

Draft

Police Commission Minutes
Defina Hearing

Unofficial

Unapproved

Monday May 9, 2011

The Hooksett Police Commission held a public hearing on Monday May 9, 2011 at the Hooksett Town Hall. In attendance were Commissioner Clark Karolian, Chairperson Joanne McHugh, Chief Stephen Agrafiotis, Officer Jason Defina and Attorney LeFevre.

Chairperson McHugh: This is part 2 of the grievance hearing. Same rules still apply that were in place the last time. One thing I want to say is that it has to do with bad language. The last time there was a concern about somebody that slipped with regards to bad language. I would ask everyone in attendance to please watch your language and to please be mindful of that. Everyone knows both from the police commission point of view that is one thing I don't tolerate. So if anyone is going to do that I am going to tell you from the get go I am going to ask you to leave.

Call to Order at 5:35PM
Pledge of Allegiance.
Proof of Posting.

This evening we are here for the grievance hearing for grievance 09/06 and grievance 09/07. I think where we left off last time we were at grievance 09. And I think we were at the point of not going for final arguments but if anybody had anything to add to that grievance, would you please state it. You would have the floor.

Officer Defina: I am all set. I am ready for final arguments.

Chief Agrafiotis: We are all set also.

Commissioner Karolian: We have some questions. What I would like to do for clarification purposes. I want to go back to the first charge for incident that happened in December 08. I would like to get a little time frame, in 08 December 23rd I believe he was suspended. Is that right chief?

Chief Agrafiotis: I believe you are looking at grievance 09/07

Commissioner Karolian: That would be the 09/07 where he was suspended for 5 days I believe it was.

Chief Agrafiotis: No the 09/07 that I have in front of me is the last hearing. 09/06 and 09/07 neither of them had suspension components to them.

Commissioner Karolian: He was not suspended on December 23, 2008.

Chief Agrafiotis: That one I don't have with me. The only two I have with me was the ones I had with me at last meeting which was one of the items from December 19, 2008 which was the date of the event, which was a remedial training and a written reprimand. And then the other one we discussed which was 09/06 the date of the event was July 3, 2009, that was a verbal reprimand. That had originally been recommended as a two day suspension by Lt. Cline and then after talking to Officer Defina he changed it to a verbal reprimand; so neither of the two that we presented had actually suspensions that came out of them.

Chairperson McHugh: I guess what we are trying to get at here and if I might Chief the December 23, 2008 had to do with the December 11th incident. We are trying to decipher here whether or not the December 11th whether or not this 07 you are bringing forward is indeed the same one where you have separate charges with regards to the 07. Because on December 23rd when he got the five day suspension, that had to do with the December 11, 2008 incident. But then you come to the same incident December 11, 2008 however it goes until that following July and that one refers to the December 11, 2008. And I want to get some clarification if indeed that is the same incident however there are different charges applied to it. And that is where I don't quite understand. If someone could help me with that and then we could probably dispense with that if my assumption is incorrect.

Officer Defina: If I could approach I have the write up if you want to see it.

Chief Agrafiotis: I believe Officer Defina did mention the write up you were talking about. I don't have that with me. I believe and I won't put words in his mouth but I believe Captain Daigle talked about the fact that the incident may have been the same but the charges that came out of the incident that there were additional set of charges that came out that.

Chairperson McHugh: That is correct. We are talking about the same incident both times. One was for incompetence and the other was for untruthfulness.

Chief Agrafiotis: I don't have the other one. I can just tell you I believe that is what the Captain said the last time.

Chairperson McHugh: But they are both referring to the December 11, 2008, is that correct. Just so we are clear. I wanted to get that clear in my mind.

Commissioner Karolian: So it is the same incident Captain. Do you want to give us a brief on that same incident different charge?

Captain Daigle: It is the same incident.

Commissioner Karolian: Let me ask you this and I will try to make it a little easier for you. Are the same facts used in the first one are used in the second one. Is that what was the result of the new charges.

Captain Daigle: There was a mix of both.

Commissioner Karolian: A mix of both.

Captain Daigle: On the untruthfulness issue there was what was in the initial write up and upon issuing that write up Lt. Cline was advised by Officer Defina that one of the reasons why it was late was that he was working on it the whole time. That is different than putting wrong dates on it. What was looked at was what he had verbally told the Lt. was one of the reasons for being late he was actually working on it, which means he was actually doing something with that. And that was looked into and we very briefly touched upon that at the last hearing and we did not go into a lot of in-depth discussion on that particular aspect of what was told to the Lt. different from the dates.

Commissioner Karolian: That information was separate than the prior information that you had. That he was charged with. So this is new information that he came up and gave to Lt. Cline after the initially discipline.

Captain Daigle: My recollection is that the discipline that he got on December 23rd I think it was, had to do with that report and the dates specifically on that. And at that time when the write up was issued it was my understanding was statements were made that were felt not to be true and that in turn was part of the IA as far as the truthfulness as far as what was told upon being issued that in reference to those circumstances.

Commissioner Karolian: Do you know when the time frame, when this came about, how much longer after the initial December 11th disciplinary action. If I understand it correctly there was a separate disciplinary taken based on what he told Lt. Cline or at least in part of what he told Lt. Cline?

Captain Daigle: No. That was part of the IA.

Commissioner Karolian: When did the IA become active?

Captain Daigle: Beginning of January. I want to say January 8th or 9th. If you give me a second I will give you the actual date. It was dated January 8, 2009.

Commissioner Karolian: That memo was generated by Lt. Cline and was given to. We are trying to establish a timeline to make it easier for us to look at.

Captain Daigle: January 8, 2009 Lt. Cline wrote a memorandum and gave it to Captain Cecilio.

Commissioner Karolian: And that memo that he did do we have copies of it in the HPD evidence. Was that given to us?

Chief Agrafiotis: I don't believe so. It would be part of the IA investigation.

Commissioner Karolian: Based on the internal investigation based on this charges were brought against the officer.

Chief Agrafiotis: Yes.

Commissioner Karolian: Was the officer given copies of the internal affairs investigation once the discipline was handed out.

Chief Agrafiotis: No. The packet of information that I provided to you at request of the attorney after the last meeting had a memo from Atty. Bailey as far procedures that we follow in those types of situations in the past. So the bottom line is we don't automatically give somebody a copy of their internal investigation.

Commissioner Karolian: Even if they are being disciplined.

Chief Agrafiotis: That is correct.

Chairperson McHugh: But you did not give a copy of the memo either.

Chief Agrafiotis: The memo from the Lt. would have been a part of the internal investigation.

Chairperson McHugh: So he never saw the memo either.

Chief Agrafiotis: Unless he saw it during the IA, if the investigators allowed him to read it or review it during the actual internal investigation. As far as afterwards no, the employee doesn't have a copy of the internal investigation which would include any memos which would include internal or external complaint that actually kicks off an IA.

Officer Defina: Commissioner if I may.

Commissioner Karolian: Just a moment. We got communication from the attorney on that specific question. And it appears from what I can see that there was supposed to be, the employee was supposed to be given the IA because it involved discipline. Do you have the same letter as I do from April 26, 2011?

Chief Agrafiotis: My understanding of that is that the attorney has advised us in the past and I believe we stated in here that the employee does not have entitlement to review the internal files. However she talks on the second page about the first full paragraph employees not entitled to review internal affairs material. However she talks about RSA 5-16:36, II what has been done in the past as far as the union working with the department because any IA information may become part of the process. The way I read this is that when we are doing an IA an employee does not automatically get a copy and that the only time they get a copy is either through the union or if they have an attorney who is looking for specific information as Atty. Bailey talks about in here there is work between the attorneys as far as confidentiality agreement and in such that is written in here.

Chairperson McHugh: Only through the Attorney or through the union.

Chief Agrafiotis: Right unless that it is requested. If it is requested again the employee does not automatically finish an internal investigation on any issue and be given a copy of it. According to what she says on the second page of this her advice to us less than general police department is not entitle to review internal affairs investigation concerning the employee. However it does talk about that some of it may be inadmissible in a disciplinary hearing down the road. And that there is work between both sides to figure out what is going to be material to the hearing or the process and then both sides work on having only that information needed come out of the file. Even at that point unless it is a whole file the employee is not just handed the internal investigation file.

Commissioner Karolian: It is my understanding that the same advice, that there was a confidentiality agreement was signed by both parties involve. So this way the employee could review those and get copies.

Chief Agrafiotis: On that particular situation, if you are talking about a specific suspension.

Commissioner Karolian: Yes. I am talking about that, this had to do with the discipline involving the employee. Second to last paragraph says that they initiated a grievance. And there was a discipline issued against the employee. And it was based on the internal affairs investigation material.

Chief Agrafiotis: I believe the way I read it Attorney Bailey is saying that this is the way the process works and that is how the process worked in the past. But not in the case we are talking about that's how it worked.

Commissioner Karolian: Do you know which agreement she is talking about. Because here she is saying specifically the Hooksett Police Department through means counsel forwarded a letter which was forwarded to the union local. And the employee signed and committed to honor the conditions of the confidentiality as pre requites as having access to confidential affairs investigation material, as part of the disciplinary action on behalf of the employee through the grievance process. Was he afforded copies?

Chief Agrafiotis: It was my understanding she was explaining how the process worked in the past. I understand that the process has worked in the past. It was dealt with between Atty. Bailey and the union's attorney. But in here I don't believe she is addressing in this letter, she addressing specific issues as we are here tonight. The way I read it she is fact talking about how the process has in fact worked in the past.

Commissioner Karolian: This response that we got back from her is specific about signing an agreement between the employee and the police department. What is this letter referring to then if it is not referring to this case?

Chief Agrafiotis: My understanding the way she wrote it. She was clarifying how the police department handled internal affairs files. That is all I can say based on reading her letter.

Commissioner Karolian: So this would be a generic employee who signed this.

Chief Agrafiotis: I took this letter as a generic letter as how the process has worked in the past.

Commissioner Karolian: I take it specifically. If it is your understanding that it is just generally that it is just general opinion that she is giving. That this is how it should go, Chief that is you're understanding?

Chief Agrafiotis: That is what I believe.

Commissioner Karolian: Based on that was that followed in this particular case.

