

CANANDAIGUA POLICE DEPARTMENT

21 ONTARIO STREET
CANANDAIGUA, NEW YORK 14424
(716)396-5035 Phone
(716)396-5034 Fax
Dial 911 for All Emergencies

Patrick W. McCarthy
Chief of Police



September 24, 1999

TO: P.O. Ralph J. Liberatore
FROM: Chief Patrick W. McCarthy
SUBJECT: Disciplinary Charges

Based upon your failure to comply with Police Department General Order 24.14 L (3) Preliminary Investigations while called upon to provide a police response to threats made to a juvenile resident of this jurisdiction, the following disciplinary charges are preferred against you.

Violation of Rules and Regulations 1-18: It shall be the duty of all members to follow the General Orders, Direct Orders, or the best police practice in any case not outlined in these Rules and Regulations.

On June 4, 1999 at 2330 hours while on duty in uniform upon response to the Dan Hampton residence, [REDACTED], You received information that the complainant's son had been the object of threats of harm via telephone calls to the Hampton residence. There was information provided to you at that time that the threatening calls were believed to have been made by individuals known to the complainant and his son and were connected to a previous incident at school. You were also provided with tentative identification of one of the callers. In possession of this information, you failed to refer this information to the Juvenile Unit or prepare any Incident Report that could have alerted officers on duty following the threats received, nor did you pursue any further investigation into the complaint as is provided in General Order 24.14 L (3) Preliminary Investigations.

Violation of Rules and Regulations 3-11 Unsatisfactory Performance: Officers shall comply with all Department Orders, maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Officers shall perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws to be enforced, an unwillingness or inability to perform assigned tasks, the failure to conform to work standards established for the officers rank, grade, or position, the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention, or absence without leave.

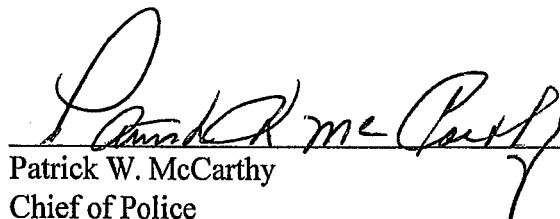
Violation of Rules and Regulations 3-27 Request for Assistance: When any person applies for assistance or advice or makes complaints or reports either by telephone or in person, all pertinent information shall be obtained in an official and courteous manner and shall be properly and judiciously acted upon consistent with established Departmental procedures.

Violation of Rules and Regulations 3-39 Department Records: Officers shall submit all necessary reports on time and in accordance with established Department procedures. Reports submitted by officers will be truthful and complete, and no officer shall knowingly enter or cause to be entered any inaccurate, false or improper information. Entries shall be made in black or blue pen. Signed reports shall include full first name, middle initial and surname. Corrections of Department records shall be made by drawing a single line through the incorrect matter entering the correction immediately above and initialing the change. Removing, altering or changing any official Department record, except as provided in Department Orders or upon approval of the Chief of Police is prohibited.

In the event you wish to waive your right to a hearing on the aforementioned violations of the Department Rules and Regulations as per the provisions of the New York State Civil Service Law, you will be subject to a two day suspension without pay, a formal written reprimand and a warning letter that will advise you that any future serious violations of the Department Rules and Regulations or procedures will be cause to dismiss you from the Department. Should you prefer a hearing on these violations of the Department's Rules and Regulations, you may feel free to do so.

Upon receipt of this communication, you may have five business days to decide which alternative you wish to take. If no response is received, the Department will proceed with arrangements for a Section 75 Hearing.

PWMcC:cb


Patrick W. McCarthy
Chief of Police

CANANDAIGUA POLICE DEPARTMENT
21 ONTARIO STREET
CANANDAIGUA, NEW YORK 14424

716-394-3311

September 29, 1999

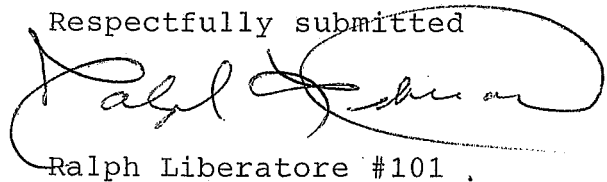
TO: Chief McCarthy

FROM: P.O. Ralph Liberatore

SUBJECT: Civilian Complaint #904633- Hampton

In response to your letter dated September 24, 1999, regarding disciplinary charges, I offer the following. If I elected to have a section 75 hearing it would have to be a fair and unbiased proceeding but as we know that could never be the case and with that in mind, I am forced to plead "no contest" and accept your offer of a two day suspension and a letter of reprimand. This would be with the understanding that there would not be a break in servicetime and no loss of benefits during the time in question.

