

disney

Dennis Chaussi

613-363-3891

90 Elm St. - tour 518-319-4729

Isaac White - ^{Racist} Ignorant 518 319 2359 - email

✓ Tracy Jacobs - ~~603 883 5799~~ 617-460-6321

✓ April Seymour - 518-651 7985 -

✓ Nolan Jacobs - 518 333 6702

Gina Larocque - history 813 701 4337

Goughlin + Gerhart 607-821-2202

With pay Charges - gun -

- Section 75 -

(administrative leave)

- Union rep -

Brian Smith 521-6303

Mrs Marlow - Nat - latch

Placed on Paid Administrative Leave

14-02 Social Media

C No Racial derogatory material

Brian M Smith
(518)521-6303
Brian.Smith@twcnny.rr.com
07/12/2019

Mayor Joe Riccio
Trustee Andrea Dumas
Trustee Norman J. Bonner III
Trustee Brian Langdon
Trustee Archie McKee
Village of Malone
343 West Main Street
Malone, NY 12953

Dear Board Members:

I write this letter to make sure that all board members have all the important information about my situation, which is the subject of litigation between the Village and my Union. My union tells me that it can only communicate with the Village's legal counsel. I am writing this as an individual to you, the decision makers, to make sure that you have all the facts. I am writing this letter, I am not waiving my rights or the union's rights, but I want to see if we can come to a resolution without going through the lawyers.

If the village would allow me to retire with the full benefits I have earned, I would agree to do so.

For context, I am in my 24th year of dedicated service to the Malone Police Department and the citizens of Malone. I began my career in law enforcement with the Malone Police Department at 24 years of age, I chose to continue my career in Malone versus moving on to other law enforcement agencies. Why? Malone is where I went to school, grew up and not to sound cliché, where I wanted to make a difference. Working at the Police Department was a choice I made, and I never looked back. It has been both a rewarding career and yet I have seen and had to do things that no one person should ever have to do.

Through the years I have been injured in the line of duty. Physical injuries were severe enough to require multiple surgical interventions. I have lost 40% use of my right arm and 52% use of my left arm. Those injuries have mostly healed but with visible scars. It's the injuries that one cannot see that cause me the greatest pain, emotional and physical. I have PTSD and Anxiety related to multiple incidents I have encountered throughout my career. I have seen little children beat so badly they were unrecognizable, resulting in permanent physical and neurological damage. I had someone try to stab me during an altercation. I have seen the results of numerous suicides of the

young and old. I saw a man die before my very eyes during a pursuit and later discovered was a friend. I tried to save a man buried alive in a pile of corn by digging relentlessly with my bare hands. I have seen gruesome accidental deaths, cataloged evidence in child porn case depicting indescribable acts, investigated rapes, domestic abuse and the list goes on. I have many sleepless nights and nightmares. I have missed countless Birthdays, Christmas, Easters, Thanksgivings, my children's events and gatherings. I did it all without question, not because I wanted to, but because it was what my chosen career required and needed of me. I have remained focused on my career despite the challenges. I always moved on with honor and dedication to those I serve and serve with. The expectation being I would retire honorably and with my benefits intact.

On February 23, 2019 I responded to a post on Facebook based on the contents of an article and the perpetrator's behaviors. The Village decided to discipline me for my Facebook comment, and in the process of pursuing that discipline, has become embroiled in what I understand to be expensive litigation with my Union.

The Police in this country are under attack and perpetrating bad behavior is akin to condoning bad behaviors and acts of violence. The media feeds into these accusations before all the facts are in. I am not against investigating potential wrongdoing in any law enforcement agency, but opinions are not facts. Comments of a few are not facts.

It is now coming up on 5 months since I was placed on administrative leave/suspension. Outside of a meeting with the Village Attorney, Kevin Nichols not one Official from the Village has spoken to me regarding this incident. I fully expected Mayor Joe Riccio and Chief Christopher Premo to be present at the meeting. They were not. For this reason, I am concerned that some of you, the decision makers, may not be aware that if I were allowed to retire with my full benefits, the Village could avoid what I understand may be an expensive and lengthy legal battle.

I hope that this letter helps us resolve this issue by opening the lines of communication. I welcome a call or email from any of you.

Respectfully,

Sgt. Brian M. Smith



POLICE DEPARTMENT
Village of Malone
2 Police Plaza
Malone, New York 12953-1601

Christopher Premo
Chief of Police

(518) 483-2424
(518) 483-2426 fax
Chiefpremo@malonepd.com

June 8, 2018

To: Police Officer Brian Smith

Re: Notice of Charges

In accordance with the provisions of Section 75 of the Civil Service Law, you are hereby notified that the following disciplinary action is being imposed against you.

CHARGE I - MISCONDUCT (VIOLATION OF THE DEPARTMENT DUTIES AND RULES AND REGULATIONS)

SPECIFICATION I:

On or about May 7, 2018, Sergeant Brian Smith violated Article IV, Section 4.2.3 of the Department Duties and Rules of Conduct , "Perform assigned tasks", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of Sergeant Smith's application for GML 207-c benefits. His actions and inactions, and his failure to perform the assigned task, constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION II:

On or about May 7, 2018, Sergeant Brian Smith violated Article VI, Section 6.2.2 of the Department Duties and Rules of Conduct , "Perform assigned duties in a professional manner", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of Sergeant Smith's application for GML 207-c benefits. His actions and inactions constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION III:

On or about May 7, 2018, Sergeant Brian Smith violated Article IV, Section 4.2.2 of the Department Duties and Rules of Conduct "Obey all lawful orders", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of Sergeant Smith's application for GML 207-c benefits. His actions and inactions constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION IV:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.1 of the Department Duties and Rules of Conduct ("Conduct which brings discredit upon the Department"), by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of his application for GML 207-c benefits. He had the letter ordering him to the IME and produced same showing that he clearly knew what time he was to have been present for his IME, yet he did not promptly show for same. His actions and inactions constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION V:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.2, Rules of Conduct "Failure to perform a duty", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of his application for GML 207-c benefits. His actions and inactions constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION VI:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.3, Rules of Conduct "Disobedience of an order", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10,

2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of his application for GML 207-c benefits. Furthermore, he produced the letter in question to the IME office, clearly showing that he was scheduled to appear at 1:00. His actions and inactions constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION VII:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.4, Rules of Conduct, "Insubordination or disrespect toward a Superior Sergeant", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of his application for GML 207-c benefits. Furthermore, he produced the letter in question to the IME office, clearly showing that he was scheduled to appear at 1:00. His actions and inactions are a violation of Departmental duties and rules of conduct and constitute insubordination

SPECIFICATION VIII:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.9, Rules of Conduct, "Incompetency or inefficiency in the performance of duty", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment, and interfered with the Village's review of his application for GML 207-c benefits. Furthermore, he produced the letter in question to the IME office, clearly showing that he was scheduled to appear at 1:00. His actions and inactions constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION IX:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.58 of the Rules of Conduct, "obligating the Department financially in any manner except as authorized by the Chief of Police or the Police Committee.", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and

obligating the Village to pay for this cancellation fee. His actions and inactions, and his failure to perform the assigned task, are violations of Departmental duties and rules of conduct and constitute misconduct.

CHARGE II – INCOMPETENCE

SPECIFICATION I:

On or about May 7, 2018, Sergeant Brian Smith Article IV, Section 4.2.2 and Article VI, Section 6.2.3 of the Department Duties and Rules of Conduct, “Obey all lawful orders”, by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and to have to reschedule said appointment and interfered with the Village’s review of Sergeant Smith’s application for GML 207-c benefits. His actions and inactions are a violation of Departmental duties and rules of conduct and constitute incompetence.

SPECIFICATION II:

On or about May 7, 2018, Sergeant Brian Smith violated Article IV, Section 4.2.3 of the Department Duties and Rules of Conduct , “Perform assigned tasks”, by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village’s review of Sergeant Smith’s application for GML 207-c benefits. His actions and inactions, and his failure to perform the assigned task, are violations of Departmental duties and rules of conduct and constitute incompetence.

SPECIFICATION III:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.58 of the Rules of Conduct , “obligating the Department financially in any manner except as authorized by the Chief of Police or the Police Committee. ”, by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and obligating the Village to pay for this cancellation fee. His actions and inactions, and his failure to perform the assigned task, are violations of Departmental duties and rules of conduct and constitute incompetence.

SPECIFICATION IV:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.9, Rules of Conduct, "Incompetency or inefficiency in the performance of duty", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment, and interfered with the Village's review of his application for GML 207-c benefits. Furthermore, he produced the letter in question to the IME office, clearly showing that he was scheduled to appear at 1:00. His actions and inactions constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION V:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.4, Rules of Conduct, "Insubordination or disrespect toward a Superior Sergeant", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of his application for GML 207-c benefits. Furthermore, he produced the letter in question to the IME office, clearly showing that he was scheduled to appear at 1:00. His actions and inactions are a violation of Departmental duties and rules of conduct and constitute incompetence.

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SPECIFICATION VII:

On or about May 7, 2018, Sergeant Brian Smith violated Article X, Section 10.1.2, Rules of Conduct "Failure to perform a duty", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of his application for GML 207-c benefits. His actions and inactions constitute a violation of Departmental duties and rules of conduct.

SPECIFICATION VIII:

On or about May 7, 2018, Sergeant Brian Smith violated Article IV, Section 4.2.3 of the Department Duties and Rules of Conduct , "Perform assigned tasks", by failing to know and conform to Department rules and regulations, orders and procedures, to wit: that Sergeant Smith, having been scheduled for an Independent Medical Examination in the office of Daniel L. Carr, MD on May 7, 2018, and having been ordered to attend the Independent Medical Examination by letter dated April 10, 2018 by Chief of Police Chris Premo, failed to follow orders and keep the scheduled appointment, causing the Department to be billed a No Show Fee for the appointment and interfered with the Village's review of Sergeant Smith's application for GML 207-c benefits. His actions and inactions, and his failure to perform the assigned task, constitute a violation of Departmental duties and rules of conduct.

PROPOSED PENALTY

If you are found guilty of the above Charges, you may be reprimanded, fined not more than \$100, suspended without pay for up to two (2) days. At the hearing, the Village will recommend that the hearing officer find you guilty of the Charges, and recommend a penalty of suspension without pay for a period of two (2) days.