Chief Agrafiotis: No. Because of the step that you are at the union should of brought, I think I made note in your packet, under article 25 the union should have brought the grievance forward and I believe they did not. This process never occurred in the situations we are dealing with now. I believe if you go to in that packet of information under article 25 it talks about the grievant, or the union is not satisfied with the disposition of the grievance by the commission or if no decision has been rendered within ten days it says the union may submit in writing a request to American Attribution Association.

Commissioner Karolian: That is step 4. We are at step 3.

Chief Agrafiotis: No, I believe we are in step 4, because Officer Defina did submit two grievances to then Commissioner Gagnon. So that means he had moved that from step 3 to step 4. And the way I understand it by moving it to the Commission it is taking it, step 3 is if the person is not satisfied with the disposition of the grievance by the police chief then the grievant with the union can move forward to the Police Commission. Step 4 is how.

Chairperson McHugh: That is great but what happened to step 3.

Chief Agrafiotis: Step 3 would not have been heard by the Commission.

Commissioner Karolian: When does the Commission come into play?

Chairperson McHugh: How can you say it is a step if you say it would not have been heard?

Chief Agrafiotis: Step 3 says it filed with the Commission it does not say they hear it. If you read step 3 it says the grievant together with the union may file the grievance with the Police Commission within five working days after said grievance was filed with the Chief. So I read step 3 that is the filing.

Commissioner Karolian: After that sentence what does the CBA say for step 3, right after the sentence if the employee is not satisfied?

Chief Agrafiotis: Are you still in step 3 or 4.

Commissioner Karolian: What you just read.

Chief Agrafiotis: Step 3.

Commissioner Karolian: Read the rest of that Chief.

Chief Agrafiotis: Let me start from the beginning. If the grievant is not satisfied with the disposition of the grievant by the police chief or no decision has been reached within five working days after filing with the police chief the grievant together with the union may file the grievance with the police commission within five working days after said grievance was filed with the police chief. And Officer Defina did do that he delivered to the Commissioners Gagnon's mailbox the two grievances, which then moves us to step 4.

Commissioner Karolian: No, you got to stop right there.

Chairperson McHugh: When did the Police Commission hear it?

Commissioner Karolian: The Commission did not hear it but the commission received it. If we do that school of thought that you understand, then the Police Commission would be by passed and it would go automatically if they wanted to non-binding attribution if that's the way you understand it. But I think if we look at step 3, it went to you it wasn't satisfied or not satisfactory then he filed it with the Commission which was received by the Commission. When we get into step 4 the first line says, the first sentence, if a grievant or the union is not satisfied with the disposition of the grievance with the commission.

Chairperson McHugh: That means that in step 3 the Commission would have either heard it or decided.

Chief Agrafiotis: I understand what you are saying. Again we are back to a discussion we had weeks ago about the fact that the grievance was turned into me by Commissioner Gagnon. It was sent to Atty. Bailey. Atty. Bailey and the attorney from the union then had whatever contact they had in discussions about how to deal with it. So I can't answer. I understand you line of reasoning, I can't answer for what was happening.

Commissioner Karolian: But it was up to the Commission at that point to either of heard it or rendered a decision or moved on. Instead of automatically taking it and shipping it off to an attorney.

Chief Agrafiotis: I hear what you are saying.

Commissioner Karolian: When it comes to why we are sitting here and where it falls into the grievance step. It is the responsibilities of the commission to do what they are supposed to do. Whether they hear the case or render a decision or move it forward into non-binding attribution. But we are at step 3. Because when the employee gave that and it was received by Commissioner Gagnon, he was within the time frame required in step 3. He filed it within the time frame. The commission failed to move forward.

Chief Agrafiotis: I can't answer for what the Commission did at that point.

Commissioner Karolian: They failed to move forward. Because there was nothing heard they did not do what they were supposed to do back then. They submitted, and what you are telling me is it got sent off to the attorneys and that is not there responsibility of the Commission at the time.

Chairperson McHugh: Can you tell me what the attorneys or what Atty. Bailey said at that time. Do you have any recollection of that? Because what I am hearing is that basically it was turned over to the attorneys and then it was naturally assumed that there was nothing that was going to happen with the Commission.

Chief Agrafiotis: I can't say that it was turned over to Atty. Bailey. And she at that point was having conversations with the union's attorney and I have since talked to Atty. Bailey and she said that her understanding was that the any outstanding grievances issues were going to be resolved at the hearings we had in September. Obviously these weren't resolved in September. But I can't tell you the discussions she had with the union's attorney about at the time how they would proceed with this or how she would receive this, or if they made some agreement to proceed with this later.

Chairperson McHugh: But can you see by doing that more or less it means the commission has defaulted, because they did not follow that step.

Chief Agrafiotis: I understand what you are saying but I cannot answer for what the attorney did. If Atty. Bailey made some agreement with the union as far as putting this off down the road I don't know if that happened or didn't happen.

Commissioner Karolian: Is there anything in the Hooksett police departments file that says there was an agreement between the union and the Hooksett Police Department through Atty. Bailey. Do you have any documentation of that, which says we are agreeing to abandon or agreeing to move this on or agreeing to do nothing with it, is there anything.

Chief Agrafiotis: I don't. The attorneys would have to answer that question.

Commissioner Karolian: But what I am asking as the Hooksett Police Department do you have anything.

Chief Agrafiotis: Do I have, no. I am privy to their conversations or to letters that they may have sent back and forth to each other while the other processes were going on.

Commissioner Karolian: Normally they would send you copies. Anything you send off to the attorneys you would get a CC as to what is going on.

Chief Agrafiotis: I would assume. I would hope but then again.

Commissioner Karolian: You are saying that there are none.

Chief AGRAFIOTIS: I understand what you are saying but I am not aware of what occurred between the two attorneys.

Chairperson McHugh: Just going back a little bit Chief what I was asking you before what I was asking about the same incident from December 11th, even though he was disciplined on December 23rd with the five days suspension that got reduced to 2 ½ days. Do you not consider that double jeopardy to be the same incident?

Chief Agrafiotis: If I understand it I won't put words in Captain Daigle's if I understand there was going to be a process that Lt. Cline was initiating and later on it was learned that some of the information given by Officer Defina to Lt. Cline was not true so while it seems to be based on the same fact pattern that in fact there was another issue that occurred on the part of Officer Defina and I believe that is what the Captain was saying.

Commissioner Karolian: On the December 11th incident what determined or who determined it was a hate crime.

Chief Agrafiotis: You would have to ask Captain Daigle from IA or the other staff members that dealt with the initial intake of that report.

Chairperson McHugh: Would you come forward. Who is going to respond to that? Who was going to answer with regard to that to Commissioner Karolian's question? Who would be going to respond to that. I would ask to whoever would come forward apparently is it causing some difficulty for the clerk to record. And if you are would you please identify yourself.

Captain Daigle: I can tell you that when it came to me everything in writing refers to it as having been a hate crime. I did not track that down further to figure out the determination. That is what was given to me. It was already termed several times in the documentation and that is what I went with. So I can't answer for anybody else that is not speaking here today on how that came down in the beginning. I can tell you when I got it; it was labeled as a hate crime in a couple of different places. An official determination of someone I cannot answer for that. When I got it, it was labeled as a hate crime. In writing it refers to a memorandum in different places, it refers to it as a hate crime.

Commissioner Karolian: Who was the author of the memorandums?

Captain Daigle: First one is Lt. Cline on January 8, 2009.

Commissioner Karolian: That information is strictly in the IA.

Chairperson McHugh: That is information that we have at all.

Captain Daigle: That is correct.

Commissioner Karolian: And that is not information the officer has.

Captain Daigle: Correct.

Commissioner Karolian: In that does he determine how that would be a hate crime.

Captain Daigle: I don't believe so

Commissioner Karolian: Lt. Cline I would like to call and ask you something.

Chairperson McHugh: Lt. Cline would come to the mike sir.

Lt. Cline: I am trying to prepare. I will be there in just a moment.

Captain Daigle: I can tell you there is a secondary memorandum that is also referred in the beginning as well.

Commissioner Karolian: Who is that by?

Captain Daigle: That one was by Captain Cecilio.

Chairperson McHugh: Is Captain Cecilio here this evening.

Lt. Cline: Yes ma'am.

Chairperson McHugh: Come forward and identify yourself for the clerk

Lt. Cline: I think you will find and I don't have the RSA right in front of me or in my head. I was trying to look it up. As you look at the RSA you will find that any crime committed based on someone's sexual orientation, based on someone's religion, there racial backgrounds it is considered a hate crime. That is very clearly defined. I just can't lay my finger on it right now. I was trying to look at the book and that was my delay for coming up here.

Commissioner Karolian: How did it become to be determined it was a hate crime. Between two different colored people white and black. It has to be more than just skin color to be determined a hate crime.

Lt. Cline: The profane language I don't prefer to say that word. That was used. It was used a descriptor the first time we went there regarding the Facebook or my- space, which ever form it was. But the one party called the other party a derogatory name and basically applied that they were going to take them out.

Commissioner Karolian: Was it racial.

Lt. Cline: Yes. There is no doubt in my mind. I have been doing this job for a long time it was clearly a hate crime. Yes sir.

Commissioner Karolian: I do not doubt you I am just asking you if a name was called either the white person or the black person

Lt. Cline: Yes sir it was.

Commissioner Karolian: And that is in a report somewhere

Lt. Cline: Yes sir

Commissioner Karolian: Is it supported by anything other than the alleged victim. Is there someone else that would collaborate that?

Lt. Cline: The school principal. The assistant principal also saw the page, the web site. The detectives that handled the follow up on that case saw that also.

Commissioner Karolian: So it is a web site.

Lt. Cline: It is either Facebook or my space. I am not positive

Commissioner Karolian: A posting

Lt. Cline: Yes sir.

Commissioner Karolian: Before or after this altercation

Lt. Cline: After the punch in the face. An additional

Commissioner Karolian: So that occurred after the assault.

Lt. Cline: Yes sir.

Commissioner Karolian: It would be after the affect. At the time of the assault it was not racial in any way.

Lt. Cline: No. During the assault, if we had known the assault had taken place we could have intervened as far as the two kids were concerned, prior to the grading of the level of being a hate crime. I don't know what the pre cursors were to the assault. I would have to look back at the report. But it is so redacted I can't even make sense of it at this point. The bottom line, I am sorry sir.

Commissioner Karolian: At the time of the assault there was a fight between two students correct?

Lt. Cline: Yes sir.