Respectfully submitted



Ralph Liberatore #101

Ralph

A suspension is a suspension.
I cannot change civil service law.
I did confer with City Mgr. re: the concept
of continuous service as it relates to the
med. ins. benefit after 15 years and he said
that a two day suspension would not effect
that benefit. You might want

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Patrick W. McCarthy
Chief of Police



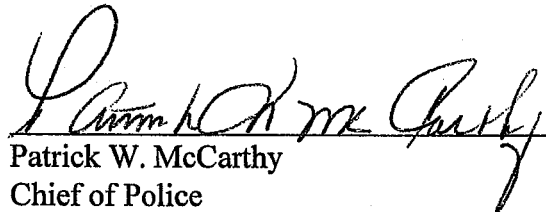
October 7, 1999

TO: P.O. Ralph Liberatore
FROM: Chief Patrick W. McCarthy
SUBJECT: Command Discipline

Based upon your decision to accept Command Discipline as contained in a September 24th communication to you outlining the charges preferred against you and acknowledging your waiver of a Section 75 hearing as per New York Civil Service Law, the following is for your information.

As previously agreed, you will be suspended without pay for two days - Monday, October 18, 1999 and Tuesday, October 19, 1999. Your duty schedule will resume on the next scheduled tour on Wednesday, October 20, 1999.

PWMcC:cb


Patrick W. McCarthy
Chief of Police

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Patrick W. McCarthy
Chief of Police



October 6, 1999

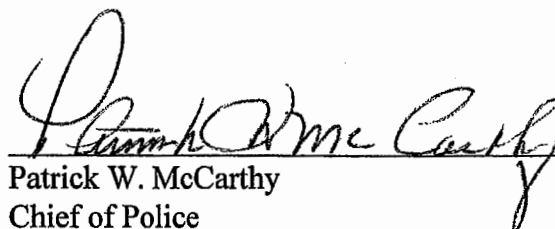
TO: P.O. Ralph Liberatore
FROM: Chief Patrick W. McCarthy
SUBJECT: Letter of Reprimand

Pursuant to your decision to accept Command Discipline as a resolution to the disciplinary charges preferred against you on September 24, 1999 arising from a civilian complaint (Daniel Hampton - June 4, 1999 - #904633), the following is for your guidance.

In the course of your routine duties as a Police Officer, you are called upon to respond to a variety of calls for service. Most of the responses are, in one way or another, connected with Police Department General Orders. These orders have been carefully developed and were designed to utilize the most effective and efficient approach to a particular circumstance. When circumstances occur that fall within the scope of a General Order and other avenues are followed, the Department's capability to fully respond is diminished. In the case at hand, a failure to fully investigate a harassment complaint and make appropriate referral to the Juvenile Unit as per General Order 24.14 resulted in a subsequent altercation that could have had serious consequences and a civilian complaint casting discredit not only upon you but upon the entire Department.

Because of the foregoing, therefore, you are reprimanded for your failure to adhere to the Department's General Order 24.14 as found in the Department's General Order Manual and you are duly warned that a repetition of this nature will most surely lead to more serious consequences.

PWMcC:cb


Patrick W. McCarthy
Chief of Police

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Patrick W. McCarthy
Chief of Police



September 27, 1999

Mrs. [REDACTED]
[REDACTED]
[REDACTED]

Dear Mrs. [REDACTED]:

Your complaint against Officer Ralph Liberatore alleging rudeness and overbearing behavior on June 4, 1999 while on assignment at [REDACTED] has been investigated.

The Police Department finds that Officer Liberatore's behavior was not in keeping with the behavior expected of Canandaigua Police Officers. He has been counseled against a repeat of the conduct displayed on June 4th and advised of the consequences should he engage in that conduct in the future.

We regret that we could not have provided assistance to you in a more courteous manner.

Very truly yours,

A handwritten signature of Patrick W. McCarthy in cursive script.
Patrick W. McCarthy
Chief of Police

PWMcC:cb

P.S. - Your complaint regarding rudeness by Officer Liberatore has been processed independently and separate from the complaint relating to his failure to provide appropriate police service.

