA or testing for DNA. Whether the DNA is submitted to CODIS depends on whether the investigation relates to a qualifying criminal investigation and the quality of the sample.				
Sum	mary of Findings			
Allegation #1: Inappropriate Standard of Conduct-Insubordination - Article IV, Section 3(b), of the Rules and Regulations of the Division				
Regarding -0165, LT Nitti directed to submit the anonymous letter and envelope to the state lab for DNA testing after being ordered not to do so.				
Sustained.				
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Allegation #2: Culpably Inefficient Supe Regulations of the Division, entitled Perform			f the Rules and		
Having been denied his request to test the anonymous letter/envelope for DNA, LT Nitti knowingly and purposely assigned to submit the anonymous letter/envelope to the NJSP Office of Forensic Sciences "Trace Evidence Laboratory," for the express purpose of having it tested for DNA.					
Sustained.					
Allegation #3: Questionable Conduct On-I	Duty (2 Counts				
Article IV , Section 2.a. , of the Rules and Interest, reads in part:	Regulations of	of the Division , entit	tled Conflicts of		
"No member shall act or behave in an officia to the discredit of the Division."	el capacity to th	e personal discredit (of the member or		
Count 1:					
Lieutenant Nitti sent a text to review of -0165. The text in question	stated: "I hope	you guys don't puss	, related to y out lol.".		
Sustained.					
Count 2:					
LT Nitti sent an inappropriate comment on a group text thread The text related to an ongoing investigation of a trooper who was arrested for allegedly giving a beer to, and inappropriately touching, a 14-year-old girl stated: "Can we at least see a pic of her. I'd like to see what all the hub bub is about."					
Sustained.					
Allegation #4: Breach of Confidentiality Regarding an Internal Affairs Investigation - Article XIII, Section 19 (b) and (c), of the Rules and Regulations of the Division, entitled Conflicts of Interest					
During the review of LT Nitti's email account, there were two (2) emails with attachments sent to , who was not in Lieutenant Nitti's chain of command or assigned to OPS. The attachments contained two different drafts of the Allegations and Conclusions report for -0165.					
Sustained.					
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Count 2:

The details provided by contradict LT Nitti's account of the circumstances surrounding the testing of the anonymous letter/envelope for DNA.

Despite LT Nitti's insistence that a DNA test was not requested, a review of the Office of the Forensic Sciences Evidence Receipt, revealed that it included a request to have the lick seal portion of the envelope tested for the presence of DNA. Furthermore, the Evidence Receipt contained an additional request for DNA testing and entry into the CODIS Database.

Sustained.

Conclusion

LT Nitti separated from the NJSP during the pendency of this investigation. Nevertheless, pursuant to Internal Affairs Policy and Procedures Sections 9.11.2(f) and (k), his conduct warrants the imposition of major discipline and must be publicly reported pursuant to Attorney General Law Enforcement Directive No. 2022-14 ("Transparency in Internal Affairs Investigations."). Based on the seriousness of the conduct and multiple sustained violations, along with a prior history of improper comments, if LT Nitti were not already separated from the NJSP, the imposition of major discipline, and specifically termination, would be appropriate and recommended.