Commissioner Karolian: Two different color students

Lt. Cline: Yes sir.

Commissioner Karolian: Black student white student I assume. At that time there was no racial no names used, no names called. It would not lead anybody to think that it was just a fight between two people that happened to have different skin colors; until there were some postings after the fight. Is that my understanding?

Lt. Cline: If I could just review this document

Commissioner McHugh: While you are looking for that, that incident happened the same date as the texting issue.

Lt. Cline: No, prior to.

Chairperson McHugh: Prior to the texting issue.

Lt. Cline: After.

Officer Defina: The texting issue was before. The assault and the texting issue was the same day. Two days later was my space issue.

Chairperson McHugh: That is what I needed to get square in my mind

Lt. Cline: I did not hear that.

Chairperson McHugh: I asked the question of whether or not the texting issue happened the same date and it indeed did happen.

Lt. Cline: It was not a texting issue, it was on the computer.

Chairperson McHugh: What I am asking you is what you were speaking of.

Lt. Cline: The other texting issue

Chairperson McHugh: The other texting issue that happened on the same day is not correct.

Lt. Cline: Yes it is

Commissioner Karolian: It happened after.

Chairperson McHugh: No it happened before.

Commissioner Karolian: It happened after this texting issue.

Lt. Cline: It is my understanding that the fight took place on the before the texting came into play.

Commissioner Karolian: So the fight took place before but the texting took place on the same day.

Lt. Cline: On the same day yes sir.

Chairperson McHugh: Could we go back and review a little of the sequence about the texting and the fight. They both happened the same day. I just heard that the fight happened earlier in the day.

Lt. Cline: It is my understanding, yes.

Chairperson McHugh: Before the texting.

Lt. Cline: Yes.

Chairperson McHugh: Officer Defina I will ask you to respond to this, were you aware of the fight right away. What happened? Will you please explain to me how you became aware of the fight and the texting?

Officer Defina: After the fact when I was ordered to leave the school that is when I was told about the fight.

Chairperson McHugh: After you left the school.

Officer Defina: As I was leaving the school. I responded to the school for the texting incident. However I did not know at that time the fight had occurred and the students were released to their parents. So there is no way I could have intervened because it was taken care of by the school. And the school only told me about it when they saw I was getting up to leave in the middle of dealing with the texting incident.

Commissioner Karolian: Captain Daigle is that reflected in your internal investigation. Did he verify it?

Captain Daigle: I believe he would have answered in the internal.

Commissioner Karolian: What he told us would have been answered in the internal in the same sequence he just answered.

Captain Daigle: As he was leaving he was given a report from the school. Correct.

Chairperson McHugh: This is Officer Defina again. When I was reading through the information that you handed us last time and it was basically you were going through the sequence of events that had occurred.

Officer Defina: Yes ma'am.

Chairperson McHugh: It says that you called the department and you spoke to someone at the department.

Officer Defina: Yes ma'am.

Chairperson McHugh: And you spoke to them about what incident.

Officer Defina: The only incident that I was aware of at that time is the texting incident.

Chairperson McHugh: And who did you speak with at the department.

Officer Defina: Det. Sgt. Pinaridi.

Chairperson McHugh: And what did you speak to him about? Did you report the texting or what happened?

Officer Defina: Yes ma'am. I had never dealt with an incident of that type or that large. And I was trying to reach whoever I could to get some resources, some help or some advice.

Chairperson McHugh: And what is it that Det. Sgt. Pinaridi says to you.

Officer Defina: He said he was going to continue to try to get in touch with my supervisor who was Lt. Cline. They were in oral boards at the time so he could not come out. Det. Sgt. Pinaridi told me he had heard of an incident in Salem, in the Salem school district that had just happened. That type of sex texting had been new around the country and different states were handling different ways. Some states were charging student s and some were not. And he suggested I try to contact Salem since they just handled it and it was on the news. And try to find out from Salem's school or the Salem's SRO any advice on how to handle this incident since we had none from the P.D.

Chairperson McHugh: Did you do any of that.

Officer Defina: Yes ma'am. I spoke to the, I believe it was the dean of education over in Salem. He told me that he was going to call their SRO, who was off duty at that time but he was going to call him and have the SRO call my cell phone back the SRO cell phone. He was going to tell me what they went through cause I guess the SRO dealt with the issue.

Chairperson McHugh: And what happened next. Did he call you back at all?

Officer Defina: He did call me back. He was very helpful he told me how the Salem school District and the Salem police department had handled the incident. Basically gave me step by step what their plan of attack was to handle this felony of its level spreading through the school like wildflowers as it had. So I shared my information back with Det. Sgt. Pinaridi again after I spoken to him and shared it with the principal at Cawley Middle School so we could try to formulate a plan of attack how to protect the students from elusive material.

Chairperson McHugh: What did Det. Sgt. Pinaridi say? Did he have any instructions or anything?

Officer Defina: We had been talking back and forth and I was kind of feeding him what I had. I tried to keep him in the loop as much as possible of what I was doing at the time. He still was trying to get in touch with my supervisor to see if there was any resource. And I basically turned into the principal called in an all hands on deck meeting with the school and we tried to formulate at that point. He was on the phone almost immediately to the attorney general and I believe that day he made contact with them. And we started setting up how to deal with this. From what Salem had told us expect the media the next day to be there. When this stuff hits it hits. And interviewing parents, so it was how to protect the students, how to contain the incident and go from there.

Chairperson McHugh: Now did the police department provide any resources. You said resources.

Officer Defina: None, my police department none.

Chairperson McHugh: What did they say?

Officer Defina: When Det. Sgt. Pinaridi called me back he said you need to wrap it up and get out of there. They were not going to authorize any overtime that was it.

Chairperson McHugh: For the texting they were not going to authorize any overtime.

Officer Defina: For the texting incident yes.

Chairperson McHugh: So what did that mean to you?

Officer Defina: I had to go. It means go. As I stated earlier there was no overtime, no overtime for the SRO program.

Chairperson McHugh: Why no over time for the SRO.

Officer Defina: That's the word that came down. As things were happening when I got pulled out of the schools then put back into the schools the way I functioned in the

schools and my position changed on what I was allowed to do. Before my hours could shift and I could do things as needed. Then it turned into no overtime what so ever. So when Det. Sgt. Pinardi told me that it was passed on from my supervisors to wrap it up and get out. To come to find out that it came from Captain Cecilio through Lt. Cline to Det. Sgt. Pinardi that told me to get out. And that was that.

Chairperson McHugh: Did that mean for that incident, that you were made aware of as you were leaving. Or did it mean for anything that you had to leave the building.

Officer Defina: It meant to get out now. I was dealing with a felony level offence from the information that was taken with multiple suspects and multiple victims. And I relayed that and it turned out you need to get out and you need to go.

Commissioner Karolian: Did the school advise you that they told you that there was a fight between the two students. Did they tell you that there was a racial fact used anything other than a fight between two students?

Officer Defina: Nope that was it. They told me who the students were and what had happened.

Commissioner Karolian: Lt. Cline I have a question for you sir. On the personnel records form dated December 23, 2008. The fifth paragraph down you state or you wrote I should say. I spoke to you today when you turned in this report. And you stated that you had received the report from the school on December 11, 2008. I asked you if you thought it may have been important to advise me of the incident that day and you agreed it would have been proper course of action. A student being physically assaulted in a cell phone incident involving solicit material involving a juvenile is equally important. It is my understanding that it wasn't for a couple of days later that this MySpace or where ever it was on the internet or the social media sight where these racial tones were coming into place. You are saying it was a couple of days later.

Lt. Cline: In that report sir I believe so.

Commissioner Karolian: Are you saying here that you reprimanding him for not telling you about the fight in the school that day.

Lt. Cline: Yes.

Commissioner Karolian: Is the SRO supposed to tell you about every single altercation that occurs between students.

Lt. Cline: Every safe school report it is required to advise me of it. This is the current thing that Sgt. Blanchette does right now.

Commissioner Karolian: On that day you are saying he should have filled out a safe school report.

Lt. Cline: He should have told me or advised me of the investigation that there was an assault that had taken place in the school, yes sir.

Commissioner Karolian: Where you aware that he did not get until he was leaving the school. He wasn't advised of the fight until he was leaving.

Lt. Cline: Nope. Even if he was leaving the school he would have seen me before he left so he had the opportunity to tell me about that fight.

Commissioner Karolian: He should have said to you by the way there was a fight between student A and student B.

Lt. Cline: Yes. He should have made me aware of it yes sir.

Commissioner Karolian: Based solely because it was a simple assault or because it was racial.

Lt. Cline: Because it was a safe school report. Anytime they take a safe school report I am notified.

Commissioner Karolian: So if a safe school is not taken at the discretion of the officer then he would not have to follow that.

Lt. Cline: No. You got an assault between two parties a safe school report is required. That is clearly defined in the memorandum of understanding between the school and the police department.

Commissioner Karolian: I thought there was a memorandum that allowed the schools to handle it.

Lt. Cline: No not when there is a strike to the head. There is a very specific section in there that says very specifically involves a strike to the head or the face then that is automatically a safe school report. It takes that authority away from them. A simple assault if someone pushes someone yes they have the authority to handle that. But under the memorandum of understanding there are a couple of different sections to it. Commissioners, there is one section that I specifically highlighted and the write up is; strikes to the head or anything involving hate crime activity.

Commissioner Karolian: But when did the department find out that it was a strike to the head. When did they find out it was a possible hate crime.

Lt. Cline: After the report of the actual hate crime. When I found out the student was serving an in school suspension for having assaulted the very same kid that's when I found out. That is when I found out it was a strike to the head over time.

Commissioner Karolian: When was that in relation to the date of the incident?

Lt. Cline: Whenever the hate crime was filed. Very specifically the hate crime report was filed and that was through the school. Jay called on that one.

Commissioner Karolian: When did you file that?

Officer Defina: December 17th that was a Wednesday I believe.

Commissioner Karolian: On the 17th you notified them that it was a hate crime.

Officer Defina: I never notified anyone that it was a hate crime. To this day I still believe that it was not a hate crime.

Commissioner Karolian: What did you put in the safe school report that it involved?