Under Section 75 of the Civil Service Law, you are allowed eight (8) days from the date of receipt of the Charges and specifications to make and file your answer in writing to this Charge. Such answer should be addressed to the undersigned, but sent to:

Village of Malone
Police Department
Attn: Chief Premo
2 Police Plaza
Malone, NY 12953

This written answer must be received at or before four o'clock in the afternoon on or before the eighth day after receipt.

All further notices and communications addressed to you in connection with these Charges will be mailed to your latest address on record in the Village's Personnel Department, unless you request in writing that the same be sent to you at a different address.

Village of Malone

By: 

Chris Premo

Police Chief

Village of Malone Police Department

Cc: File
Village Board

Chief,

I brought down a copy of
the report you were requesting.
Major Pitkin wanted you to know
he is committed to sharing information
and appreciates the assistance your
officers have provided with our
administrative reports. Call me
if you need anything else or have
any questions.

Thanks

Lt. Pete Arcadi

SP Plattsburgh

518-521-0128 Personal Cell

518-312-0495 Work Cell

1. Agency B1 TROOP B - ZONE 1	2. Div/Precinct B026	New York State INCIDENT REPORT	3. ORI NY1090100	5. Case No.	6. Incident No. 4809837
7,8,9. Date Reported (Day, Date, Time) WEDNESDAY 10/17/2012 14:00		10,11,12. Occurred On/From (Day, Date, Time) FRIDAY 01/01/2010 00:00		13,14,15. Occurred To (Day, Date, Time) FRIDAY 08/31/2012 15:41	
16. Incident Type DRUG/ALCHL-DRUG INVESTIGATION			17. Business Name		
19. Incident Address (Street Name, Bldg. No., Apt. No.)					
20. City/State/Zip MALONE NEW YORK 12953					
21. Location Code (TSLED) MALONE VILLAGE 1724		23. No. of Victims 0	24. No. of Suspects 0	26. Victim also Complainant?	
Location Type OTHER BUILDING					

12. OFF. No.	LAW SECTION	SUB	CL	CAT	DEG	ATT	NAME OF OFFENSE	CTS
1.	PHL 3397	01	U	M	0	C	USE FRD/DECEIT OBTN CONT SUBST	1

NARRATIVE

Date of Action 10/17/2012	Date Written 10/22/2012	Officer Name & Rank DUMOULIN JR, RICHARD (INV)
Narrative		
BCI CASE ADOPTION ENTRY - NYS PHL 3397 - INV. RICHARD J. DUMOULIN		
On 10/17/2012, a confidential narcotics related investigation was adopted at the direction of Captain Robert S. LaFountain, BCI. Refer to attached narrative.		

ADMINISTRATIVE

74. Inquiries	75. NYSPIN Message No.	76. Complainant Signature	
77. Reporting Officer Signature (Include Rank) SR INV RICHARD DUMOULIN JR	78. ID No. 946	79. Supervisor Signature (Include Rank) CAPT ROBERT LAFOUNTAIN	80. ID No. 4160
81. Status CLOSED BY INVESTIGATION	82. Status Date 03/25/2013	83. Notified/TOT	
			Solvability Total 0



OFFICE OF
FRANKLIN COUNTY DISTRICT ATTORNEY

DEREK P. CHAMPAGNE
District Attorney

NORTHERN OFFICE
355 WEST MAIN STREET
SUITE 466
MALONE, NY 12953

Phone (518) 481-1544
Fax (518) 481-1545
Email - da@co.franklin.ny.us

SOUTHERN OFFICE
56 LAKE STREET
TUPPER LAKE, NEW YORK 12986

Phone: (518) 359-9191
Fax: (518) 359-7311

GLENN MACNEILL
Chief Assistant District Attorney

ELIZABETH M. CRAWFORD
Assistant District Attorney
Violent Crime/Narcotics

GARY M. PASQUA
Assistant District Attorney

DAVID J. HAYES
Assistant District Attorney

CRAIG P. CARRIERO
Assistant District Attorney

March 13, 2013

Inv. Richard Dumoulin, Jr.
New York State Police
Troop B
1097 State Rt. 86
Ray Brook, New York 12977

RE: Investigation of Sgt. Brian M. Smith

Dear Richard:

Thank you for the very thorough investigation of Sgt. Brian M. Smith of the Malone Village Police Department.

While a misdemeanor charge under the Public Health Law might be chargeable, I do not believe such a charge could be proven beyond a reasonable doubt to a trier of fact.

As such, while I am very concerned with Sgt. Smith's conduct, I do not believe the criminal charge can be proven beyond a reasonable doubt and I therefore decline criminal prosecution.

Thank you again for the extensive investigation and work you put into this matter.

With best personal regards, I remain,

Very truly yours,

Derek P. Champagne
District Attorney

DPC/skl

cc: Cpt. Robert LaFountain
Chief Christopher Premo

Troop B
B026
SJS # 4809837

CONFIDENTIAL INVESTIGATION

1. On October 11, 2012, the New York State Police received a request for a formal investigation from the Malone Village Police Department Chief of Police, Christopher J. Premo. The request for a formal investigation pertains to Sergeant Brian M. Smith, dob 03/01/1971, 22 River Street, Chateaugay, New York. Sergeant Smith is a seventeen year veteran of the Malone Village Police Department who has been out on worker's compensation on numerous occasions over the last four years due to alleged injuries and subsequent surgery on both shoulders. Sergeant Smith has been out continuously since 12/01/2011 and has recently notified Chief Premo of his intention to return to duty on 11/26/2012. It should be noted that effective 12/01/2012 Sergeant Smith would have to begin paying for his own health insurance. Chief Premo advised that the Franklin County District Attorney's Office had issued a subpoena to the New York State Bureau of Narcotics Enforcement for any and all records for prescription narcotics from January, 2010 to the present, in relation to Brian M. Smith.
2. On October 12, 2012, I telephonically interviewed Investigator Rick Boettcher, New York State Bureau of Narcotic Enforcement, regarding any possible "abnormalities" with respect to the manner that Sergeant Smith is obtaining prescription medications. Investigator Boettcher stated that he believes there may be a violation of Section 3397 of the New York State Public Health Law as well as the applicable Section 220 of the New York State Penal Law relative to Criminal Possession of Controlled Substance and/or the Attempted Criminal Possession of a Controlled Substance by Sergeant Smith. Investigator Boettcher advised that a subpoena should be sought in reference to Sergeant Smith's activities and added that upon receipt of those records by the Franklin County District Attorney's Office, he would review those records in detail with the New York State Police.
3. On October 15, 2012, I telephonically interviewed Malone Village Police Department, Chief of Police, Christopher J. Premo regarding Sergeant Brian M. Smith. Chief Premo stated that Sergeant Smith is a seventeen year veteran of the Malone Village Police Department who has been out on worker's compensation on numerous occasions over the last four years due to alleged injuries and subsequent surgery on both shoulders. Chief Premo related that Sergeant Smith has been out continuously since 12/01/2011 and has recently notified Chief Premo of his intention to return to duty on 11/26/2012. Chief Premo stated that it was recently brought to his attention that Sergeant Smith may be attempting to obtain prescription medication by fraud, deceit, or misrepresentation. According to Chief Premo, allegedly another Malone Village Police Department Patrolman, Michael R. Crawford, dob 06/06/1981, 1096 County Route 33, Chateaugay, NY was present at Walgreens Drug Store located at 305 West Main Street, Malone, NY when Sergeant Smith was refused the filling of a prescription at the pharmacy drive up window. Chief Premo advised that he has requested a subpoena through the Franklin County District Attorney's Office for any relevant records from the New York State Bureau of Narcotic Enforcement with respect to Sergeant Smith. A copy of that subpoena is attached as an enclosure to this report.
4. On October 16, 2012, I telephonically interviewed Franklin County District Attorney Derek P. Champagne who confirmed the issuance of a subpoena regarding the prescription records of Sergeant Smith. District Attorney Champagne related that his office had not received the prescription records, to date. District Attorney Champagne added that upon commencement of a formal investigation, his office would assist in any manner necessary.

5. On October 17, 2012, I was directed to conduct a Confidential Investigation by Troop B, BCI Captain Robert S. LaFountain. This investigation involved allegations that Sergeant Brian M. Smith of the Malone Village Police Department has obtained controlled substances by fraud or deceit. Captain LaFountain indicated the allegations were reported to the New York State Police by Village of Malone Police Department Chief of Police, Christopher J. Premo. I was advised that Division Headquarters had authorized this investigation be conducted by the Troop B, BCI. I was also advised that Investigator Karole M. Elthorp, Troop B NEU, would be assigned to assist with the investigation.
6. On October 18, 2012, I received a compact disk containing the prescription medication activity of Sergeant Brian M. Smith. The compact disk was received via U.S. Mail and will be maintained in the case folder pending the outcome of this investigation. A review of the data revealed that between the dates of 01/22/2010 and 08/03/2012, Smith was prescribed hydrocodone, hydromorphone, Lyrica, Nucynta IR/Tapentadol, and Oxycodone fifty-one times by ten different doctors and Physicians Assistants. All of the prescriptions were filled at Kinney Drugs located at 485 East Main Street, Malone, NY with the exception of six which were filled at Walgreens Drug Store located at 305 West Main Street, Malone, NY. Those six prescriptions were filled between the dates of 06/08/2010 and 03/08/2011 and showed the payment type of "other". Each of the other fifty-one prescriptions indicated a payment type of "Insurance" or "Worker Comp". A copy of the records which were received from the Bureau of Narcotics Enforcement are attached as an enclosure to this report.
7. On November 27, 2012, I interviewed Patrolman Michael R. Crawford, at Malone Village Police Department regarding this investigation. Patrolman Crawford stated that on 04/12/2012, he went to the Walgreens Drug Store located at 305 West Main Street, Malone, NY to pick up a prescription for his daughter. Patrolman Crawford related that while he was at the pharmacy he observed a blue Ford Focus, operated by Smith, pull up to the drive up window. According to Patrolman Crawford, a clerk went to the window and told Smith to wait to speak with a pharmacist. Patrolman Crawford related that a pharmacist then went to the window and explained that they would not fill the prescription due to the fact that he had a previous prescription filled for the same medication. Patrolman Crawford stated that Smith was wearing a plaid coat with a hood. Patrolman Crawford declined to provide a written deposition at the time of the interview. A check of New York State Department of Motor Vehicles records indicates that Smith's girlfriend, Heather L. Montroy, dob 09/08/1980, P.O. Box 894, Chateaugay, NY has a 2005 Ford Focus, color blue, bearing NY registration EWN9358 registered in her name. A copy of the NYS DMV registration group inquiry is attached as an enclosure to this report.
8. On November 27, 2012, I discussed the details of this investigation with Village of Malone Police Department Chief of Police, Christopher J. Premo. Chief Premo was updated on the status of this investigation to date.