CANANDAIGUA POLICE DEPARTMENT

PERSONNEL COMPLAINT REPORT

C.# 904633

I.A.# _____

Date/Time 6/16/99 @ 0900hrs

Manner Complaint Received: ☒ In person; ☐ Letter; ☐ Telephone

Location of Occurrence: [REDACTED] Date/Time Occurred: 6/14/99

Employees: 1. P.O. LIBERATORE 2. _____ 3. _____
involved

CODE: C = Complainant W = Witness O = Other

Code: C Name: [REDACTED] Sex: M DOB: 5/14/54

Address: [REDACTED] City: CDLA State: N.Y. Phone: [REDACTED]

Complaint: (if additional space is necessary use CPD# 61 Supplementary Report)

ON JUNE 4, 1999 AT APPROXIMATELY 2330 HRS C#904429 THE COMPLAINANT CALLED WANTING TO FILE A COMPLAINT OF AGG. HARASSMENT. P.O. LIBERATORE RESPONDED, LISTENED TO THE RECORDED THREATS ON THE COMPLAINANT'S ANSWER MACHINE, ASKED IF CALLER(S) COULD BE IDENTIFIED, WHEN COMPLAINANT IDENTIFIED CALLER(S) AS JUVENILES, P.O. LIBERATORE STATED "THEIR JUVENILE THERE'S NOTHING I CAN DO" HE FURTHER ADVISED TO "LET IT GO IN ONE EAR AND OUT THE OTHER". P.O. LIBERATORE THEN LEFT. AT THAT TIME, I WANTED SOMETHING TO BE DONE OR SOME OPTIONS, SOME HELP AND I GOT NONE.

NOTICE: PURSUANT TO THE YORK STATE PENAL LAW SECTION 210.45, IT IS A CRIME PUNISHABLE AS A CLASS A MISDEMEANOR TO KNOWINGLY MAKE A FALSE STATEMENT HEREIN.

Complainant

Print Name: [REDACTED]

Signature: [REDACTED]

Supervisor

Signature: St. Charles B...

Employee Notified ☒ Date: 6/13/99

CPD#60

CANANDAIGUA POLICE DEPARTMENT

PERSONNEL COMPLAINT
SUPPLEMENTAL REPORT

CPD NO. 904633

I.A. NO. _____

DATE/TIME REPORTED: 6/10/99 0900 HRS

ON Monday, June 7, 1999 @ Approximately 3:23pm OFFICER LIBERATORE
Responded to [REDACTED] For A Report of JUVENILES FIGHTING.

THIS WAS A FIGHT BETWEEN MY SON AND [REDACTED] THIS
IS WHAT I WAS TRYING TO PREVENT WHEN I CALLED AND MADE
THE COMPLAINT ON Friday. I TRULY BELIEVE THAT IF O.P.C. LIBERATORE
WOULD HAVE INTERVIEWED ON Friday By talking with [REDACTED]
[REDACTED] AND HIS PARENTS, THAT THE FIGHT THAT OCCURRED ON
Monday WOULD HAVE BEEN PREVENTED. I ALSO PERSONALLY TALKED
WITH O.P.C. LIBERATORE ABOUT THIS SITUATION AND CONTINUALLY
HE STATED THERE WAS NOTHING HE COULD DO. O.P.C. LIBERATORE WAS
RUDE AND OVER BEARING WITH HIS CONTINUED BODY GESTURES AND
JAYING "THERE'S NOTHING I CAN DO." AS HE WAS PUTTING AWAY, O.P.C. LIBER.
STATED "JUST LET THEM DUKE IT OUT"

NOTICE: Pursuant to the New York State Penal Law Section 210.45, it is a crime punishable as a Class A Misdemeanor to knowingly make a false statement herein.