Officer Defina: I believe it was a threat. On MySpace he was calling him out basically because he had told on him for the assault. And his MySpace was challenging him to a fight; I believe he called him a snitch. He did use a racial word but at no time do I believe the incident between the two students was a hate crime. I never used hate crime. And if I may I got several voicemails, where the Lt. called I am kicking out early today if there are any reports just put it in my bin. So this whole tell me everything that happens every day before you leave, I just want to make that clear that is not how it was.

Lt. Cline: That changed after so many disciplines that he was required to check with me every day. That is prior to some of the disciplinary action that had occurred he was given a further memorandum that indicated that you will check in with me every day at the end of your shift and let me know any outstanding paperwork you have. That was clearly changed in a memorandum.

Commissioner Karolian: Do you remember when that memorandum was?

Lt. Cline: I don't have a copy of that with me. It was a memorandum that was put out because there was some guidance put out from Captain Cecilio and I further explained it because Officer Defina come back to me I don't understand this guidance that has been put out from Captain Cecilio in this counseling. To try to explain that further I made it very clear that he would check in with me on these things because that is what the Captain was pushing down onto me.

Officer Defina: The December 23rd discipline was the first discipline. So if it came out after the discipline came out that was the first discipline.

Chairperson McHugh: Can I ask you Lt. Cline or even Captain Cecilio, do you either one of you accepts any responsibility in the fact that you are telling him to leave the building and there is absolutely no overtime. Then finding out the information after the fact there was indeed some instances that happened over there. Did you feel responsible in the fact that you told him to leave?

Lt. Cline: I was ordered to have him leave, those were the order that I was given. When I am given an order I give the order, I push that order down. My understanding was that things had been wrapped up in school and if Officer Defina is telling me that it had not been then that is what it is. I am not going to accept responsibility for ordering him out of the school. The responsibility lies that I have been given a mandate an order I have to push that down and if I don't then I failed to follow an order.

Chairperson McHugh: And I can certainly appreciate that. Can you understand the quantum here of your saying or at least what I am hearing the officer say. That he was told that he absolutely had to leave the building that there was no overtime. No overtime for the school resource officer. I guess what does a person do they do exactly what they have been told that they have to leave the building. But then after the fact you are told you did not complete the form in a timely manner. What I said to you before or just a minute ago, it is kind of difficult for an employee if he can't stay and complete the report. What does that mean for the supervisor did the supervisor actually err in this situation or should the supervisor have a subsequent conversation and say I guess that is where my concerns lie and if you would respond and I can see that Captain Cecilio is coming forward.

Lt. Cline: Just for clarification the definition for the hate crime. It is in the RSA under the extended terms of as imprisonment 651;6 , 651;6 sub paragraph F, substantial motivates commit the crime due to hostility towards the victims religion, race, creed, sexual orientation as defined in RSA 21;49 or natural origin of sex. That is the section; I just wanted to make sure I had that for you.

Commission Karolian: But it doesn't say that.

Officer Defina: If I may real quick it still doesn't prove that it was motivated because of the race.

Captain Cecilio: Can you restate your question so I answer it correctly.

Chairperson McHugh: I guess what I was asking Lt. Cline was whether or not he felt any responsibility given the fact that he insisted and you also insisted that he leave the building and there would be no overtime.

Captain Cecilio: Well Officer Defina said that, he said that he called looking for assistance and looking for help, the detectives would handle that degree of the crime. We would not expect the SRO to handle that degree of a crime. That is why detectives would handle that case. It wasn't an ongoing case at that point. Interviews and everything else that would have been conducted would be conducted by them. As for the hate crime they were not aware of the assault which had taken place because it was not reported to anyone until after they were looking into the hate crime and detectives discovered it. They were never told of the incident where an assault of a juvenile was struck in the face, white student on black juvenile. We were not told based on the racial that was in the electronic media that is they were investigating at that point. That is when they learned the juvenile was already in detention for the assault, prior to that they had no knowledge.

Chairperson McHugh: Now did I hear that Officer Defina understood that the school was taking care of that.

Officer Defina: Yes ma'am.

Captain Cecilio: Mandated report.

Chairperson McHugh: But I guess where I read through and this is where it has me a little mystified over the memorandum of understanding between the Hooksett school department and the Hooksett Police Department at the bottom of page 2. A simple assault may result in some injuries; simple assault also includes knowingly having unprivileged physical conduct with another person recognizing that this can be a very minor contact. Then it says here that the principals will consider the districts policy when making a determination about whether or not to file a safe school zone offense report. And that to me basically says and I know what Lt. Cline says earlier it kinds of puts the ownership back into the schools district on whether or not there is a report that's going to be filed. And I know what the Lt. just said but I guess knowing this.

Captain Cecilio: Commissioner are you telling me a blow to the face, one student on another is a minor incidental contact.

Commissioner Karolian: Are you talking about a punch or a blow with an instrument.

Captain Cecilio: He was struck twice to the face that is my understanding.

Commissioner Karolian: Hand, fist.

Captain Cecilio: Hand.

Commissioner Karolian: Open or Closed.

Captain Cecilio: I believed it was closed.

Commissioner Karolian: He was punched in the face. Did the Hooksett P.D. investigate and come to a determination that this was not mutual combat.
(Tape Changed)

Captain Cecilio: They did do an investigation and the juvenile was charge at some point.

Commissioner Karolian: Did they come to a determination that it was not mutual combat.

Captain Cecilio: Yes. I believe off the top of my head the student was punched in the face because he knocked off his hat as he was getting on the school bus.

Commissioner Karolian: So one student gets his hat knocked off when he is getting on the bus accidental punched the student twice in the face and based on what happened a couple days later the social media sight it turned into a hate crime.

Captain Cecilio: Based on what it said. The calling him a snitch and the use of the N word on his sight is what sparked an investigation on whether or not it was a hate crime.

Chairperson McHugh: Do you have, or the department has the report that filed by the school district.

Captain Cecilio: It should be in the documentation of the IA.

Chairperson McHugh: What did the school district write in the report?

Captain Cecilio: I would have to ask Captain Daigle answer that.

Chairperson McHugh: I would like to know how they describe it.

Commissioner Karolian: I have one that has to do with the other grievance that I did not get a chance to ask you the last one.

Captain Cecilio: I believe it is the one with Lt. Cline and Det. Sgt. Dupuis.

Commissioner Karolian: Did you hand down that to the officer to advise him of that? It had to do with the other discipline. Do you know what I am talking about?

Captain Cecilio: I was not in the state. I was on vacation. I was out of state and I did not come back until July 12th.

Chairperson McHugh: But if I read the documentation did you have a conversation about that before you left for vacation.

Captain Cecilio: About what they had going on. That happened while I was on vacation.

Chairperson McHugh: I know you said it happened while you were on vacation. Was it vacation or was it the training you went to.

Captain Cecilio: I was on vacation from June 26th through July 12th when the incident took place.

Chairperson McHugh: But did someone approach you about what they were thinking of doing and you had a conversation about what he was contemplating originally.

Captain Cecilio: As for the discipline.

Chairperson McHugh: Right.

Captain Cecilio: When I returned from vacation was when I learned about what was going on and they were going to talk to Officer Defina. I advised them they should not have waited and they should have just gone before I got back. Is that what you asking me?

Chairperson McHugh: Yes. But did you before you left on vacation or training, was it vacation.

Captain Cecilio: I believe I was on vacation when this happened.

Chairperson McHugh: Before you left were you aware of the incident.

Captain Cecilio: No.

Chairperson McHugh: You did not have a conversation about it or anything else.

Captain Cecilio: Not on this incident that I can recall. There was one prior but that is not up for today. There was another discipline prior to that had to do with drugs in the school.

Chairperson McHugh: That is the fake drug one.

Commissioner Karolian: I think that is the one we are talking about, the one that had to do with that the fake drugs.

Captain Cecilio: The fake drugs had to do with on July 13th correct?

Commissioner Karolian: Well the employee was notified on 7/13.

Chairperson McHugh: But it happened on 7/3.

Captain Cecilio: As I said I was on vacation from June 26 through July 12th. So on 7/3 I would have been out of state. And no, I did not have a conversation with anyone while I was out of state.

Commissioner Karolian: This was we have a memorandum that this happened around June 18, 2009. That is when reports were kicked back to Officer Defina for follow up.

Commissioner Karolian: Who did the memorandum come from?

Captain Cecilio: It would come from the detective division who the detective was signing off on the report. June 18th would put me I would have been in school so someone else must have reviewed the report.

Chairperson McHugh: But Sgt. Dupuis said you were the one who asked for the follow up, is that correct?

Captain Cecilio: We would follow up with a case with possible drugs in the school, of course we would.

Chairperson McHugh: Here is a question for you Chief with regard to this particular one; it is basically your opinion. The last time we met I think you made a statement based on your training and based on the practice you observe at the police department that you said it is your feeling that the officers need to document as well as the officers the supervisors need to document everything. That is the training you have. You said that, that's the way you feel, that is not only the way it operates but should operate in the police department is that correct.

Chief Agrafiotis: Yes it is. However, there is when you read the discipline policy the supervisors do have some discretion depending on the level of the issue for incident or maybe it is a first time issue they may not. So they do have some level of discretion. It is not an automatic.

Chairperson McHugh: What you are saying is that you allow the officers to have some level of discretion with regard to whether or not it warrants a verbal or written reprimand.

Chief Agrafiotis: The supervisors or the OIC have a certain level of discretion if it is a minor situation or it is something that has occurred just for the first time.

Chairperson McHugh: So after the affect something you might have heard you would not ask someone to go back and write a reprimand after the fact. If they had not written

it so be it. It wasn't, there was nothing that was going to follow after that. If they have not written it that is it.

Chief Agrafiotis: No it is possible that if a situation makes its way through the chain of command that any next level of the chain of command may have knowledge that this officer had done something before that supervisor or the OIC was not aware of, and could change the approach that is going to be taken. For example an officer works an officer in charge tonight and runs into an issue with a patrol officer. It seems to be fairly minor and the officer in charge tells the officer just verbally talks to him or her and says this is how you should do it. However, it is learned through the chain of command later on that this is the fourth or fifth time that the officer had done the same thing. The officer in charge did not know that at the time and now the situation would be looked at in a different set of eyes, with a better knowledge of what happened. So there is discretion but there is also a way to go back through and review based on some other party in the chain of command that they may have knowledge that another party did not.

Chairperson McHugh: What about a senior officer, somebody that is a higher rank. Suppose that if someone of a higher rank that the individual is supposed to report to that individual said nothing about the reports but then after the fact someone decides that they are going to put something in. What does that do?