9. On November 29, 2012, Investigator Elthorp and I interviewed Dr. Anjni G. Bhagat, MD at Main Street Medical Group, 5 Clay Street, Malone, NY regarding this investigation. Dr. Bhagat stated that she is the head of the Main Street Medical Group in Malone NY and has been a doctor at that location for the past twenty-five years. Dr. Bhagat stated that she had been treating Brian M. Smith since 1989. Dr. Bhagat related that she and the other doctors in the practice had been treating Smith for pain in the neck and shoulders since March, 2010. After review of the prescription medication activity records of Smith, Dr. Bhagat stated that she was fully aware of each of the medications prescribed by the doctors and physician's assistants in her office. Dr. Bhagat alleged that she was not aware of the hydrocodone prescribed by David J. Griffin, PA on 06/08/2010 and filled on 06/08/2010, the hydrocodone prescribed by Dragos Macelaru, MD on 06/29/2010 and filled on 06/30/2010, the hydrocodone prescribed by Robert W. Stout, PA on 09/10/2010 and filled on 09/10/2010, the hydrocodone prescribed by Marco Berard, MD on 10/04/2010 and filled on 10/04/2010, the hydrocodone prescribed by Mary W. Haggarty, PA on 11/02/2010 and filled on 11/02/2010, and the hydrocodone prescribed by Dennis T. Mullaney, MD on 03/08/2011 and filled on 03/08/2011. It should be noted that each of these prescriptions were filled at Walgreens Drug Store located at 305 West Main Street, Malone, NY and each had a payment type listed as "other". Dr. Bhagat added that the rest of the prescriptions appeared to be legitimate and consistent with Smith's care. Dr. Bhagat further related that on 09/20/2011, Smith attempted to have a hydrocodone refill prescribed one week in advance but was refused by her practice. Dr. Bhagat stated that after reviewing the prescription records it appeared to her that Smith had been obtaining prescriptions from other doctors without her knowledge and did not offer that information to the doctors at her office during any of his exams. A Gen'l 4 was obtained from Dr. Bhagat and a copy is attached as an enclosure to this report.
10. On 11/29/2012, Investigator Elthorp and I interviewed Kelli Rocker, dob 02/27/1983, 347 Traverse Road, Massena, NY, Executive Assistant Manager of the Walgreens Drug Store located at 305 West Main Street, Malone, NY regarding this investigation. Rocker stated that she is not familiar with Brian M. Smith. Rocker stated that the three people working in the pharmacy on 04/12/2012 were Supervising Pharmacist Sarah B. Ruby, Senior Pharmacy Technician Jennifer M. Bonesteel, and Senior Pharmacy Technician Stephanie N. Niles.
11. On 11/29/2012, Investigator Elthorp and I interviewed Walgreens Supervising Pharmacist Sarah B. Ruby, dob 03/21/1984, 451 ST-37C, Massena, NY regarding this investigation. Ruby stated that she is not familiar with and does not recall dealing with Brian M. Smith in general or specifically on the date of 04/12/2012. Ruby added that it is not uncommon that she would refuse to fill a prescription due to over prescribing but added that once the prescription is denied there is no record kept documenting that refusal.
12. On 11/29/2012, Investigator Elthorp and I interviewed Walgreens Senior Pharmacy Technician Jennifer M. Bonesteel, dob 09/23/1987, 2778 ST-11, North Bangor, NY regarding this investigation. Bonesteel stated that she is not familiar with and does not recall dealing with Brian M. Smith in general or specifically on the date of 04/12/2012. Bonesteel added that it is not uncommon that she would refuse to fill a prescription due to over prescribing.
13. On 11/29/2012, Investigator Elthorp and I interviewed Walgreens Senior Pharmacy Technician Stephanie N. Niles, dob 05/08/1989, 14 Mill Street, Burke, NY regarding this investigation. Niles stated that she is not familiar with and does not recall dealing with Brian M. Smith in general or specifically on the date of 04/12/2012. Niles added that it is not uncommon that she would refuse to fill a prescription due to over prescribing.
14. On 11/29/2012, Inv. Elthorp and I interviewed Walgreens Store Manager Parrish Baillargeon, dob 01/18/1973, 417 Pikerville Road, Burke, NY regarding this investigation. Baillargeon confirmed that there is no way to track a deleted prescription once the filling has been refused. Baillargeon related that there was not a video camera recording the drive up window on 04/12/2012 and there is not currently a video camera at the store which is recording the drive up window.

15. On 11/29/2012, Investigator Elthorp and I interviewed Walgreens Pharmacist Allyne D. King, dob 09/08/1978, 4 Lenollwood Drive, Malone, NY regarding this investigation. King stated that she is not familiar with Brian M. Smith in general and does not recall dealing with him. King was provided with the prescription numbers of the abnormal or suspect prescriptions which were filled at Walgreens. King related that she would attempt to obtain the payment information and any other information available for those numbers on those specific dates.
16. On 12/02/2012, Senior Investigator Kurt D. Taylor, obtained a New York State Department of Motor Vehicles photograph of Brian M. Smith. A copy of that photograph is attached as an enclosure to this report.
17. On 12/07/2012, Investigator Elthorp reinterviewed Walgreens Senior Pharmacy Technician, Jennifer M. Bonesteel regarding this investigation. After looking at the photograph of Smith, Bonesteel still did not recall dealing with him at the pharmacy.
18. On 12/20/2012, I reinterviewed Walgreens Certified Senior Pharmacy Technician, Stephanie N. Niles regarding this investigation. After looking at the photograph of Smith, Niles still did not recall dealing with him at the pharmacy.
19. On 12/20/2012, I reinterviewed Walgreens Supervising Pharmacist, Sarah B. Ruby regarding this investigation. After looking at the photograph of Smith, Ruby still did not recall dealing with him at the pharmacy.
20. On 01/03/2013, I telephonically interviewed Walgreens Law Department, Paralegal Lisa Loy regarding this investigation, specifically in regards to the payment type utilized by Smith on the six days in question. Loy stated that there was no way to determine if Smith paid by credit card, currency, or check on the dates in question. Loy advised that Walgreens records would only indicate if insurance was utilized for payment.
21. On 01/04/2013, I interviewed David J. Griffin, PA, dob 01/25/1972, 168 Bohon Road, Churubusco, NY at SP Ray Brook regarding this investigation. Griffin stated that he was working as a Physician Assistant in the emergency room at Alice Hyde Medical Center, 133 Park Street, Malone, NY on 06/08/2010. Griffin stated that he recalls that Smith came to the emergency room complaining of back pain. After reviewing the records from the New York State Department of Health Bureau of Narcotics Enforcement, Griffin related that he did prescribe Smith twenty Vicodin (Hydrocodone/Acetaminophen 5/500 mg) pills. Griffin added that at that point in time he had no reason to believe Smith was using his medication excessively or inappropriately. Griffin did state that after reviewing the prescriptions received by Smith after that date, it appears that Smith was attempting to obtain more prescription pain killers than would be considered appropriate. A Gen'l 4 was obtained from Griffin regarding this investigation and a copy is attached as an enclosure to this report.
22. On 01/07/2013, I telephonically contacted Angela Pennera, Alice Hyde Medical Center Orthopedic Sports Medicine, 187 Park Street, Suite 2, Malone, NY regarding this investigation specifically making an appointment for the interview of Dr. Dragos Macelaru, Dr. Marco Berard, and Marie W. Haggarty, PA. Pennera stated that each of them could be available for interview on 01/10/2013 at 3:30 pm.
23. On 01/08/2013, I was telephonically contacted by Ginger C. Carriero, dob 12/19/1975, Compliance Counselor, Alice Hyde Medical Center, 133 Park Street, Malone, NY. Carriero stated that Alice Hyde Medical Center would not allow the three doctors in question to be interviewed for fear of possible violations of the Health Insurance Portability and Accountability Act.
24. On 01/11/2013, I discussed the details of this investigation to date with Franklin County District Attorney Derek P. Champagne. DA Champagne was updated on the current status of the case.

