



# GENEVA POLICE DEPARTMENT

## EMPLOYEE WARNING RECORD



Employee Name: John D Winter

Shift: Other Time: 11:00 AM

Date of Warning: January 8, 2019

### WARNING

Date of Violation: 12/06/2018

Nature of Violation: Carelessness

Time of Violation: 12:49 (If Other – Explain):

Place of Violation: SR 14, North of the City of Geneva

### COMPANY REMARKS

Detective Winter left the Public Safety Building in an Unmarked Geneva Police Unit GV 2 [REDACTED]

Det. Winter failed to follow:

- G.O. 410, V. Pursuit Driving Procedures:
  - A. Initiation of Vehicle Pursuits
    - 3. Emergency-Equipped Vehicles shall be employed in vehicle pursuits and will use their emergency lights and sirens at all times during the pursuit. Officers operating unmarked police vehicles equipped with emergency lights (non-affixed to roof) and siren or a high center of gravity vehicle may engage or assist in pursuits **only** in the most critical and unusual circumstances where immediate apprehension is necessary to prevent a danger to the public (there is an imminent and direct threat to life). As soon as a marked emergency-equipped vehicle is available to assume the pursuit, the unmarked vehicle or high center of gravity vehicle will withdraw from active pursuit.

Det. Winter was unable to respond to an evasive braking action by CLO Choffin in marked GV 7 during their emergency response and Det. Winter collided with the rear of GV 7. Det. Winter failed to follow:

- G.O. 410, II. Policy
  - B. The New York State Vehicle & Traffic Law (V&T) exempts authorized emergency vehicles involved in emergency operations from some restrictions of the Vehicle & Traffic Law. This exception however ***“shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.”*** V&T § 1104 (4)(e). Officers may be subject to criminal and/or civil liability for reckless conduct associated with emergency response and pursuit driving
  - E. In all driving situations, not involving an authorized emergency response or authorized vehicle pursuit, all officers will operate motor vehicles safely and in strict adherence to all Vehicle & Traffic laws.

Det. Winter violated Vehicle and Traffic Law 1129 - **Following too closely.** § 1129. **Following too closely.** (a) The driver of a motor vehicle shall not follow another vehicle more **closely** than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway

Employee Has Been Warned Previously: ☐ YES ☒ NO

Form of Warning:



# EMPLOYEE COUNSELING MEMO

**TO:** Det. John D Winter  
**FROM:** Chief Michael J Passalacqua  
**RE:** Pursuit 2018-26100  
**DATE:** January 8, 2019



Det. J Winter,

You must understand that this counseling memo is being completed so that you may take immediate corrective measures so it does not happen again. You must take precautions as stated in **G.O. 410, V. Pursuit Driving Procedures:**

- **A. Initiation of Vehicle Pursuits**
  - **3. Emergency-Equipped Vehicles shall be employed in vehicle pursuits and will use their emergency lights and sirens at all times during the pursuit. Officers operating unmarked police vehicles equipped with emergency lights (non-affixed to roof) and siren or a high center of gravity vehicle may engage or assist in pursuits only in the most critical and unusual circumstances where immediate apprehension is necessary to prevent a danger to the public (there is an imminent and direct threat to life). As soon as a marked emergency-equipped vehicle is available to assume the pursuit, the unmarked vehicle or high center of gravity vehicle will withdraw from active pursuit.**
- **G.O. 410, II. Policy**
  - **B. The New York State Vehicle & Traffic Law (V&T) exempts authorized emergency vehicles involved in emergency operations from some restrictions of the Vehicle & Traffic Law. This exception however "*shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.*" V&T § 1104 (4)(e). Officers may be subject to criminal and/or civil liability for reckless conduct associated with emergency response and pursuit driving**
  - **E. In all driving situations, not involving an authorized emergency response or authorized vehicle pursuit, all officers will operate motor vehicles safely and in strict adherence to all Vehicle & Traffic laws.**

Also violated, **Vehicle and Traffic Law 1129 - Following too closely. § 1129. Following too closely.** (a) The driver of a motor vehicle shall not follow another vehicle more **closely** than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway, so that this type of situation does not occur again.

As you may or may not be aware, further violation of this General Order may result in disciplinary action taken against you.

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To Detective John D. Winter

From: Chief Michael J. Passalacqua

Re: Vehicle Pursuit/MVA- CR#2018-26100/2018-26102

Date: January 8, 2019

Detective Winter,

As a result of Vehicle Pursuit which took place on December 6<sup>th</sup>, 2018 Lieutenant Potter conducted a review of that pursuit as it pertains to the Standard Operating Procedures of the Geneva Police Department after all information was submitted for review. After that review, Lieutenant Potter came to the following conclusions, which my office is in agreeance with as it pertains to your involvement:

1. You violated General Order 410 V(a)3 of the Geneva Police Department
2. You violated General Order 410 II- B and E of the Geneva Police Department

Your involvement in this pursuit was in violation of the General Order governing Emergency Response and Pursuit Driving. The use of an unmarked Geneva Police Department vehicle while trying to assist in catching up to the pursuit is in direct violation of the standing order as there was no critical or unusual circumstance where immediate apprehension was necessary to prevent a danger to the public- imminent and direct threat to life.

You also failed to use due regard while involved in this pursuit which resulted in your rear ending a marked patrol vehicle of the Geneva Police Department being operated by P.O. Brian Choffin causing a crash which caused significant damage to your unmarked patrol vehicle. This section of our General Orders is there to protect all involved including officers as well as all other motorists and citizens. As stated annually in our in-service training when we go over this specific order, vehicle pursuits can lead to loss of property, injury/serious injury and sometimes death if the proper procedures are not followed.

Disciplinary action is based on and in accordance with current Geneva Police Officers contract language, specifically Article 19.

Conclusion of Disciplinary Action: I am offering Summary Discipline amounting to three (3) full days without pay and any future violations of this type may result in further or progressive discipline. Please respond to my office by the end of business on January 18<sup>th</sup>, 2019 regarding your decision consistent with contract language in Article 19.2 of the Geneva Police Officers current contract.



**Geneva Police Department**  
**MICHAEL J. PASSALACQUA**  
*Chief of Police*

255 Exchange St. - Geneva, New York 14456  
(315) 828-6771 - Fax (315) 789-1814 - cityofgeneva.ny.com



Respectfully,

A handwritten signature in blue ink, appearing to read 'MJP', with a large, stylized loop at the end.

Michael J. Passalacqua

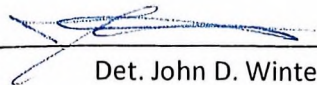
Chief of Police



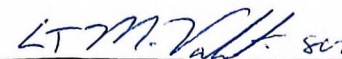


On January 18, 2019 Detective John. D. Winter turned in the following items from Lt. Matthew Valenti.

1. (1) Glock Model 22 .40 caliber handgun – Serial Number AAHB652
2. (1) Glock Model 27 .40 caliber handgun – Serial Number VNN979
3. (1) GPD Detective's Badge
4. (1) GPD Access Card
5. (1) GPD Identification Card
6. (1) Public Safety Building Key
7. (1) Chevy Caprice vehicle key

  
Det. John D. Winter - 806

1-18-19  
Date

  
Lt. Matthew Valenti - 802

1/18/19  
Date



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*Chief of Police*  
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