Chief Agrafiotis: It is the same idea honestly. The next level in the chain reviews the lower level and makes a determination based on the factors or that may be none to that person or the circumstances. They have the right to feel that the situation was not handled correctly by SOPs or by for whatever reason at that level.

Chairperson McHugh: So what you are saying basically is that a Detective or a Sgt. can basically not over rule but come back after the fact and say they do have issue with reports even if say the Lt. or the Captain had no problem with the report.

Chief Agrafiotis: It is possible yes because people have different levels of training.

Commissioner Karolian: So if somebody doesn't have the certain level of training doesn't do the same thing as somebody has the higher level of training, there still not liable.

Chief Agrafiotis: Not if it is obvious that is the reason. I believe in one of these situations Sgt. Dupuis went back to Officer Defina and explained to him or was trying to explain to him a different level of understanding the Sgt. Had and I believe that led to the words between the two of them as stated in the last hearing. But generally no, that's back to the initial part of your question if an officer who has been out of the academy for two months and has an issue tonight, they are obviously are going to be looked at differently than someone that has been on the road for five years and does the same exact thing.

Commissioner Karolian: On December 16, 2008 Lt. Cline's evidence that you gave us here in the personnel records entry form second paragraph it states that on the evening of December 16, 2008 you attended the Police Commission meeting. Is that something normal or would Officer Defina normally attend a Police Commission meeting or was he called specifically to be there.

Chief Agrafiotis: I am not sure Commissioner where you are reading and I don't remember.

Commissioner Karolian: It was with the stuff you gave us.

Officer Defina: I turned that in. I don't believe they have the December 23rd write up. I was ordered to be at that police commission meeting.

Commissioner Karolian: In that December 23rd records entry form. It says the office and I believe that it is written by Lt. Cline, whose number 19. Is that you Captain?

Captain Cecilio: Correct.

Commissioner Karolian: It said that the officer attended a police commission meeting and that he was specifically asked by you if there were any reports by the police department was unaware of. Does he normally go to those meetings or was he called specifically to attend that meeting. That would have been December 16th.

Captain Cecilio: Commissioner as Officer Defina already told you I don't know where you are reading. Could I take a look at it.

Chairperson McHugh: This is something generated by the department. Whether or not it came from Officer Defina or whether or not it was still generated by the department.

Captain Cecilio: I am sure it was. I am not questioning that. I just wanted to refresh my memory.

Commissioner Karolian: I will read it. Paragraph 2, On the evening of December 16, 2008 you attended the police commission meeting you were specifically asked by Chief Agrafiotis if there was any reports that the police department was unaware of. He then clarified after your request for clarification on his question. He asked you if you had taken a safe school report for all the incidents that occurred at the schools. He stated that he had. This is when you knew that a report had not been completed from the assault instance for December 11, 2008. My question is was he called to this meeting specifically or does he routinely attend these meeting.

Chief Agrafiotis: My best recollection was he was called to that meeting. I believe that it is possible that a prior SRO was called to that meeting also. I believe former

Commissioner Gagnon had questions as far as what was happening in the schools there were issues floating around about what was happening in the schools. And so I believe the SRO and the former SRO were ordered to that meeting to be able to articulate directly to the commission what was or was not happening in the schools as far as the knowledge of the police department had.

Chairperson McHugh: When you say former SRO. Who are you talking about?

Chief Agrafiotis: That was Officer Linda Warhol.

Chairperson McHugh: Thank you.

Commissioner Karolian: I take it that the department and the commission on that evening was aware that perhaps there was some instances that were not reported.

Chief Agrafiotis: I don't know.

Commissioner Karolian: I am curious as to why he would be called and why they would ask specifically if there was any report that the department was aware of. I mean that is right to the point that would lead me to think that they might have had information or the department may have had information and now is calling him to a meeting that this happened.

Chief Agrafiotis: I can't say that I had information, I know that the police commission wanted to hear from the SRO it was a question of what was happening in the schools that we were aware of as a police department. Were the schools reporting everything to us because that is always possible that the principal uses discretion and not everything gets reported to us? But as far as any potential background of why things were asked I cannot tell you why.

Chairperson McHugh: So you don't know why the officer and the former SRO officer were called to the meeting.

Chief Agrafiotis: They were called to the meeting to answer questions about how the SRO program was working within the schools.

Chairperson McHugh: That was just a general discussion about it. It did not pertain to any of this specifically.

Chief Agrafiotis: It was my understanding from ordering them was just to have the SRO there for any questions the commission may have in general for the program.

Commissioner Karolian: I understand that. But this is very specifically. He was questioned specifically about any reports that were not taken if the department was not aware of. Officer Defina why were you called to that meeting?

Officer Defina: I was ordered to the meeting to answer if there were reports, from my understanding that had not been reported.

Commissioner Karolian: So it was very specific.

Officer Defina: There was an article in the paper which brought into question whether things were happening in the schools or not. They were very aware of it. It was a very hot topic in the media.

Commissioner Karolian: Thank you.

Officer Defina: They did have information regarding both sides. There were memos generated they were well aware of it. And the question that was on that form where it says I was asked a question directly from the Chief that was one of the hearings we had prior and that question was not true. The official commission minutes which are why they gave me my time back I was never asked that question. I made that very clear and still they put it in writing and said I was asked that specific question by the Chief but that question was never asked.

Commissioner Karolian: Lt. Cline can you tell me where this comes from sir? Where you got that information to include in your disciplinary report?

Lt. Cline: I authored that report but without reviewing it because I don't have access to that report right now. I would like to take a look at it if I could. The question is?

Commissioner Karolian: The question is you authored the report were you at that meeting?

Lt. Cline: Yes I was.

Commissioner Karolian: Is it true that he was not asked at that meeting by the Chief if there were any reports that the department was unaware of. Because of what he was saying right now conflicts with what is written here.

Lt. Cline: My recollection of when I wrote this down at the time, the Chief had asked him. If he is saying that didn't get asked that was not my recollection of the meeting. So I mean we constantly go back to this he said I said. But that is not what I recall or it would not have been in writing.

Chairperson McHugh: Did anyone have the minutes to go back to, to refer to and what did the minutes say.

Lt. Cline: In all fairness I am not sure the minutes contain every little factor or every little comment that is made to be honest with you.

Chairperson McHugh: That is true. However there was a tape.

Lt. Cline: In commission meetings it has been shown that not everything has been putting in prior to here.

Chairperson McHugh: There was a tape running was it not?

Lt. Cline: I believe so there usually is.

Chairperson McHugh: Did you back to the tape?

Lt. Cline: I didn't need to go back to the tape my recollection was what I wrote down at the time.

Chairperson McHugh: Shouldn't you go back to the tape to verify to make sure.

Lt. Cline: I don't need to. If my recollection is that it took place then it took place. I can't answer to as why the minutes are the way they are. I am telling you if I wrote this down, I wrote it because it was my recollection of events of the evening.

Chairperson McHugh: But if you go back to hear the tape wouldn't you be able to resolve the situation about what Officer Defina whether or not those questions were asked or were not asked. And that would have ended the conversation right there.

Lt. Cline: I don't remember that ever coming up when we had this discussion to be honest with you. I don't recall that at the time when I had the discussion with him, if he has notes to the contrary then that would be news to me.

Commissioner Karolian: Chief if I understand correctly there was press out there about safe school reports.

Chief Agrafiotis: Yes.

Commissioner Karolian: Controversy about it.

Chief Agrafiotis: Yes.

Commissioner Karolian: And the officer was called in, or was ordered in, and asked very specifically.

Chief Agrafiotis: I believed it was Commissioner Gagnon the Chair, at the time that the commission wanted to hear firsthand from the SRO what was or was not happening to the department's knowledge in the schools. So it was to ask general questions.

Commissioner Karolian: So did the department already have that information and convey that to the police commission or was this something new that was coming up that the police commission was getting. It sounds to me that they were right to the point. They asked very specific question about it, the reports everything being reported.

Chief Agrafiotis: I believe my best recollection is that may of come from the letter in the banner that talked about what was happening or allegedly happening in the schools. My staff and even Officer Defina saying they were not aware of that level of activity.

Chairperson McHugh: Do you have anything to add to that Officer Defina.

Officer Defina: Yes I do ma'am. As far as the first question as far as the conversation between Lt. Cline and myself we had a very lengthy conversation.

Commissioner Karolian: What are you talking about?

Officer Defina: I am talking about the question that he wrote on the December 23rd packet. The direct question that was asked of the chief to myself what he wrote down. We had a very lengthy conversation about that when I was issued that. I told him if you don't remember that specifically don't sign your name to it. Because that was not was said. I have made it very clear. I told him what was said. And five times in that conversation he said he was going to review those tapes. He promised me that he was going to ask them. I said there was some issue with tapes lately. Those tapes were destroyed within a week.

Commissioner Karolian: What tapes were destroyed?

Officer Defina: The tape of that commission meeting was destroyed; a month prior to that it was understood.

Commissioner Karolian: Excuse me, are those tapes missing Chief?

Chief Agrafiotis: The prior policy that we had understood through LGC was that tapes would be used as personal notes when the person took the minutes. Once the minutes were approved the personal notes and the recordings could be destroyed or taped over.

Commissioner Karolian: What I want to know now without having to go through the whole thing now. On December 23rd he was charged with untruthfulness, right? The reason why I am asking this is because I want to clarify if the same set of facts was used that charged him with the untruthfulness. Was that used in the later discipline? That is pretty much the crutch of this right now right? I am going to go back to this because I need some clarification and I want clarification. He was written up for untruthfulness back on July 23, 2008. The next charge was in July. And that had to do with the fake drugs. Is that correct?

Chief Agrafiotis: I believe so that's the one that is titled daytime event July 3, 2009.

Commissioner Karolian: You made a statement at the last meeting that you felt that it was double jeopardy.

Officer Defina: Yes sir.

Commissioner Karolian: Would you explain yourself please.

Officer Defina: If you look at the December 23, 2008 discipline form that I gave you. If you read the back of it the second page, it says at the top of me passing in a safe school report, the assault. Then underneath it list a series of different charges that they finally attached it.

Commissioner Karolian: Which paragraph?