25. On 02/04/2013, I received copies of the timesheets with respect to the six dates in question. A review of the time sheets indicated that on 09/10/2010 and 11/02/2010 Smith worked night shift from 6:00 pm until 6:00 am. On 03/08/2011, Smith worked a daytime shift from 6:00 am until 6:00 pm. On the remaining three dates in question, Smith was not working at the police department. I also received a copy of the interdepartmental regulation 10.1.34 which states "Possessing or transporting when on duty or on department property any intoxicating liquor, dangerous drugs or narcotics except when in performance of police duty or when authorized by competent medical authority. In the latter the Chief of Police will be notified in writing of the need for such prescription by the member concerned." A copy of the time sheets and the regulation are attached as enclosures to this report.
26. On 02/06/2013, I telephonically interviewed Chief Premo regarding the possible administrative action based on the lack of written notification by Smith of his extensive history of prescribed medication. Chief Premo stated that he considered the on going allegations in writing of numerous on duty injuries written notification and added that his office will not be pursuing administrative action against Smith.
27. On 02/21/2013, I interviewed Brian M. Smith at SP Ray Brook regarding this investigation. After being advised of his constitutional rights, Smith agreed to answer questions with respect to this investigation and more specifically the six transactions or prescriptions that are in question. Smith stated that on 06/08/2010, he requested a hydrocodone prescription from Dr. Griffin at Alice Hyde Medical Center in Malone, NY. Smith stated that this was a telephonic request and that Dr. Griffin never actually examined him. Smith admitted that he was running low on his medication and he wanted more hydrocodone to get him through until he could get his normal thirty day prescription from his primary care physician's office for left shoulder blade and neck pain. Smith stated that he had the prescription filled at the Walgreens pharmacy in Malone, NY and made payment either by cash or by a "Walgreens Quick Pay" debit account and added that he has always paid or been debited \$5.00 for his prescriptions which would indicate that it went through his insurance. The records indicate that Smith was prescribed a thirty day supply of hydrocodone on 05/10/2010 and 06/10/2010 by his primary care physician's office. Smith stated that on 06/29/2010, he had an actual exam at Alice Hyde Medical Center, Orthopedics for pain in his right shoulder and was prescribed a fifteen day supply of hydrocodone. Smith stated that he was referred to that office by his primary care physician and assumed that they would be communicating between offices with respect to the medication that was being prescribed. Smith related that on Thursday, 09/09/2010, he contacted his primary care physician's office to have a prescription written for his normal thirty day supply of hydrocodone. Smith alleged that he was not able to pick the prescription up during business hours on 09/09/2010 or 09/10/2010 so he ended up contacting the Alice Hyde Medical Center Emergency Room and having Dr. Stout write a prescription for a two day supply to get him through the weekend until he could pick up his prescription and get the prescription filled on Monday, 09/13/2010. The prescription records indicate that Smith was written a prescription by Dr. Bhagat on Thursday, 09/09/2010 which was not filled until Monday, 09/13/2010 at Kinney Drugs, Malone, NY. Smith stated that on 10/04/2010, he received a prescription for a fifteen day supply of hydrocodone from Alice Hyde Medical Center, Orthopedics. Smith alleged that this appointment and prescription was for right shoulder pain and he assumed that his primary care physician's office and the Alice Hyde Medical Center, Orthopedic office were aware of that each one was prescribing. Smith stated that on 11/02/2010 he received a fifteen day supply of hydrocodone for right shoulder pain from Alice Hyde Medical Center, Orthopedics. Smith related that he believed that the doctors at the Alice Hyde Medical Center Orthopedic office were aware of what he was being prescribed for the right shoulder pain but he couldn't say for sure if they were aware of what medication was being prescribed by his primary care doctor's office for his neck and left shoulder pain. Smith further stated that on 03/08/2011, he went to the Alice Hyde Medical Center emergency room for a muscle pull in his lower back which resulted from falling on the ice while working. Smith stated that he received a prescription for a seven day supply of hydrocodone for his back and never sought any further medication or treatment for that injury. Smith added that starting in the early 2000's, he was prescribed numerous pain medications from four medical care facilities. Smith

stated that many of the prescriptions and refills were completed via telephone call. Smith added that when he was asked, he was forthcoming in regards to the prescriptions that he was taking. Smith alleged that often times they would not ask, especially on refills that he had been prescribed. Smith alleged that other than his primary care physician and the emergency room visits, he was referred to the other doctors, so he assumed that each doctor was aware of the other's prescriptions. Smith stated that he did not try to deceive anyone with respect to the prescriptions he was taking. Smith confirmed that he got the majority of his prescriptions filled at Kinney Drugs in Malone, NY, but did get some filled at Walgreens Pharmacy in Malone, NY primarily due to the time of the day or the fact that he did not have any cash with him. Smith explained that he and his fiancée, Heather Montroy both have a "Quick Pay" (debit) account at Walgreens. Smith stated that he has only paid \$5.00 for a prescription regardless of the pharmacy and he believes that is his co-pay amount. Smith stated that he stopped going to Walgreens after he was refused a prescription due to the fact that he had received a previous prescription at Kinney Drug. Smith stated that he explained that it was a smaller dosage but she still refused to fill it. Smith related that he was embarrassed and didn't like the way that he was treated so he didn't go back. Smith added that he spoke with Dr. Berard's office after he was refused and he was advised to cut his 10mg hydrocodone pills in half to take a 5mg dosage instead with an extra strength Tylenol. Smith further stated that he is not taking any prescription narcotic pain killers and has not taken any since August, 2012. Smith provided a written statement relative to this interview and a copy is attached as an enclosure to this report. A compact disk containing an audio recording of the interview of Smith was obtained and will be maintained in the case file.

28. All information developed from this investigation, including copies of the depositions and statements were presented to Franklin County District Attorney Derek Champagne for review.
29. On 03/15/2013, I received a letter from Franklin County District Attorney Derek P. Champagne indicating that his office would not pursue any further criminal prosecution of Smith with respect to this investigation. A copy of this letter is attached as an enclosure to this report.
30. On 03/25/2013, Troop B, NEU case 12B026B4809837 is submitted as Closed By Investigation. All investigative leads are exhausted and no further practical investigative acts are possible. No useful purpose is served by keeping the case open and no unusual circumstances exist which would preclude closing this case. The Franklin County District Attorney's has declined the prosecution of Brian M. Smith with respect to this investigation. No evidence has been secured as a result of this investigation.

Enclosures

- 1) Subpoena Duces Tecum - Records dated 10/10/2012
- 2) Bureau of Narcotics Enforcement Prescription Records, Brian M. Smith
- 3) NYS Department of Motor Vehicles Group Search, Montroy, Heather L.
- 4) Gen'l 4, Dr. Anjni G. Bhagat, MD
- 5) NYS Department of Motor Vehicles Photo, Smith, Brian M.
- 6) Gen'l 4, David J. Griffin, PA
- 7) Malone Police Department Time Sheets and Regulation 10.1.34
- 8) Gen'l 19, Smith Brian M.
- 9) Franklin County DA's Office Letter, Derek P. Champagne

Senior Investigator Richard J. Dumoulin

Captain Robert S. LaFountain, BCI



POLICE DEPARTMENT

Village of Malone
2 Police Plaza
Malone, New York 12953-1601

Christopher Premo
Chief of Police

(518) 483-2424
(518) 483-2426 fax
Chiefpremo@malonepd.com

January 21, 2019

To Sgt. Brian Smith:

On Sunday January 21, 2019 at 10:30pm you left the Malone Village Police Department without prior authorization from the Chief of Police. You also failed to notify your subordinate officers that you were leaving. I need to know why you left and under what authority did you leave? Your reply needs to be in my mail box on Thursday, January 24, 2019.

Chief Christopher Premo
Chief Christopher Premo



POLICE DEPARTMENT

**Village of Malone
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(518) 483-2424
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**Christopher J. Premo
Chief of Police**

Chief Christopher Premo,

Consider this my written response to the "Notice of Charges" that received on June 8, 2018. I have always been accountable and responsible for my actions and demand it from my subordinates. There is no question that I missed my appointment and it was an honest error. I myself have repeatedly inquired on the status of my application for 207-c benefits since my application was submitted in August 2017 and I have even urged the process to move ahead. I have tried to be as transparent as possible during this process. I simply misread the letter from you, there was no ill intent. In fact I thought I was 45 minutes early.

I have been a loyal employee for 23 years now and certainly haven't been a disciplinary problem. Over the years I have served the citizens of Malone and placed their needs and my Departments needs ahead of my own without concern for personal needs and personal safety. I have never been insubordinate and I am also clearly not incompetent. I am routinely looked to for guidance and advice by Patrolman and fellow Sergeants, because of my experience and honesty. They know I make myself available at any time of day or night because its in the Departments and the Villages best interest to do everything we can to get it right. I have even received calls since I have been out of work for my shoulder. I take pride in my Department and want to guide future members to a successful and safe career. I don't believe a reading error makes me insubordinate or incompetent, it makes me human. I do believe that I should be held accountable, I just think the punishment doesn't fit the crime. But what I think doesn't really matter.

After discussing this with you I will accept the offer of a single day of suspension and plea to the single count of Charge 1, Specification 1 as it seems to be the most applicable. I thank you for listening to my story and I sincerely apologize for any trouble I caused missing the April 10, 2018 appointment.

Respectfully,
Sgt. Brian M. Smith



POLICE DEPARTMENT

Village of Malone

2 Police Plaza

Malone, New York 12953-1601

(518) 483-2424

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Christopher Premo

Chief of Police

January 23, 2019

Chief Christopher Premo:

As previously related to you I have diverticulitis. I came to work on January 21, 2019 with full intention of being here for my entire shift. However it became rapidly evident that wasn't going to be able to occur because my gun belt was applying undo pressure to the affected area causing me substantial pain. I wasn't aware I needed the authority Chief of Police to use sick time. If in the future you would like a phone call regardless of time then I would be glad to do so. I would strongly dispute that I did not relate that I would be leaving to me subordinates as I told the would be acting supervisor, Ptl. Andre I would be leaving at around 10PM. I stayed beyond that point to offer any direction I could on the Burglary complaint we had at 26 Maple Street or answer other calls if needed. Once I was clear I went back to the station and signed off duty. I was in a lot of pain and just wanted to get home. I was going to drop my memo tonight as the pay period isn't over until Thursday. Clearly I wasn't trying to hide anything because I signed off duty and told Ptl. Andre why I was leaving.

In closing I would like to say that in all my years working with you as my Sergeant or as the Chief of Police I have never intentionally set out to challenge your authority, nor would I.

Respectfully,

A handwritten signature in black ink that reads "Sgt. B.M. Smith". The signature is stylized with a large, looped "S" and a cursive "Smith".

Sgt. Brian M. Smith



POLICE DEPARTMENT

Village of Malone

2 Police Plaza

Malone, New York 12953-1601

Stephen J. Stone

Chief of Police

(518) 483-2424

(518) 483-2426 fax

mpdchief@verizon.net

March 23, 2010

To: Sergeant Brian Smith

This office has conducted an investigation involving the actions of officers working the night shift of January 27th 2010, 1800 hrs on 27th to 0600 hrs on the 28th. As a result of this investigation it has been determined:

That your actions violated Department Rules and Regulations.

- a) 4.2.12 Insure department resources are used efficiently and effectively
- b) 4.19 Perform those duties of the members of the force that are applicable to him.
- c) 5.10 During his tour of duty a desk officer is responsible for the courteous receipt of all complaints and their proper entry in prescribed department records and instituting proper police action with respect thereto.
- d) 6.2.12 Receive, record and service immediately all complaints and requests for service
- e) 10.56 Failure to take, record and act upon complaints except as prescribed by department orders.

As a result of the above violations the following disciplinary actions are being taken.

- a) Loss of 12 hours of compensatory time
- b) This letter of action will be placed in your file

This office understands you have already taken steps to correct actions in regards to Officer Kemp and have recorded and followed up with the Bennett complaint. Never the less, this department is entrusted by the public to receive courteous and immediate service by officers employed here.