SUPERVISOR

COMPLAINANT

SUPERVISOR: [Signature] PRINT NAME: [REDACTED]

SIGNATURE [REDACTED]

EMPLOYEE NOTIFIED ☒ DATE: 6/13/99

CANANDAIGUA POLICE DEPARTMENT
Supervisor's Complaint Report

CPD NO. 904633 I.A. NO. _____ DATE: 7/22/99
COMPLAINANT Dan Hampton SEX M RACE 45 DOB 05/14/54
ADDRESS [REDACTED] CITY Cdga STATE NY PHONE [REDACTED]
MANNER COMPLAINT TAKEN: ☒ In Person; ☐ Telephone; ☐ Letter
COMPLAINT CATEGORY: Personnel
LOCATION OF INCIDENT: [REDACTED] DATE 6/4/99 TIME 2330hrs
ACCUSED MEMBER: P.O. Liberatore BADGE NO. 101
WITNESSES: _____ PHONE _____
_____ PHONE _____
_____ PHONE _____

NARRATIVE: Complainant [REDACTED] filed a complaint (C#904429) of Agg. Harassment with the Police Department on June 4, 1999 @2330hrs. P.O. Liberatore responded. The complainant advised P.O. Liberatore that threats against his son had been made and recorded on the families answering machine. Complainant identified the caller as "[REDACTED]". P.O. Liberatore states in his response that the threats were made and recorded but the complainant did not identify the caller(s). P.O. Liberatore further states that Mr. Dan Hampton did identify a "[REDACTED]" as having a disturbance in school earlier that day ^{with his son [REDACTED]} and that they agreed the threatening phone messages were related to the earlier disturbance at school. P.O. Liberatore, having a suspect and agreeing with the complainant that the threatening

CPD #62

ON 6-13-99 AT ABOUT 1930 HRS., SGT. BARDEEN ADVISED ME THAT HE WAS CONDUCTING AN INVESTIGATION IN REGARDS TO A PERSONNEL COMPLAINT INVOLVING MYSELF, C-904429-99 & C-904522-99.

SGT. BARDEEN LET ME READ THE COMPLAINT SIGNED BY DANIEL HAMPTON SR. ALTHOUGH I DID NOT RECEIVE A COPY OF SAME.

WITH MY CARRYING WARNINGS IN PLACE I MAKE THE FOLLOWING STATEMENT:

ON JUNE 4, 1999, AT ABOUT 2330 HRS, I WAS DISPATCHED TO [REDACTED] FOR AN AGG. HARASSMENT. I SPOKE TO DAN HAMPTON SR., HIS WIFE AND [REDACTED] WHO I BELIEVE IS 14 YRS OLD. DAN SR. EXPLAINED THAT HIS SON AND [REDACTED] HAD GOT INTO A DISTURBANCE AT THE SCHOOL THAT DAY. HE ALSO EXPLAINED THAT MR. UNDERCUFFLER WAS AWARE OF THE INCIDENT AND WAS HANDLING THE SITUATION INTERNALLY AT THE SCHOOL. LATER THAT SAME DAY WHEN DAN SR. GOT HOME, THERE WERE TWO MESSAGES ON HIS ANSWERING MACHINE FROM TWO DIFFERENT UNKNOWN MALE CALLERS. AFTER LISTENING TO THE MESSAGES, THE IDENTITY OF THE CALLERS WAS UNKNOWN. AT THAT TIME WE AGREED THAT SINCE THE PHONE CALLS WERE RELATED TO THE EARLIER INCIDENT AT THE SCHOOL, IT WOULD BETTER BE HANDLED AS A "PACKAGE" BY THE SCHOOL. DAN SR. STATED THAT HE SPOKE TO MR. UNDERCUFFLER WHO WANTED TO LISTEN TO THE TAPE TO I.D. BOTH CALLERS. AFTER SPEAKING TO DAN SR., MRS. HAMPTON & [REDACTED] FOR APPROX 15-20 MIN. IN THEIR LIVING ROOM, I DEPARTED WITH THE AGREEMENT OF ALL THE HAMPTONS THAT THE SCHOOL WOULD TAKE ACTION IN THIS MATTER AND I ADVISED [REDACTED]. IF THE SITUATION CONTINUED, HE WAS TO WALK AWAY AND CONTACT EITHER

SCHOOL PERSONNEL OR OUR DEPARTMENT.