Officer Defina: I believe it is on page 2, it says you failed to submit a report in a timely fashion. Attached to that write up is a report that was given to me on July 13th. And if you look they are the same disciplines.

Commissioner Karolian: Where is that? Is that in the packet that you submitted?

Officer Defina: Yes.

Commissioner Karolian: Chief could you approach I just want you involved.
(Discussion held between Chief Agrafiotis, Commissioner's, and Officer Defina)
Captain there was an interoffice memo that was sent to the chief in 2009, according to this records entry form. What I am trying to determine it can be kind of confusing if you don't have all the facts or don't have all the facts meaning me. What changed or what additional information did you have that brought these new charges for the same incident back in December. There had to been some new information that was received or found out in the IA. Is there new information or did the department charge him and realize there could have been more charges forth at that time if they didn't.

Captain Daigle: Maybe I can clarify this for you. The part that refers to the untruthfulness.

Commissioner Karolian: On the first one.

Captain Daigle: No, the second one that was found in the IA. That untruthfulness that you are asking does it derive from the same incident. The answer is.

Commissioner Karolian: The facts of the untruthfulness. In other words he was charged with untruthfulness here by doing something or saying something and then it was found out that what he was doing was not truthful. Those of what you found

afterwards is the same stuff or is it new information of different things that were said or different actions that were taken by the officer.

Captain Daigle: I would say that it was new information given this fact. The memorandum that I have from Lt. Cline untruthfulness issue does not surround the fact the self of the dates being correct. It surrounds the fact that when he was given that write up on December 23rd, as Officer Defina had testified to there was some lengthy discussion about whether there was reference as if the question was asked by the chief in that manner. It was not just the write up and signs it. There was a lengthy discussion about it. In that discussion regarding that writes up, there was a comment made by Officer Defina about why that report was late and the comments were he had been working on that report during that whole time and that is one of the reasons why it was late. When I get the memo and started this the untruthfulness issue surrounds that fact.

Commissioner Karolian: Do we have that memo

Captain Daigle: I don't believe you do. I have it here. It surrounds that fact not, so when I say yes and no it doesn't.; when he was issued the write up on December 23rd, the fact that he did not say that at the time. When he got the write up on December 23rd during the lengthy discussions he told the Lt. the reason why the report was late was because he had been working on it the whole time and the Lt. felt based on what he had seen that he had been lied to on the 23rd when he issued that write up to him. When he said I had been working on that report the whole time was in fact not true. That is part of the memo that he generated and saying that he lied to him by indicating that he had been working on the report.

Commissioner Karolian: When did he generate or date that report to you?

Captain Daigle: January 8, 2009 and it was not to me it was to Captain Cecilio from Lt. Cline.

Commissioner Karolian: Lt. Cline why did you wait two weeks if you felt at that time that he was lying to you. Why did you not include that in a report here in your disciplinary report? Why did you report that he was lying to you two weeks later?

Lt. Cline: You don't have the benefit of having the memorandum but if I could just read the bottom paragraph of the memorandum so you can hear what my thought process was at the time, at the careful review of all the documents surrounding this incident. My opinion is that Officer Defina lied to me by indicating he had been working on this report case number 365784, since receiving the notification on 12/11. There are many date discrepancies that would lead me to believe that SRO Defina attempted to cover the fact that he had not done the report as stated.

Commissioner Karolian: So you did not have that information on the 23rd. You did not believe that he was lying to you until later.

Lt. Cline: I wrote that on the 23rd. I want to be very careful there is a reason why I sighted the personnel records entry form. I did not want to cloud the two of them. This one was more severe to me when I issued this. It was after the fact that I issued that, which is why I put this in the memorandum I did not want to cloud the fact that there was any fact on face value the appearance that we were being disciplined for the same thing. That is not the case here.

Chairperson McHugh: That is the same incident, but not the same thing.

Lt. Cline: Exactly. Basically what it was the conversation that I had with him that was quite lengthy. I came to this conclusion. I took some time to think about this. I did not just jump on this and issued the paper work.

Commissioner Karolian: What I am questioning why it took if you knew on the 23rd and you were issuing him this on the 23rd and if you felt that he was lying to you or being untruthful to you above and beyond whatever you had already documented. Why did you not take care of it then as opposed to waiting two weeks and generating a memo to the captain that happened two weeks prior that you were aware of the day you were issuing him?

Lt. Cline: Because I felt this rose to a level and I had to take some time to think about this and the way the information had been provided to me. I already issued the discipline so in taking the time that it took me to write the memo on January 8th I believe it is; I took some time to think about this. I decided at that point there was a different situation that had occurred as a result of that meeting. That is why I send this memorandum to identify the issue. I didn't want to deal with it right then and there I was dealing with another piece to it the changing of the dates. This was something that was above and beyond in my opinion that needed to be reported up.

Chairperson McHugh: I think I can appreciate it that. This is what boggles the mind to me. Not turning something in, in a timely fashion is one thing. Untruthfulness as you says you consider very serious. I surprise we don't have the memo included in the documents that we have. It is unfortunate because we could have read that. I guess I am surprised that the disciplinary action was not more severe. This is what boggles the mind it just does not make any sense to me, and to anybody else. Truthfulness is above everything else, if you don't have that you don't have any trust. I can't understand why that carries; it is not like I am looking for a greater punishment that did not occur. That just does not make any sense to me at all if that is what you thought.

Lt. Cline: Those are decisions that are made above my level. I sent this memo forward for whatever they deemed to take, and they took the action of the internal affairs investigation. It has nothing to do with me other than writing this memo.

Commissioner Karolian: You indicated that he violated the rules and regulations section 6 required conducts.

Lt. Cline: Which one are you reading sir?

Commissioner Karolian: I am reading December 23, 2008 personnel records entry form.

Lt. Cline: Ok. We are going back to that one. I am just curious I don't have that one with me. We are talking about that grievance and I was explaining the process 09/07 and I did not know what you were referring to.

Commissioner Karolian: I am referring to December 23rd, he was charged with required conduct. I will give you a copy of this. And what I am interested in you charged him with required conduct where does it indicate in the body of the narrative here that substance the required conduct.

Lt. Cline: Required conduct submitting reports I think it is very clear.

Chairperson McHugh: Hang on a second here, I apologize.

Commissioner Karolian: Sorry go ahead I apologize.

Lt. Cline: Are you looking for me to substantial each of the charges that I listed on here.

Commissioner Karolian: Yes, that is my ultimate goal to see if your narrative sustains the charges brought forward.

Lt. Cline: Are you looking for me to read it. If I go down the whole thing and read it to you it is very clear to me.

Commissioner Karolian: Why won't you make it clear which one is required conduct in your narrative.

Lt. Cline: Yes sir if I may. Sub section 6 required conduct that is just a section. Sub section 16 paragraph A is what I am saying he violated. Required conduct is just a category sir for that section.

Commissioner Karolian: Let me make sure we are on the same page here.

Lt. Cline: You see required conduct and then there are sub categories that he violated in my opinion.

Commissioner Karolian: Ok. Sub paragraph A16.

Lt. Cline: Submitting reports.

Commissioner Karolian: Truthfulness A17.

Lt. Cline: Yes sir A17. And then section 7 subs - paragraph 14 which is neglected duty.

Commissioner Karolian: Can you humor me and show me where in your narrative the required conduct is one section, and under that sub paragraphs. Submitting reports A17.

Lt. Cline: Can you excuse me I am just reading through it. I think you even covered a couple of the paragraphs already commissioner. I spoke to you when you turned in this report and you stated that you had received the report on 12-11 as you thought it might be advised of me of the incident. Because the date that it was filed I believe it was the 19th if I look at the report. And why it had not been submitted I also put down the fact that was he aware of the reports and the one paragraph that you had already sighted on the 16th and that he aware of the report that he had not even completed it yet.

Commissioner Karolian: That is the one he was working on.

Lt. Cline: The assault, yes.

Commissioner Karolian: Were you working on that at the time.

Officer Defina: What was the time frame?

Commissioner Karolian: It would have been after the 16th.

Officer Defina: On the 16th that is when I gave the packet to you, that is when I went into my office and reviewed what Commissioner McHugh had read; the schools policy on the assault. At that time that's when I determined it didn't need a report after speaking to the principal at that time after I worked on it on the 16th I determined it did not need a report. On the 19th after the information about what Sgt. Pinardi had told me I decided on my own to complete the report and I did. When I turned in the report just to clarify, I talked to Lt. Cline when I turned it in; he had the same information on the 23rd on the 19th. They are saying new information came out for the IA, I said the same thing to him on the 19th the day I turned it in. And the same dates of the 11th and the 16th, those dates did not change. So he had my report to review and my information when I submitted it to him. Four days later they gave me the five days suspension, then they come back to review it again. Those dates did not change. They were the same; they had that information when they gave me the five days suspension. If they did not review it clearly enough to see there were issues with the reports when they reviewed the reports. Why should they be able to re address the report to see if they could find more charges? They had all that information, it was not new information.

Commissioner Karolian: Lt. Cline could you continue.

Lt. Cline: Yes sir.

Commissioner Karolian: So you are indicating on the 16th that was the reason for violating or submitting reports.

Lt. Cline: Submission of reports further on commissioner on the second page of this write up refers specifically to the comparison of someone being assaulted and the cell phone incident. Involving sexually implicit involving a juvenile is equally important. The rest of that was you neglected to inform me of the assault incident or complete a report on it until eight days later.

Commissioner Karolian: Was he asked to complete a report on it eight days later.

Lt. Cline: He knew the report was out there.

Commissioner Karolian: Who did it?

Lt. Cline: He did the report.

Commissioner Karolian: When did he turn it in?

Lt. Cline: I did not get it until eight days later.

Commissioner Karolian: When did he turn it in? When did you turn it in?

Officer Defina: On the 19th.

Lt. Cline: The assault occurred on the 11th.

Officer Defina: I did not get back into the school until the 16th. The reason why it was eight days late was because I was ordered out of the school on the 11th and I returned on the 16th.

Commissioner Karolian: So you were ordered out of the school on the 11th.

Officer Defina: That is when I was ordered out of the school.

Commissioner Karolian: So for those days you were not in the schools, not working?

Officer Defina: Not in the schools. There was an ice storm. The schools were shut down so I was not allowed back into the schools until the 16th.

Chairperson McHugh: An ice storm.

Officer Defina: Yes.