Received

Sgt. B.M. Smith

Chief Stephen J. Stone

[Signature]

Date

3-24-2010



DEREK P. CHAMPAGNE
District Attorney

**OFFICE OF
FRANKLIN COUNTY DISTRICT ATTORNEY**

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GLENN MACNEILL
Chief Assistant District Attorney

ELIZABETH M. CRAWFORD
Assistant District Attorney
Violent Crime/Narcotics

GARY M. PASQUA
Assistant District Attorney

DAVID J. HAYES
Assistant District Attorney

CRAIG P. CARRIERO
Assistant District Attorney

March 13, 2013

Inv. Richard Dumoulin, Jr.
New York State Police
Troop B
1097 State Rt. 86
Ray Brook, New York 12977

RE: Investigation of Sgt. Brian M. Smith

Dear Richard:

Thank you for the very thorough investigation of Sgt. Brian M. Smith of the Malone Village Police Department.

While a misdemeanor charge under the Public Health Law might be chargeable, I do not believe such a charge could be proven beyond a reasonable doubt to a trier of fact.

As such, while I am very concerned with Sgt. Smith's conduct, I do not believe the criminal charge can be proven beyond a reasonable doubt and I therefore decline criminal prosecution.

Thank you again for the extensive investigation and work you put into this matter.

With best personal regards, I remain,

Very truly yours,

Derek P. Champagne
District Attorney

DPC/skl

cc: Cpt. Robert LaFountain
Chief Christopher Premo



POLICE DEPARTMENT

VILLAGE OF MALONE

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CHRISTOPHER PREMO

CHIEF OF POLICE

To: Chief Premo

Date: May 4, 2014

Ref: Contract Article 9 sub 2 – Retirement

Chief Premo,

Per Article 9 sub 2 – Retirement, in the current contractual agreement between the Village of Malone and the Teamsters Local 687 on behalf of the Village of Malone Police Benevolent Association, I am notifying you that I am eligible for retirement on April 3, 2015. This is in no way a declaration of intent to retire on a specific date but instead only that I will be eligible and that the possibility exists. Depending on employment opportunities afforded to me I will make every effort possible to give as much advanced notice as possible prior to separation from employment.

If you or anyone with the Village of Malone has any questions or concerns please feel free to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Sgt. B.M. Smith", with a stylized flourish at the end.

Sgt. Brian. M. Smith
Malone Village PD



POLICE DEPARTMENT

Village of Malone
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Malone, New York 12953-1601

(518) 483-2424
fax (518) 483-2426

Date: 9/15/2005

To: Chief Reyome and A/C Stone

From: Ptl. B M Smith

Chief Reyome:

I did not intentionally disobey anybody's direct order, nor have I EVER. If that is the way you feel I am sorry. Without going into a long story of the current problems and in my life, I have to say that with all that was going on the meeting got lost in the shuffle. I had a 3:00 appointment in Malone. I made that appointment and then picked up my car which was in for service. It was after that I remembered the meeting and came directly to the station.

Respectfully,

Ptl. B.M. Smith



POLICE DEPARTMENT
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Ronald Reyome
Chief of Police

Letter of Reprimand

To: Patrolman Brian Smith

From: Chief Ronald E. Reyome

Date: August 30, 2004

Re: Failure to complete paperwork for arrest of Joshua Duheme and Brandon Goring

In reference to the above incidents and after an Investigation by Asst. Chief Marlow you were found to be in dereliction of your duties. You have been previously counseled for this in a similar incident and failed to take corrective measures to prevent it from occurring again.

The investigation reveals that you were in violation of several of the Department Rules and Regulations.

10.1.2 Failure to properly perform his duty.

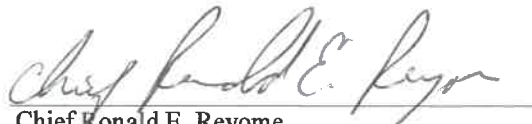
10.1.5 Inattention to duty.

10.1.9 Inefficiency in performance of duties

As we have discussed this letter will remain part of your personnel for an indefinite period of time and you will lose four (4) days of compensatory time off.



Ptl. Brian Smith


Chief Ronald E. Reyome

COPY

August 22, 2004

TO: Ptlm Brian Smith
FROM: Asst/Chief Vernon N Marlow Jr

Subj: Disciplinary Action

Ptlm SMITH;

On July 21st, 2004 you investigated a motor vehicle accident involving Joshua Duheme. The end result of that investigation resulted in the issuance of a ticket for Driving While Ability Impaired/Alcohol. Mr Duheme was given an appearance date of August 4th, 2004.

On July 23rd, 2004 you issued several Vehicle and Traffic tickets to Brandon Goring and he was given an appearance date of August 4th, 2004.

On August 4th, 2004 in the AM this department received an inquiry from Village Justice Court concerning the whereabouts of Mr Gorings paperwork, as he was at court awaiting his arraignment. A review of your case file revealed that Mr Gorings paperwork had not properly filed or forwarded to court and was still in your file.

A further review of your case file revealed that the paperwork for Mr Duheme had not been properly filed and forwarded to court as well.

As you are aware we had a brief session concerning Mr Duhemes paperwork days before his scheduled appearance and I inquired as to why this particular paperwork had not been properly filed. After this session I was confident that you would follow through appropriately.

PTLM SMITH this is not the first time that this investigator has had cause to speak with you with respect to proper procedures and filing.

PTLM SMITH your response and rationale for why these latest insufficiencies took place was unacceptable.

With respect to the aforementioned violations of the Departmental Rules and Regulations it is this investigators opinion that PTLM SMITH is in violation of the following:

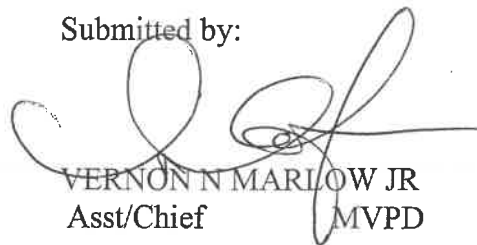
- 10.1.1 - Conduct that brings discredit to the Department
- 10.1.2 - Failure to properly perform his duty
- 10.1.4 - Disrespect towards a Superior Officer
- 10.1.5 - Inattention to duty
- 10.1.9 - Inefficiency in performance of duties

This investigator is not as much concerned with the severity of these actions as he is with the repetition of PTLM SMITHS actions. In order to ensure that this type of inefficiency does not continue it is this investigators belief that any action taken by the Chief of Police be progressive.

It is this investigators recommendation that this report become a permanent part of PTL BRIAN SMITHS personnel file as well as a five (5) day suspension without compensation.

This report and recommendation will be forwarded to Chief Ronald Reyome for his consideration.

Submitted by:



VERNON N MARLOW JR
Asst/Chief MVPD

August 8, 2004

TO: Asst. Chief Vernon N. Marlow Jr.

FROM: Ptl. B.M. Smith

SUBJECT: Arrests for Joshua Duheme and Brandon Goring

Asst. Marlow,

With respect to the Brandon Goring arrest, I should have separated the tickets to send to court all I needed was the copies. I was going to separate them Wednesday morning and hand deliver them to court as I wanted to speak to the Judge about them. This is the second time I had ticketed Goring for this offense and I had further questions on the mode of transportation that he was using at the time of the second arrest. However Ptl. Shova wanted to attend our Golf Tournament and asked me to swap shifts with her. In my haste to accommodate another department member I accepted the swap and forgot about having to take the tickets over this morning or I would have made arrangements to get them there along with my concerns.

With respect to the Joshua Duheme incident, it was not treated as an arrest. You are right, you did inquire about it when I was on my pass days. I believe I told you at that time that according to my supervisor, Sgt Stone that D.W.A.I. was a traffic infraction and was not to be treated the same as a D.W.I. arrest. The paperwork that you refer to was attached to the report as Sgt. Stone directed me to do as it was part of the case and was to be filed with the incident report. As for the UTT I thought that it had been forwarded to court as I had no reason to keep it and so informed you at the time of our discussion.

As per my short comings, I will make the appropriate adjustments so that I may concentrate more on my day to day assignments & responsibilities and hopefully avoid any other problems of this nature.

A handwritten signature in dark ink, appearing to read "Ptl. B.M. Smith", with a long horizontal line extending to the right.

Ptl. B.M. Smith

F.Y.I - I have done some checking on my own and the V.T.L. has changed prima facie evidence for D.W.A.I. to .07 to .079. and as such my paperwork for Joshua Duheme (.07 B.A.C.) should be entered into evidence. However .051 to .069 is not prima facie but is relevant evidence in determining impairment. D.W.A.I. is a traffic infraction according to 1193.1.a but apparently has been that way for some time and is not new as Sgt. Stone had informed me. I will be discussing this with Sgt. Stone and one of us type something so that everyone is on the same page.


August 8, 2004

TO: Ptlm Brian Smith
FROM: Asst/Chief Vernon N Marlow Jr

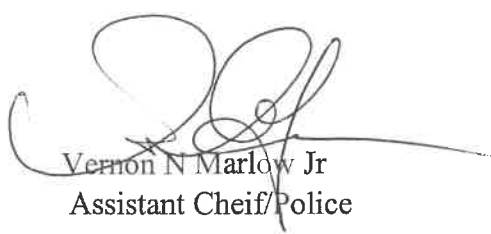
Subj: Arrests for Joshua Duheme and Brandon Goring

Ptlm Smith,

With respect to Brandon Gorings arrest. Please submit in writing your response to why this particular arrest and paperwork was still in your File jacket and not sent to Justice Court. A review of mentioned arrest and Utt's reveals that there was a two week time lapse that all pertinent paperwork should have and could have been forwarded to Court in a timely manner.

With respect to Joshua Duhemes arrest. I believe I inquired sometime ago as to why this paperwork had not been properly completed and forwarded. A review of you File jacket once again reveals that you have failed to properly complete and forward appropriate paperwork. Please submit in writing your explanation for this.

Ptlm Smith other shifts should not be responsible for your short comings. This will be the last time that another shift will take time out of their already busy schedule to ensure that you have completed proper procedures and filing. I will expect your written answer within the next five (5) working days and then based on your response I will consider further action.


Vernon N Marlow Jr
Assistant Cheif/Police



POLICE DEPARTMENT

Village of Malone
2 Police Plaza
Malone, New York 12953-1601

(518) 483-2424
fax (518) 483-2426

To: Patrolman Brian Smith
From: Asst. Chief Stephen Stone
Date: 10/01/30
Ref: Sick time

COUNSELING MEMORANDUM

Ptln Smith, in looking over your sick time records there appears to be a pattern developing, specially in the last year. In 2003 you called in sick 4 times either before or after your days offs. In 2004 you called in sick 4 times on or after your days off. So far this year you have called in sick 3 times after your four day break, and have called in sick 3 other times, one being after a holiday.