ON JUNE 7, 1999, AT APPROX 1523 HRS, I WAS DISPATCHED AS THE SECONDARY FOR A FIGHT CALL BETWEEN JUVENILES IN THE AREA OF [REDACTED]. I LEARNED ONCE I SPOKE TO [REDACTED] THAT [REDACTED] HAD COME TO THE HAMPTON RESIDENCE AND "CALLED OUT" [REDACTED] TO SETTLE THE MATTER. [REDACTED] ALONG WITH A FEW OF HIS FRIENDS LEFT THE RESIDENCE AND BOTH [REDACTED] AND THE [REDACTED] BOY FOUGHT IT OUT BEHIND THE RESIDENCES ON THE SOUTH SIDE OF [REDACTED]. I WAS ADVISED BY [REDACTED] THAT HIS MOTHER WAS ON HER WAY HOME. I TOLD [REDACTED] TO HAVE HIS MOTHER CALL AND I WOULD RETURN TO SPEAK TO HER. A SHORT TIME LATER I RETURNED TO THE HAMPTONS. I SPOKE TO DAN SR., MRS. HAMPTON AND [REDACTED], WHO WERE ALL IN THE KITCHEN. DAN SR. WAS NOT AWARE THAT THE FIGHT HAPPENED AWAY FROM HIS RESIDENCE AND THAT [REDACTED] LEFT TO FIGHT THE [REDACTED] BOY AFTER BOTH MYSELF AND DAN SR. TOLD HIM TO WALK AWAY. AFTER HEARING THAT DAN SR. GROWNDED [REDACTED] FOR THE REST OF THE WEEK. I TOLD MR. HAMPTON THAT DUE TO THE SITUATION SURROUNDING THE FIGHT THAT BOTH BOYS SHARED THE BLAME EQUALLY. DAN SR. STATED THAT HE WOULD HANDLE THE MATTER. AT NO TIME DURING MY TWO CONVERSATIONS WITH THE HAMPTONS DID I SAY ANYTHING TO THE EFFECT THAT "THEY SHOULD JUST DUKE IT OUT." DURING MY JUNE 7th VISIT BEFORE I RETURNED TO SPEAK TO THE HAMPTON SHERRY MURPHY, A FRIEND OF THE HAMPTONS, SAID TO ME AS I WAS ABOUT TO LEAVE THAT THEY SHOULD LET THEM FIGHT IT OUT. IF THE INVESTIGATING OFFICER WOULD ASK DAN SR. IF I MADE THAT STATEMENT OR DID [REDACTED] TELL HIS PARENTS WHAT MURPHY HAD SAID. AT NO TIME WAS I RUDE TO THE HAMPTONS AND AS FAR AS BEING OVERBEARING WITH MY BODY GESTURES, I DON'T KNOW WHAT THAT MEANS.

ON JUNE 4, DURING MY 15-20 MINUTE CONVERSATION WITH THE HAMPTONS, I DID ADVISE DAN SR. THAT I WOULD NOT BE HANDLING THIS CASE BECAUSE IT HAD TO DO WITH JUVENILES AND THAT THE I.T.A.B. WOULD BE INVOLVED. I ALSO ADVISED DAN SR. THAT INU. REISH WAS OUT ON MEDICAL LEAVE AND I DIDN'T KNOW WHO WAS HANDLING

HIS CASE LOAD. AT THAT TIME THAT IS WHEN IT WAS
DECIDED THAT THIS MATTER WOULD BETTER BE HANDLED BY THE
SCHOOL.

THIS PERSONNEL COMPLAINT COMES AS A COMPLETE SURPRISE
TO ME ALTHOUGH I DID GET THE FEELING AFTER DEALING
WITH THE HAMPTONS THAT THEY COULD BE HAVING SOME
DISCIPLINE PROBLEMS WITH [REDACTED]. IN FILING THIS COMPLAINT
THE HAMPTONS ARE EXHIBITING THEIR FRUSTRATIONS AND THEIR
INABILITY TO DEAL WITH [REDACTED]. IF THE HAMPTONS DON'T
SHARPEN THEIR PARENTING SKILLS THEY ARE GOING TO CONTINUE
TO HAVE PROBLEMS WITH [REDACTED].

NOTHING FURTHER TO REPORT.



SHEEL #101

6-16-99

CANANDAIGUA POLICE DEPARTMENT

21 ONTARIO STREET
CANANDAIGUA, NEW YORK 14424

716-394-3311

September 2, 1999

TO: Chief McCarthy

FROM: Lt. M. Sheridan

SUBJECT: Hampton Personnel complaint on P.O. R. Liberatore; C-904633

Division Commander's Findings:

On August 17, 1999 I interviewed [REDACTED] at his place of employment at the [REDACTED]. [REDACTED] states that he spoke to P.O. Liberatore at his residence in reference to threatening type phone calls left on his answering machine. [REDACTED] does admit that he did not recognize the voices on the machine. He does state that his son [REDACTED] did mention to P.O. Liberatore and himself that one of the voices may have been [REDACTED], whom he had had a problem with earlier in the day at school. [REDACTED] stated that he did speak with Mr. Undercoffler, who is the Middle School Principal, who agreed to listen to the tapes in an attempt to identify the caller. [REDACTED] feels if Liberatore had followed up on the complaint, maybe his son would not have gotten into a fight with [REDACTED] a few days later. [REDACTED] felt Liberatore was courteous, but that his wife did not like Liberatore's hand gestures when he spoke and she felt they were overbearing, although he did not share her opinion of Liberatore's demeanor.