Chairperson McHugh: So the schools were closed. What day of the week was the 16th?

Officer Defina: It was a Tuesday. So Thursday was the day I was ordered out. That was the last day school was opened. Friday, Saturday, Sunday and Monday were the ice storm.

Chairperson McHugh: So the 11th was a Thursday.

Officer Defina: Yes ma'am. And one thing I just like to touch on it wasn't just that I was ordered out of the school, when I got back to the P.D. I was also ordered out of the department.

Commissioner Karolian: What do you mean?

Officer Defina: When I was at the police department Lt. Cline knew what I was working on. If there was some memo out there that we are supposed to have a conversation on the reports that are due or safe school reports why is that the second he comes to me there is no discussion. I explained in there with the hands around my neck and how you answer this question is how I turn my hands, are you still on the clock. When I said no, he said get out of the station before Captain Cecilio finds out.

Commissioner Karolian: Who was present at the time?

Officer Defina: There was Sgt. Martakos in the room, and there were a couple other officers in the room but they know longer work here either.

Commissioner Karolian: Lt. Cline is that accurate information that he is presenting.

Lt. Cline: It is not. At no time have I put my hands around an officer's neck. This came up in the grievance and I am going to state it again that I at no time did that. I patted his shoulder and joked with him but at no time said I was going to choke him or make the imprints of that. And I take an offense to that.

Commissioner Karolian: You were joking with him about?

Lt. Cline: I asked him you are not on my time you are going to get my trouble you need to leave. That is the way the whole thing went down.

Commissioner Karolian: So you knew, why did he have to leave? I am a little confused why he had to leave.

Lt. Cline: I was told by my supervisor that no overtime.

Commissioner Karolian: And what day was that.

Lt. Cline: Must have been a Wednesday or a Thursday.

Officer Defina: That was an 11th.

Lt. Cline: That was an 11th when the sexual assault, texting.

Chairperson McHugh: So, on the 11th you told him there was no overtime.

Lt. Cline: I don't recall telling him there was no overtime. But I physically said you need to go, I can't have you here.

Chairperson McHugh: How is it that you need to go and you need to produce the report how does that work for you that you need to get it done if you need to go?

Lt. Cline: He made no mention of the assault report. We are not talking about the sex-texting case; he made no mention of the assault report to me at all.

Officer Defina: I was not afforded to make that. I came to the station sat down at the computer and that was when I was told to leave before Captain Cecilio found out that I was still there.

Commissioner Karolian: What would have happened if Captain Cecilio found out that you were still there?

Officer Defina: I don't know. I already told him I was not on the clock. And that I was not doing work related things.

Commissioner Karolian: You told him you were on the clock or off.

Officer Defina: Off the clock. When he said are you still on the clock and I said no. I said I was just working on some things.

Commissioner Karolian: Do you recall him saying he was on the clock Lt.

Lt. Cline: I don't recall him saying that. And to be clear he was sitting at a computer terminal at the police department and using our in house records system. You are not off the clock when you are sitting down doing work.

Commissioner Karolian: Could you do it for free.

Lt. Cline: No.

Commissioner Karolian: He can't donate his time to the police department. If he wanted to stay and not collect overtime he could not do it.

Chief Agrafiotis: No the law is you cannot volunteer your time to do your basic job.

Break at 7:30PM

Break ended at 7:49PM

Commissioner Karolian: Chief I am going to ask you what did Officer Defina do for which he was disciplined in July? What did he do that he was disciplined.

Chief Agrafiotis: Are you talking about the 09/06 grievance; the one that says date and time of event July 3, 2009.

Commissioner Karolian: Yes. Is it because he said he was working on it at the time.

Chairperson McHugh: It is the December 11th one.

Chief Agrafiotis: I don't have the December 11th one. I only have the two that we have been dealing with since the last meeting.

Chairperson McHugh: Which is the December 11, 2008 is that correct? Captain Daigle isn't that what we are talking about these incidents; one of them December 11, 2008.

Chief Agrafiotis: I think December 11th is the incident and I think when it says December 19th that is when we found out about it.

Chairperson McHugh: Again Captain Daigle.

Captain Daigle: Yes.

Chairperson McHugh: One of the incidents we are talking about is December 11th is that correct.

Captain Daigle: Correct.

Chairperson McHugh: And Commissioner you were asking about which one.

Commissioner Karolian: The one in July. The one he was disciplined for in July I believe it was in 06. What did he do to receive the discipline? What was he disciplined for?

Chief Agrafiotis: This is the one where the Sgt. Dupuis sent the memo about following up on the report about the fake drugs.

Commissioner Karolian: Why was he disciplined? What was he disciplined for.

Chief Agrafiotis: I think the easier way instead of reading the whole thing. The first page of that and the last two paragraphs talks about completing reports and stating laws for unwillingness to properly submit investigations. And the last end direct rules and regulations roman section 7 prohibited conduct paragraph 11 B&C incompetence.

Commissioner Karolian: So the ultimate charge he was being incompetent; or is incompetent.

Chief Agrafiotis: In this situation that is the way I take it, that is the way I read it.

Commissioner Karolian: Can you explain what he did.

Chief Agrafiotis: Again I would say either read what is in that, or have Sgt. Dupuis who laid out last time exactly what happened.

Commissioner Karolian: When I read it we have some redaction. I am not sure why we have redaction. It says it outline's the chain of events in which he reviewed meaning Sgt. Dupuis I guess; case number 373004 regarding the allege blank of Cawley school. What is the blank, why is that redacted.

Chief Agrafiotis: It was redacted because of what the situation was so that somebody could not reverse engineer what happened on that date and who the students were.

(Tape Changed)

Commissioner Karolian: In the packet I got I believe from the H.P.D. mine is all redacted.

Chief Agrafiotis: Commissioners had Captain Daigle bring what was actually in the personnel file so these are un-redacted.

Chairperson McHugh: He is just comparing to mine which is un-redacted.

Chief Agrafiotis: But again this is the issue that Sgt. Dupuis explained the last time we were here.

Chairperson McHugh: That is the same one I have.

Commissioner Karolian: The problem I have is when I am reviewing the evidence that is presented everything that I get to review is redacted. To the point I am having a hard time making heads or tails.

Chairperson McHugh: Chief can I ask you to give the un-redacted ones to Commissioner Karolian and you could set that one aside. If you have an un-redacted one.

Chief Agrafiotis: I believe we have the un-redacted one that was in the personnel file.

Chairperson McHugh: With regard to the December 11th one. Chief, what did Officer Defina do for which he was disciplined in July.

Commissioner Karolian: That was the two day suspension dropped down to a verbal reprimand.

Chief Agrafiotis: The two day's suspension that was dropped down to the verbal reprimand had to do with the issue that Sgt. Dupuis had written. The issue was the remedial training and written reprimand had to do with inaccurate information in the report written about a December 11, 2008 incident at Cawley Middle School.

Chairperson McHugh: Would you please repeat that last part of the sentence or statement that you had said.

Chief Agrafiotis: If I am reading it right the 09/07 on the top on the first page it says date of event December 19, 2008 that was remedial training and written reprimand and on the second page of that it says this personnel records entry form results from Officer Defina's conclusion of inaccurate information on the written report on the December 1, 2008 incident at the Cawley Middle School involving it is blacked out between two students; which we already discussed earlier.

Chairperson McHugh: And for the charges for the December 19th is the truthfulness is that correct, which is the written reprimand and remedial training, is that correct.

Chief Agrafiotis: I believe so.

Chairperson McHugh: Well I am looking at the form that says personnel records entry form and the date and time of the event is December 19, 2008 and it says the employee notified of action on July 15, 2009. And the recommendation is both remedial training and written reprimand and it is signed by you the Chief. Is that correct?

Chief Agrafiotis: That is correct. When you go to the next page, page 2, have an introduction of information review facts; page 3 goes on with the facts and page 4 goes onto the conclusion. To answer your question if you read the four pages in order it talks about what Lt. Cline was talking about earlier. Not notifying a supervisor.

Chairperson McHugh: Inserted inaccurate dates, inaccurate information in his report. Conduct unbecoming and incompetence is that correct.

Chief Agrafiotis: If that is what you are reading from correct.

Chairperson McHugh: I am reading the document that was provided by the department and then section 6 required conduct. Sub section 16 submitting reports and sub section - 17 truthfulness.

Chief Agrafioits: I believe that is what Lt. Cline was talking about earlier.

Chairperson McHugh: Now with regard to this one; he was disciplined in July it was for that. Or was it because he said he was working on the report the whole time. Which was it?

Chief Agrafiotis: The one we just talked about.

Chairperson McHugh: The one we just had a conversation with, that I just went through.

Chief Agrafiotis: It says it on page 2 results from his inclusion of in accurate information written report December 11, 2008 incident.

Commissioner Karolian: Be more specific, what is it that he did?

Chief Agrafiotis: If you go to page 2 on the bottom it has the facts. It has the story laid out there.

Commissioner Karolian: Why don't you tell me what it is?

Chief Agrafiotis: It says the following information it says roman three facts. The following information has been acknowledge by Officer Defina and does not appear to be in dispute. On December 11, 2008 Officer Defina worked as a school resource officer at the Cawley Middle School. That afternoon the school authorities informed Officer Defina what we know now that there had been a fight between two students earlier in the afternoon; Officer Defina aware that this fight had involved of two students of color. On December 17th there was another incident between the same two students; the two students had the altercations that the Lt. said earlier.

Commissioner Karolian: Was Officer Defina made aware of that. On December 17th there was another incident between the same two. What does that have to do with Officer Defina if there was another incident?

Chief Agrafiotis: If I remember right, double check with Captain Cecilio when we learned of the face book incident and the detectives were sent to the school that is my understanding when they first learned about the incident on 11th. My general understanding the other staff can you more details; we are notified of a situation we go to handle the situation and the detectives learn there is prior history was. Then we back track in the department and go where the report on the prior incident between the two is. And this is where this led to.

Chairperson McHugh: Can I ask you I think earlier this evening Officer Defina was talking about when the texting issue happened and when this issue happened, he had conversations with Det. Sgt. Pinardi. Does Det. Sgt. Pinardi have any responsibility as far as his communication with Officer Defina.

Chief Agrafioits: I cannot answer for Det. Sgt. Pinardi I don't know what the level of discussion was I don't know if Sgt. Pinardi had a conversation with Lt. Cline or Captain Cecilio he may have but they would have to answer that. So I guess what the content of the conversation was between Officer Defina and Sgt. Pinardi was. And I don't know what the content was.