You sick time for 2005 has also been diminished with the use of 7 sick days between your three and four day break for a severe sunburn you acquired on the three day break. Such use of sick time before or after your days off gives the appearance of an extension to your days off.

Proper use of sick time when we are short of staff is necessary in the daily management of the department, inadequacy of same only puts further burden on the other employees. You need to address this issue and be more cognizant in the use of your sick time.

A handwritten signature in cursive script, appearing to read "Stephen J. Stone".

Asst Chief
Stephen J. Stone

2002

July - 14-2002 - Sun - ①

March 12-2002 Tues ① Before 3 Day Break

Feb 2, 2002 - Sat ① After 3-Day Break

2003

Dec 18, 9-2003 Thurs. Friday ②

March 28, 25 - Mon Tues - ① Before 3-Day Break

March 10 - Tues - ②

Feb 5 - Wed ② After 4-Day Break

2004

Dec-29 - Wed ② After 4 Day Break

JAN 21, 22, 23 - Wed, Thurs, Friday ② - Before 4 Day Break

Sept. 5 4 hrs on a Sunday

Oct. 11 Tues ① Before 3-Day Break

2005

3-2 - Wed ② After 4 Day Break

3-7 - Mon ② After a Holiday

4-13 Wed ① After 4 Day Break

5-5 - Thurs ②

5-7 Sun ③

7-16 thru 7-22 ① After 3-Day, Before 4 Day (Sun Burn)

7-28 Wed ③ After 4-Day Break

***MALONE POLICE DEPARTMENT
INCIDENT REPORT***

COMPLAINANT:	Melissa Lane	CASE#	32-A-35
ADDRESS:	3343 St. Rt 11		
PHONE:	483-3117 (w) 497-6218	LOG:	1672
RECEIVED:	RER	DATE/TIME:	11/26/02 1440hrs
OFFENSE:	Personnel Complaint	DATE/TIME:	
LOCATION:			
ASSIGNED:	A/C Reyome		
SUSPECT:	Ptln. Brian Smith		

NYSPIN ☐ YES ☐ NO
JUVENILE ENTRY ☐ YES ☐ NO

The complainant called and stated that she is employed at the Chateaugay Head Start program. She was informed by her supervisor that a parent had made a complaint against Melissa and the reason for the complainant was because Ptln. Smith had given some confidential information to his sister, Lisa Bailey. The complainant alleges that Smith dug into her back ground and told his sister that Melissa had been arrested for selling drugs and that how could she take care of other people's children when she cannot take care of her own as he son is in Foster Care. The complainant stated that Smith had no business doing this and wanted something done. She gave me her Supervisor's name which is Marlene Pickreign, (h) 483-0742 (w) 483-7022. I advised the complainant that I would look into the matter and get back with her.

During my conversation with the complainant, Village Attorney, Glenn McNeil was in my office. I discussed what the complainant was about and he stated that due to the fact that Criminal charges are public knowledge and from what he has heard so far, he does not feel that Ptln. Smith's actions were inappropriate.

11/29/02 Contacted Marlene Pickreign at her residence and she stated that the matter was brought to her attention, but another employee and that the file was at work and all the information would be in the file. She stated that she heard that Lisa Bailey filed a complaint about Melissa. Basically repeated what the complainant had stated. I advised Marlene that I would contact her at work so that she could give me more information.

12/04/02 Received a call from the complainant asking what was being done. I advised her that Ptln. Smith was on nights and that I have not had the opportunity to talk to him, but that he was coming inti today at noon and I would be speaking with him then. I also advised her that I had not contacted Marlene yet, but that I would do this today.

 Contacted Marlene at the school and she stated that the employee that

actually spoke with Lisa Bailey was Becky Otis and that I should talk to her because she has the file.

Contacted Becky and she stated that on 11/25/02 she met with Lisa Bailey and this is when Lisa made a couple of complainants. One was when Ptlm. Smith went to pick up her son, nobody checked his ID and just let her boy go with him. Lisa then complainant about Melissa Lane being working there and being alone with the children. Lisa stated that she had heard that Melissa had been arrested and that she couldn't even take care of her own children.

I asked Becky if Lisa told her that Ptlm. Smith had told her this about Melissa and Becky stated that she did not but that she assumed that it came from Smith as it was stated right after the conversation about Smith picking up her son.

Spoke with Ptlm. Smith and he stated that when he picked up his nephew he saw Melissa Lane in the room with the kids and there was no one else in the room. He brought his nephew home and did tell his sister and that he did not think that it was right that Melissa worked, because of her dealings with the PD and wondered if the Head Start actually did any backgrounds on people before they hire them. He did not tell Lisa any specifics about Melissa's criminal history. He also admitted to telling Lisa that Melissa could not take care of her own kid so how can she take care of others. He did not say that her son was in Foster Care because as far as he knows he is 17 or 18 years old now and is unaware of the fact that he was in Foster Care. I advised Smith that he needed to be careful what information he gave out and he stated that he knew this, but did not disclose anymore information than what he told me and he was just concerned for his nephew.

12/05/02

Contacted the complainant and advised her of my findings. She wanted to know what I was going to do with Ptlm. Smith. I advised her that I felt that there was nothing that I could do in a disciplinary way as he just voiced his personal opinion concerning his nephew's care. I did not find where he disclosed any confidential information.

Melissa was not happy with what I told her and stated that she was going to get a lawyer. I asked her if she was going to lose her job over this and she said no. I then asked her why she felt she needed a lawyer and she stated that because nothing was being done to Ptlm. Smith. I advised her that Ptlm. Smith was just like everyone else and that he can give his opinions to people and that he did not violate any confidential records. She stated that she was still going to talk to a lawyer. I advised her that she had every right to get an attorney and if that is what she wanted to do, then do it.

Will review the circumstances with Glenn McNeil, before completely closing this matter. RER

MALONE VILLAGE POLICE

"Star of the North"

2 Park Place
Malone, N.Y. 12953

Gerald K. Moll
Chief of Police

(518)483-2424
(518)483-2426
mpdcchief@stic.com

To: Ptl. Smith

From: Chief Moll

Date: 03-20-00

Ref: Case #20-A-6255

Need following information on how you handled this case according to department rules and regulations:

1. Who were the subjects released to?
2. If it wasn't the parents, when were the parents notified?
3. Why wasn't this information on the CR?

Submit in writing and place in my box.

MALONE VILLAGE POLICE DEPARTMENT

GERALD K. MOLL
CHIEF OF POLICE

DEPARTMENT POLICY

REF: Cases involving the under age

DATE: 01-01-98

Parents will be notified as soon as practical when dealing with people on the following cases:

Any alcohol involvement-----under the age of 21

Any marihuana/narcotics involvement-----under age 19

Curfew violations-----under age 16

Any arrests, accidents, pick-ups-----under age 19

A notation will be made on the CR or Officers notes as to who picked up the individual. If parents are not available, responsible next of kin will be notified and a follow-up will be made to the parents as soon as possible.

No person under the age of 21 will be allowed to leave a party or gathering that Officers respond to unless they are thoroughly checked by Patrol Officers, which must be documented and Supervisor will be summoned if possible. As per N.Y. State Zero Tolerance Law, no one under the age of 21 will be allowed to drive if they have consumed alcohol and reached .02 BAC. Parents will be notified as listed above for people under age 21 in possession/consumption of alcohol.

**MALONE POLICE DEPARTMENT
INCIDENT REPORT**

COMPLAINANT: Steve Ramirez
ADDRESS: Pizza Hut, West Main St
PHONE: 483-7350
RECEIVED: CJP

LOG:
DATE:

OFFENSE: Disorderly Conduct
LOCATION: West Main St
ASSIGNED: Smith/Stone
SUSPECT: Jordan Rockhill

NYSPIN ☐ YES ☒ NO
JUVENILE ENTRY ☐ YES ☒ NO

The complainant called to report that one of his delivery drivers just left the restaurant and a Black Toyota Truck driven by Jordan Rockhill followed him. The truck driven by Jordan Rockhill is following Derek Hilts because of an ongoing problem between the two over some money. He said the driver is heading to the Super 8 Motel for a delivery. Smith assigned. CJP 703/BMS located Derek and Jordan in the parking lot of Super 8 Motel fighting.

At the time of the call I had just proceeded West through the intersection of Main and Finney. I pulled behind the fire station and when I came out on the Finney Blvd side of the fire station I could see into the Super 8 parking lot. I could see two subjects struggling and then Jordan started to punch Derek and Derek was fighting back. I drove into the parking lot and exited the patrol vehicle and ordered the two to stop and get on the ground. Jordan got onto the ground and Derek stood by a post. Jordan was handcuffed and placed into my patrol vehicle. Derek claimed that the incident was over \$100 that he owes Jordan and he was trying to claim it. Derek said the only reason that he was fighting was to protect the money in his pocket that belonged to Pizza Hut. Derek was allowed to return his equipment and money to Pizza Hut and then return to the station. Jordan was transported to the station. Both subjects were released on appearance tickets. Jordan was released on at#1018 returnable 03/30/00 at 9:00am. He was turned over to his brother. Derek was released on at#1019 ret 03/28/00. **BMS**

Derek B. Hilts 01/14/82
Sayles Rd
Brushton, NY 529-7728

Jordan P. Rockhill 08/16/82
PO Box 324 N. Lawrence Rd
Moir, NY 529-0249

Cindy Rockhill
831-5291
481-1814

Colleen Reville came to the station from the Super Eight Motel to show me a small 2 inch crack in her bumper that she claims was caused by Jordan Rockhill kicking her car. She does not want to have him arrested only to have this info added to this report. Colleen's vehicle is a 1999, Blue, Pontiac Grand Am, bearing NY registration FR393.

Colleen Reville
51 Rockland Street, Malone
04-18-81
483-7165

BMS

03-17-00

Colleen came to station and gave a statement stating that she saw Jordan kick her car numerous times causing a crack in the bumper. She also brought in an estimate from Ellis Body Shop. Same was for \$667.57 and was to replace and paint a new bumper cover. Colleen now wants to have Jordan arrested for the damage to her car. Paperwork completed for Criminal Mischief and forwarded to Justice Court.