On August 31, 1999 I spoke to P.O. Liberatore in my office with his union representative P.O. T. Bells. In reference to the threatening phone calls P.O. Liberatore states that when he responded to the Hampton's residence on June 4, 1999 he spoke to [REDACTED] and their son [REDACTED]. Upon listening to the phone calls Liberatore states that none of the Hampton's were able to identify the voice on the tape machine. As it was 2330hrs., it was agreed upon that [REDACTED] would have Mr. Undercoffler listen to the tape in an attempt to identify the voices. As [REDACTED] had a problem with [REDACTED] earlier in the day at school, Liberatore felt that if [REDACTED] were involved the whole matter could be handled by the school as a "package." Liberatore states he advised [REDACTED] that if he had any further problems with [REDACTED] that he should walk away and advise either his parents or the police. Liberatore states that when he was departing all were in agreement with this manner of handling the complaint. On June 7, 1999 Liberatore was dispatched to the area of [REDACTED] for a report of juveniles fighting, where he learned that [REDACTED] and [REDACTED] were involved in a fight. According to Liberatore, upon learning of his son leaving the house to become involved in the fight [REDACTED] told Liberatore that he was going to ground [REDACTED], and that he would handle the matter. In reference to [REDACTED] claim that Liberatore's body gestures were overbearing, he has no idea what that means, and feels he was polite and helpful to the entire family.

page # 2

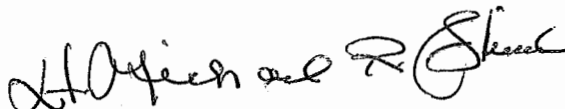
There are some discrepancies in [REDACTED] complaint and the details provided by P.O. Liberatore. What I do find Liberatore at fault is in his lack of involvement in speaking to [REDACTED]. Even after the fight of June 7th Liberatore did not speak to [REDACTED]. Even taken at face value that [REDACTED] would handle the matter himself, it was Liberatore's responsibility to make an effort to speak to [REDACTED] and his parents. As I pointed out to P.O. Liberatore, who is to know how [REDACTED] was to handle the matter? Also although it may be a good idea to utilize Mr. Undercoffler's expertise in attempting to identify the voices on the tape P.O. Liberatore should have followed up with the Hampton's to see if Undercoffler was successful. Especially seeing that Y.O. Reish was out on sick leave. Liberatore should not have been looking to refer the matter, he should have handled it as part of his initial investigation. Liberatore steadfastly denies stating anything to the effect "they should just duke it out."

It is found that P.O. Liberatore did not follow G.O. 24.14 (Patrol Division Operations) section L (3-g. Interrogating suspects, and j- accurate and complete reporting of the incident.) P.O. Liberatore should have attempted to interview [REDACTED] and his parents in an attempt to put a stop to this juvenile activity. Also P.O. Liberatore, at the very least, should have completed a Juvenile Contact Card so our juvenile unit would have a record of the accusations, and action taken toward the alleged conduct of [REDACTED]. P.O. Liberatore is a very competent officer, where he at times runs into problems is when he becomes lackadaisical, and gives the impression that he is "blowing a complaint off." I believe this is exactly what happened in this particular instance. Officer Liberatore should have interviewed [REDACTED] as part of his preliminary investigation.

On the complaint of rudeness, I find that there is nothing to show that P.O. Liberatore's actions were rude. A perception of body language is difficult to interrupt, especially given the fact that [REDACTED]. [REDACTED] states he did not feel Officer Liberatore's actions were "overbearing." That was a perception expressed by [REDACTED].

Recommendation:

I do not believe this complaint reaches the level of formal charges being placed against the Officer. I do feel that Officer Liberatore should be issued a formal letter of counseling indicating that his actions are being perceived by not only the department, but that of complainants also as not being complete in his complaint handling, and that his actions need to improve immediately.


Lt. Michael R. Sheridan