Colleen also stated to me and Ptlm. Stone that she saw Jordan go for Derek's pants pocket where she could see a bulge in his pocket. Derek lowered his arm and his other hand to shield his pocket and Jordan began striking Derek in the head and facial area. She did not hear anything because she was inside at the time.

Closed/*BMS*



POLICE DEPARTMENT
Village of Malone
2 Park Place
Malone, New York 12953-1601

(518)-483-2424
(518)-483-2426 FAX

March 28th 2000

Chief Gerald K. Moll
Chief of Police

COUNSELING MEMORANDUM

Ptln. Brian Smith:

I have reviewed your case file and found that you have neglected to complete and file your arrest and fingerprint cards in a timely manner. No arrest report was taken on (5) arrest nor was there an entry made in the back of the log book.. (Ref:) Sonya Vermette.

Stephen White arrest shows that the print cards are *over a month old*. Dated 02/25.

Timothy Shova arrest was made on 03/04 with print cards not completed. Also the State print cards **lower court section** was never sent to Justice Court with the charges listed.

Jody Reome arrest shows that print cards were dated on 03/14 and not completed..

Under section **160.20** of the **CPL**, it clearly defines when the fingerprints of an arrested person or defendant is taken, the *appropriate police officer must without delay* forward two copies of such fingerprints to the division of criminal justice services.

Although some of the fingerprints taken were not personally done by you, it is your responsibility as the arresting officer to complete your arrest information and file it properly.

I have looked over the paperwork you have not completed and also checked your schedule and log book. I have found that you have had more time than needed to complete the above.

In the future you will complete your arrest paperwork as soon as time allows and without unnecessary delay.

Respectfully,

A handwritten signature in cursive script, appearing to read "Sgt. Christopher D. Fountain".

Sgt. Christopher D. Fountain

VILLAGE OF MALONE POLICE DEPT.

2 PARK PLACE
MALONE, NEW YORK 12953
(518) 483-2424

TO: PTLM SMITH

ADDRESS: _____

DATE: 3/27/00

SUBJECT: ARREST PAPERWORK

PTLM SMITH,

YOU HAVE 4 ARREST THAT ARE OVER DUE — 3 OF THEM
ARE WAY OVER DUE FOR FILING, PRINT CARDS + COMPLETION. FINISH
THEM ASAP. IN THE FUTURE HAVE PAPERWORK COMPLETED
IN A TIMELY FASHION — IF YOU ARE WORKING (NEXT DAY), IF YOU
GO ON DAYS OFF (1ST DAY BACK)

SIGNED: [Signature]

COPY

To: Ass't Chief Reyome

From: Chief Gerald Moll

Date: May 27, 1998

Ref: Personnel Complaint

I have reviewed your report and have some concerns. Although I may agree with Ptl. Smith's prior work ability, it can not have a bearing on this investigation.

I have many concerns about how this was handled by both the responding Officers and what information or lack thereof that was relayed to the Supervisor.

I view this case as one that should be critiqued so we don't have a more serious problem in the future. View this case as if your own child came home and was just patted down, searched by a police officer where no arrest or tickets were issued and you weren't even notified. Were all three females treated the same in regards to pat down search, pockets emptied and interviewed?

This is also a good opportunity to review the search and seizure laws and find out the scope of such a search and did these Officers go beyond the scope.

Another main concern is WHY wasn't the Supervisor notified and consulted as to how to handle this situation.

Complete this investigation and file a full report.

Chief Gerald K. Moll

A handwritten signature in dark ink, appearing to read "Gerald K. Moll", is written over the typed name.

To: Chief Gerald Moll
From: Ass't Chief Ronald E. Reyome
Ref: Personnel complaint from Patricia Gareau
Log # 1657, May 2, 1998
Date: May 26th 1998

I have completed the investigation on the above listed personnel complaint against Patrolman Brian Smith and Patrolman Scott Mulverhill. I have also looked into the reason why the parents of the individuals involved were not notified.

While on routine patrol Ptlm Smith saw a vehicle coming out of the Andrus Street Cemetery at about 10:00pm on the 2nd of May 1998. Due to several complaints in that have occurred in the past concerning this cemetery and others Ptlm. Smith turned his vehicle around and pursued the vehicle.

The vehicle was pulled over on East Main Street near the intersection of Williams Street. Upon reaching the drivers window of the car, Ptlm Smith could smell the odor of burnt marijuana coming from within the car. He identified the driver as Angie Atkinson. She advised Ptlm Smith that the other two subject in the vehicle had smoked a marijuana joint earlier, but she did not smoke any. Ptlm Smith observed Angie and she did not appear to be under the influence of any narcotic substance.

The other two people in the car were a Melissa Gareau and a Eric Jackson. They denied smoking any marijuana.

Ptlm Smith requested back up and Ptlm Mulverhill responded. With consent from Atkinson a search of the vehicle was done and a small tube that smelled of marijuana was found. Due to lack of substance in the tube there was no field test done.

Ptlm Smith did a quick pat down of Jackson and requested that Melissa Gareau turn her pockets inside out. Which she did and she also held her coat pockets out and Ptlm Smith checked them quickly.

Due to the lack of evidence and the fact that no one appeared under the influence of narcotics all three subject were released.

Under these circumstances I feel that Ptlm Smith's actions were appropriate and at his discretion no arrest were made.

As far as Ptlm Smith and Mulverhill not following the Department Policy on cases involving the under age, I find the following.

When I first spoke to Ptlm Smith about this he had a copy of the Department Policy in his hand and admitted that he had made a mistake. He stated that he did not intentionally ignore the policy, and that he was aware of it. But, he believed that an arrest of an individual had to be made before a parent had to be notified. Due to the fact that he did not feel that he had a good arrest and in fact did not arrest any of the individuals, he did not think that he had to contact the parents.

I asked Ptlm Smith if Ptlm Mulverhill or Sgt. Ritchie had made any mention of the policy and he quickly stated that it was not anybody else's fault and that he was the one responsible as he had made the original stop and it was his decision to release the parties involved.

Ptlm Smith advised me that this will not occur again and that he understands the policy as it is written.

Recommendation:

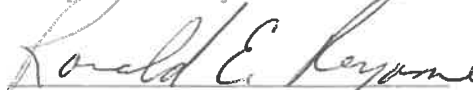
Upon reviewing the statements and the comments made during the interviews, I have found that Ptlm Smith and Mulverhill acted within there scope as police officers on the initial stop of the vehicle in question.

As far as the Department Policy on "Cases involving the under age" I find that in fact the policy was not followed, but I do not believe that it was done intentionally. As far as the Patrolman are concerned, I believe that it was the responsibility of Ptlm Smith to contact the parents of the youths that were involved as he made the initial stop and used his discretion to release them.

Ptlm Smith has taken full responsibility for this and understands that he did not follow the policy correctly. Due to Ptlm Smith assertive work habits in the past and the fact that he immediately acknowledge his error and takes full responsibility for it, I recommend that Ptlm Smith get a Verbal Warning at this time and that he be made aware that if this occurs again and if he does not take appropriate action, more severe disciplinary measures will be taken.

As far as Sgt. Ritchie's responsibilities on the night in question, I did not interview him, as I know he has spoken to you concerning the matter. If you feel that I should do an interview with him, please let me know.

Respectfully Submitted,



Ass't Chief Ronald E. Reysome

MALONE POLICE DEPARTMENT
INCIDENT REPORT

COMPLAINANT: Patricia ^{Gareau} ~~Graeu~~
ADDRESS: 4426 St Rt 37 Malone
PHONE: 481-6051
RECEIVED BY: WHR

CASE#:
LOG#: 1657
DATE/TIME: 5/2/98 2300

OFFENSE: Personnel Comp
LOCATION:
ASSIGNED TO: Chief Moll
SUSPECT(S):

DATE/TIME:

*****NYSPI INQUIRY OR ENTRY [] YES [] NO*****

Department computer "Juvenile file" entry [] YES [] NO

DETAILS: In ref: to the above, complainant called, highly aggitated that her 16 year old daughter Mellisa Gareau had been stopped by one of our patrols and had been searched and accused of smoking Marihuana. Complainant wanted the names of all officers working and was given same. She demanded that the officers involved with violating her daughters rights call her right away or we would be hearing from her attorney. I explained the situation and how personnel complaints are handled, and that I would speak with the officers involved and turn in a report to the chief of Police. she requested that the Chief call her Monday morning. WHR

Investigation completed by Ass't Chief Reyome. See attached paper work for outcome.

Closed RER

Report made by: _____ Reviewed by: _____

To: Chief Moll
From: Sgt Ritchie

Date 5/2/98

Ref: Personnel Complaint

I spoke with Patricia Gareau for about 10 minutes on the phone. At the beginning of the conversation she was very irate that our patrol had "for no reason" stopped and searched her 16 year old daughter and her two friends in full view of the public. She insisted on speaking with the two officers at once, If not she was going to call her lawyer for our violating her daughters civil rights.

I finally got her to calm down and gave her my name along with Ptl Smith and Mulverhill. I explained to her the I was the shift supervisor and that I would speak with the officer to find out what had taken place, because the information I had at that time was that this was just a routine traffic stop. I continued on explaining to Mrs Gareau that I would file her complaint and that it would be forwarded to you. She would like you to call her Monday morning.

I spoke with the daughter, Melissa Gareau and she told me that she was riding in her friends car (Angela Atkinson) along with another friend Eric Jackson, when our patrol pulled them over for no reason and the officer accused them of doing drugs and then searched the car and their person all on Main street in full view of anybody driving by. She was very upset that someone she knows may have seen this and then think she was some kind of a criminal, this along with the fact that she did not believe that the police have the right to do this.

I ended the conversation with Mrs Gareau who had calmed down considerably with me explaining to her that this would be looked into.

I then call Ptlm Smith to the office and had him explain to me what had occurred. He stated that while on patrol at about 2215 hrs he had seen a car come out of the Andrus street cemetery and was heading towards Main street. By the time he got turned around and behind the car to activate a traffic stop they were on East Main street. Driver of the vehicle Angela Atkinson was interviewed as to why they were coming out of the cemetery and during the course of interview Ptlm Smith could smell burnt marihuana. When questioned about that Angela stated that her two friends (Eric and Mellisa) had just smoked a marihuana cigarette. When asked if there was anymore Marihuana in the car she stated that she does not think so. Ptlm Smith then secured verbal consent to search

the vehicle from the owner/driver and with the help of Ptlm Mulverhill who was unit two and backing up the stop all occupants were asked to exit the car and a search was preformed. One small plastic tube with burnt marihuana residue and a pack of Zig-Zag rolling papers were found in the back seat of the car. All occupants were asked to empty their pockets and complied. Officer Smith did an outside pat down of jacket pockets and then all three were allowed to go on their way.

No arrest were made due to not finding anyone in physical possession of the pipe or papers, no UTT's issued.

I, Ptl. Scott M. Mulverhill am employed by the Village of Malone as a Police Officer and submit the following information for what ever purpose it may serve. I understand my Civil Service rights under Section 75 Sub. 2 to have representation by my certified recognized employee organization and that I wish to waive that right.

I would like to state that on 05/02/98 I was working the 8pm -4am shift with Ptl. Brian Smith and Sgt. William Ritchie. Sgt. Ritchie was working the desk and Ptl. Smith and myself were on routine patrol in seperate police cruisers.

At about 10:00 pm Patrolman Smith called in a traffic stop which he was initiating on East Main Street in the vicinity of the East End Diner. At that time I was at the K-mart plaza and was trying to unlock a car for a female subject who had stopped me and asked for help as I was driving through the lot.

Ptl. Smith then radioed for me to respond and assist him as he was going to do a search of the vehicle. Upon arriving at the scene I observed a white female standing outside the vehicle on the sidewalk near the East End Diner lot.

I have read this statement consisting of 2 page(s) and the facts contained herein are true and correct. I have also been advised of my rights under Section 75 sub. 2 of the Civil Service Law. I understand that making a false written statement is also punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

*Affirmed under penalty of law
this 12th day of May, 1998

Signed: Ptl. Scott M. Mulverhill

Witness: _____

Page 1 of 4 page 3

I, Ptl. Scott M. Mulverhill am employed by the Village of Malone as a Police Officer and submit the following information for what ever purpose it may serve. I understand my Civil Service rights under Section 75 Sub. 2 to have representation by my certified recognized employee organization and that I wish to waive that right.

I pulled my unit behind Ptl. Smith's and exited and approached Ptl. Smith and in doing so I observed a black male subject sitting inside the vehicle in the rear passenger's seat and another white female sitting in the front passenger's side seat.

I then asked Ptl. Smith what the reason for the stop was and he stated that he had observed the vehicle in the cemetery on Andrus Street and stopped same for this reason. Ptl. Smith then advised me that upon stopping the vehicle he could smell a odor of marihuana coming from same and the driver had consented to a search of the vehicle.

Ptl. Smith then directed the male subject out of the vehicle and had him stand outside the rear passenger's side door with his hands up on the roof of the car and then had the female exit the front passenger's side and stand behind the vehicle between it and his cruiser.

I have read this statement consisting of 3 page(s) and the facts contained herein are true and correct. I have also been advised of my rights under Section 75 sub. 2 of the Civil Service Law. I understand that making a false written statement is also punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

*Affirmed under penalty of law
this 12th day of May, 1998

Signed: Ptl. Scott M. Mulverhill

Witness: _____

I, Ptl. Scott M. Mulverhill am employed by the Village of Malone as a Police Officer and submit the following information for what ever purpose it may serve. I understand my Civil Service rights under Section 75 Sub. 2 to have representation by my certified recognized employee organization and that I wish to waive that right.

Upon Ptl. Smith having the subjects exit the vehicle he then started a search of the front of same. I asked the driver if she knew if there was anyhting in the car that should not be in it and she said no. I then walked to the driver's side rear door and started to search the back seat and rear of the vehicle. While searching the back seat I found a clear plastic tube with hollow ends and same had residue inside it that appeared may be marihuna. I gave this to Ptl. Smith and finished my search of the vehicle. After finishing the search of the vehicle Ptl. Smith was advised by the black male that he had had the tube in the vehicle but denied there was marihuana in it. Ptl. Smith then advised the male and female passengers to get back inside the vehicle and we both spoke with the driver who stated that she was picking these subjects up and giving them a ride home as they were her sister's friends. The driver was advised that she could be held accountable for what was found in the vehicle which she understood.

I have read this statement consisting of 4 page(s) and the facts contained herein are true and correct. I have also been advised of my rights under Section 75 sub. 2 of the Civil Service Law. I understand that making a false written statement is also punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

*Affirmed under penalty of law
this 12th day of May, 1998

Signed: Ptl. Scott M. Mulverhill

Witness: _____

Page 3 of 4 page(s)

I, Ptl. Scott M. Mulverhill am employed by the Village of Malone as a Police Officer and submit the following information for what ever purpose it may serve. I understand my Civil Service rights under Section 75 Sub. 2 to have representation by my certified recognized employee organization and that I wish to waive that right.

After speaking with the driver she was advised that she could leave which she did.

I would further like to state that it did not appear to me that the driver of the vehicle was under the influence of alcohol or drugs and she stated to patrol that the two subjects in the car may have been smoking it before she picked them up and the oder may have been coming from them. Also while speaking to the driver I could not smell alchol or marihuana coming from her person and for these reasons I did not feel the need for sobriety test.

I have read this statement consisting of 4 page(s) and the facts contained herein are true and correct. I have also been advised of my rights under Section 75 sub. 2 of the Civil Service Law. I understand that making a false written statement is also punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

*Affirmed under penalty of law
this 12th day of May, 1998

Signed: Ptl. Scott M. Mulverhill

Witness: _____

TO: PTLM. BRIAN SMITH

FROM: A/C RONALD E. REYOME

RE: PERSONNEL COMPLAINT (PATRICIA GAREAU)

Please be advised that Patricia Gareau has made a personnel complaint against you in regards to her daughter being detained and searched on 05/02/98.

I have started a preliminary inquiry into Gareau's allegations and if necessary, I may want to interview in the near future. I will let you know if and when the interview will take place, so that you will have time to have representation, if you so desire.

I will need a complete detailed report as to what transpired on the night of the stop and an a detailed explanation of what occurred with each individual that was involved.

I also need to know whether or not the driver in the vehicle was put through any field test to determine if she was impaired by narcotics. If test were not given, explain why they were not.

Please return the report to me by 5/6/98.

TO: PTLM. BRIAN SMITH

FROM: A/C RONALD E. REYOME

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Please return the report to me by 5/6/98.

I, Ptlm. Brian M. Smith am employed by the Village of Malone as a Police Officer and submit the following information for what ever purpose it may serve. I understand my Civil Service rights under Section 75 Sub. 2 to have representation by my certified recognized employee organization and that I wish to waive that right.

On May 2, 1998 at about 2200hrs I was on patrol in a marked patrol car. I was traveling south on Andrus street when I noticed a vehicle in the Andrus street cemetery coming down the Northern driveway. I continued by and turned around at Sullivan's Electric. I drove north on Andrus and caught up to the vehicle as it was turning onto East Main street. As I turned onto East Main I radioed the station that I was going to be 10-7 East Main with the vehicle which had a New York registration of P307UH.

Suspect vehicle stopped at about Williams street W/B on East Main street. The stop was initiated due to them being in the cemetery and the numerous larceny, criminal mischief, criminal tampering and littering complaints we get at the cemetery. Upon reaching the drivers window could smell the odor of burnt marihuana coming from within the car. I identified the driver as an Angie Atkinson, 18 yoa of Constable. I had her exit her vehicle and step to the rear of same and called for Patrolman Mulverhill to assist. Initially Angie denied that anyone was smoking marihuana in her car. I confronted her with the fact that I could smell an odor of burnt marihuana coming from her car and that nothing else smells like it. She then told me that her two passengers had smoked a joint in the cemetery and that she did not smoke any. I believe this because there was no odor of marihuana coming from her breath as she was talking to me. Further her pupils seemed normal and so did her motor coordination. I asked her if there was anymore in the vehicle and she said none that she knew of but was unsure about the passengers. She told me I could search the car if I wanted to as she had nothing to hide. I had her stand on the sidewalk. Patrolman Mulverhill stood by as I got the passengers out of the car one at a time.

I have read this statement consisting of 2 page and the facts contained herein are true and correct. I have also been advised of my rights under Section 75 sub. 2 of the Civil Service Law. I understand that making a false written statement is also punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

*Affirmed under penalty of law
this 5th day of May, 1998

Signed: Ptlm B.M. Smith

Witness: _____

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I first had the rear passenger Eric Jackson exit the vehicle. I told him that it was alleged that he had been smoking marihuana in the car and further that I could smell it. He denied the allegations. I then patted him down and had him stand with his hand on the car where I could see them.

I then had the front passenger exit and told her the same as was told to Mr. Jackson. She too denied the allegations. I gave a quick check of her two exterior coat pockets and had her turn her own pants pockets inside out to check for contraband and or weapons.

I had her stand to the rear of the vehicle as the search of the vehicle was conducted by myself and Ptlm. Mulverhill. During the search a clear plastic tube was found on the floor between the rear drivers side door and the seat. This tube smelled of marihuana and may contain a small amount of residue. Nobody would lay claim to the tube. Further a pack of rolling papers were found between the front seats. Due to the lack of physical evidence and that nobody in the car appeared to be impaired I did not feel comfortable making an arrest. They were all advised to stay out of the cemetery unless they had a legitimate reason to be there. They were then allowed by me to go on there way.

Angie Atkinson
Constable
9-09-79
483-7352

Melissa Gareau
16 YOA

Eric Jackson
Chateaugay NY
17 YOA

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Signed: 

Witness: _____

MALONE VILLAGE POLICE DEPARTMENT

GERALD K. MOLL
CHIEF OF POLICE

DEPARTMENT POLICY

REF: Cases involving the under age

DATE: 01-01-98

Parents will be notified as soon as practical when dealing with people on the following cases:

Any alcohol involvement-----under the age of 21

Any marihuana/narcotics involvement-----under age 19

Curfew violations-----under age 16

Any arrests, accidents, pick-ups-----under age 19

A notation will be made on the CR or Officers notes as to who picked up the individual. If parents are not available, responsible next of kin will be notified and a follow-up will be made to the parents as soon as possible.

No person under the age of 21 will be allowed to leave a party or gathering that Officers respond to unless they are thoroughly checked by Patrol Officers, which must be documented and Supervisor will be summoned if possible. As per N.Y. State Zero Tolerance Law, no one under the age of 21 will be allowed to drive if they have consumed alcohol and reached .02 BAC. Parents will be notified as listed above for people under age 21 in possession/consumption of alcohol.