Chairperson McHugh: I guess what concerns me is the fact that, it seems as though there were a lot of people that knew of these incidents that happened at the school. First of all Officer Defina has a conversation with Det. Sgt. Pinardi about what is going on at the school and not necessarily that incident. There was another conversation in regard to whether or not the officer has to leave the school and then you see in these records, the personnel records entry form, there was another incident that happened on December 17th and I guess I am just wondering what the department has to say about that. Are you holding the officer responsible for reporting all of this as well as the December 17th?

Chief Agrafiotis: I guess I am not going to guess what somebody else I would refer you back to the testimony by Lt. Cline earlier of the memo he wrote.

Chairperson McHugh: See that is the problem we don't have a copy of that memo. There were packets that were given to us but we are kind of missing some of the details that would certainly help us.

Chief Agrafiotis: I understand again that information is the internal investigation if you would like us to get that to you.

Chairperson McHugh: Is the memo going to compromise anything.

Chief Agrafiotis: I can have Captain Daigle look at that.

Chairperson McHugh: Is the memo going to compromise of the deliberation here this evening. Like I said I am surprised we don't have the memo with regard to the internal investigation but with regard to the memo.

Chief Agrafiotis: I don't believe it would.

Chairperson McHugh: I was just wondering why we were not provided it Chief.

Chief Agrafiotis: Initially we weren't going to go to the internal investigation and try to pull out different parts and we did not know what the obvious questions you would be asking. So you got the initial copies of the grievances of you did and you gave them to me and we brought the internal investigation certainly the commission has the ability to read the whole internal investigation but we would not know what to pull out of there. I don't think that is fair on what to pull out or what not to pull out to answer your questions.

Commissioner Karolian: Why is it not included on number 3 it says internal affairs investigation material related to the IA the number, it list what some of the things are. But it does not give specifics to back up what you are talking about here about the discipline. What is it, this one is dated for July 15th, and it makes reference back to the December 11th incident. And this is in July. But then you have information that is reviewed that says IA was conducted and there is material related to witness interviews, memorandum and copies of the written reports submitted by the officers.

Chief Agrafiotis: If you will when you look at the middle section of the personnel records entry form no matter which one you look at. It says narrative it says describe the event that lead to the action, list the number, title or section of the policy violated and include a brief description of the section violation. Do not include investigative detail, administrative investigations citizen complaints are confidential and filed separately from this form.

Commissioner Karolian: AOM. Is that what you are saying?

Chairperson McHugh: He is referring to a form.

Chief Agrafiotis: What I am saying if you read the instructions that are on this personnel entry form that basically talks about summarizing on this form what has happened. Then if anyone need to go back to and look at the details, you then go back to the IA or go back to whatever the complete IA and that would complete the gaps but this is not meant to be a word by word of this.

Chairperson McHugh: I can appreciate that Chief. But I guess what I am thinking is you used or cited and several people within the command staff have cited different parts of the IA that was done to speak to your argument however you leave out the memo and I don't understand why. I see what you are saying with regard to the narrative and

what it says but I don't know why you didn't provide a copy of the memorandum it kind of leaves us at a loss.

Chief Agrafiotis: The way it normally works you start with the personnel records entry form and from that you would go to the entire IA; the department wouldn't try to pull out sections from the IA.

Chairperson McHugh: But that is what you are doing this evening isn't you. You are using the IA.

Chief Agrafiotis: To answer your questions.

Commissioner Karolian: Isn't it on page 3, of the July 15, 2009 records entry form. Isn't that the same information and same accusations that were made back on December 3rd discipline about not notifying the supervisor? It seems to me to be the same.

Chief Agrafiotis: What my best answer would be to go back to what Captain Daigle said much earlier. Which is it is very close but it was not looked at as the same event of Officer Defina.

Commissioner Karolian: Captain what is the difference that brought these charges, what came to light that brought these charges to light on the same incident December 11th that he received discipline for that new information came about that he got new discipline for. What did he do or not do on the December 23rd one. Is there a difference?

Captain Daigle: The only difference is the information that came to light on December 23rd when he given that write up and the conversation ensued that is the only new information.

Commissioner Karolian: Where is that being shown in the discipline on the personnel records entry form that is what I need to know Chief?

Chief Agrafiotis: That level of detail would be in the internal investigation and would not be in here.

Commissioner Karolian: Based on what he told Lt. Cline on December 23, 2008 based on that information that is what prompted an internal investigation

Chief Agrafiotis: I am sorry I would like Captain Daigle respond back to the first half of what we were just saying before your question.

Captain Daigle: To go further the information that I referred to that came to light on December 23rd, is not contained in the write up.

Commissioner Karolian: Which write up the 23rd one?

Captain Daigle: No. The one in July is not contained in there. My recollection is that the truthfulness issue that I was looking into that happened on the 23rd write up is not included in the July write up as far as the truthfulness issue.

Commissioner Karolian: Are you saying that there are possible outstanding charges for untruthfulness.

Captain Daigle: No I am not saying that. My understanding is in my IA I found that, I believe the evidence came out that he was not being truthful with Lt. Cline when he said that he was working on it the whole time. It is my understanding and you would have to consult with the Chief a little bit, my understanding is when that was looked at I don't believe that came part of the July write up. I believe there was some discussion or some things taken into consideration and I won't speak about others on whether that was callously or along those lines done to the level to say he lied purposely and that was going to be part of the write up. Looking at the material I don't see that present and I don't think that the information from December 23rd is included or I don't think that is what reference was in July. I think the July reference is basically the information contained in the prior.

Commissioner Karolian: Having said that how the employee is supposed to know that, that information is being used if it is not in the write up. If it is not included in the write up and is not aware of it. How does he know it is being used against them.

Chief Agrafiotis: I tell you in general when any employee receives one these personnel records entry form the policy is we sit down and talk to the employee and we tell them what we believe has occurred and they get their chance to tell their side of it. There is a dialog.

Commissioner Karolian: But it is not documented.

Chief Agrafiotis: The only documentation there would be is if the employee gives new information. There are a couple of things that could happen the employee could give new information that we don't have or didn't have at the time. And basically put the process on hold and go back and investigate that information given by the employee. Another option is the employee can say whatever they want and we say we understand what you are saying we still think there is a problem. I think as Lt. Cline said at the last hearing once we hear an explanation you didn't do what we thought you should have done but we have decided to lower the level of punishment. Another option is that the employee explains what their position is and it does not change our minds as far as the discipline that is being issued and the level. Fourth option is the employee says nothing

and then there is no dialog. We have to just issue what we have because the employee does not have anything to offer in their defense one way or another.

Commissioner Karolian: But if that information is being used and it is not documented and the employee is not being told. How can you use that information against the employee for disciplinary purposes? I mean why is it if you make reference to an IA. None of that is being given to the employee or articulated in the personnel entry form. As to why it is just a blanket statement we conducted an IA, based on interviews and all the information that we have you is being untruthful. Now how does the employee have the right to get that information that is being used against him for discipline issues? How is the employee supposed to argue with it or agree with it if they don't get that information? Why is it being put in here?

Chief Agrafiotis: Number one it is not being put in here because this form talks about don't include investigative detail. And number two if the employee has been through an IA, they know what the questions were and they know what they answered. So it's not something new they are being hit with. If they have been through an IA they have had a chance to give their side of the story and they have had questions asked. It shouldn't be new to them at that point why they are sitting before us.

Commissioner Karolian: How do they have an opportunity to refute those charges if they are not made aware of as to what is they have against them. Just because there is something on the form that you use, does not necessarily mean it is correct. And just because there is something on a form that is being laid out doesn't mean that is the proper information but I will put that out there, the question is if you are going to use an internal investigation against an employee they should be made aware and have the opportunity to see the information don't they?

Chief Agrafiotis: I would go back to what Atty. Bailey talked about the way the cases are always followed.

Commissioner Karolian: That would well indicate that wouldn't it.

Chairperson McHugh: I guess what I find and I keep going back to this same issue Chief is that repeatedly discussed the fact that you are saying document, document, document. In here there is no document. It is inconsistent for you to feel that you need to document, but when situations come up like this that there is no documentation to support that.

Chief Agrafiotis: I guess our feeling is we document to the level of that we feel that we are supposed to in this form and the bak up information. This form is back of documentation to what is in the IA's.

Commissioner Karolian: Do you want to add to anything to what we talked about here.

Chief Agrafiotis: On the grievances, no.

Chairperson McHugh: Officer Defina I see by your facial expressions that perhaps you might have something to add.

Officer Defina: Yes ma'am. First I want to make it clear other than the write up I got no information, no documentation as far as the internal investigation to the first day of the hearing when the conclusion internal investigation. This is the first time I have seen this conclusion here. I think you have both been given a copy of this that says IA 0901 conclusion at the top.

Chairperson McHugh: So you had never seen that before.

Officer Defina: Never. No I had never seen that before. I understand what they are saying based on the comments that Lt. Cline and I had based on the conversation that we had when I turned in the report on the 19th, same comments that I had on the 23rd. They are saying that ponded the investigation based on what they are saying based on my comment. I understand that. The conclusion does not say anything about that. When I turned in the report on the 19th they had the same facts in the report that they had on July 15th. The fact that they had those facts and they wrote me up for the five days suspension they had all that information. The only thing the conclusion says here it does make any mention that now I am finding out on May of 2011 there was a finding of untruthfulness of a comment that I made to Lt. Cline. Nowhere in there says that in the conclusion there. This is the conclusion of the internal investigation. It says that the charge of failing to truthfully state facts in all reports and forms sustained. That is based on the one date they said I put on the report. That is the same date that has been on the report since December 19, 2008. I was given discipline four days after I submitted that report they knew the date was there. They chose not to discipline me for that date at that time. They are saying they responded an internal investigation based on a comment that I made in it. The IA itself does not conclude that I was untruthful. Why in July 2009 I am disciplined for facts that they had in December, the same facts that they had.

Commissioner Karolian: Can you help us out with that Chief, with the question he just purposed?

Chief Agrafiotis: There were numerous issues with Officer Defina that was worked on within the department and that was being worked on by the union attorney. I believe that is why there was a time frame difference.

Commissioner Karolian: Was the attorney doing it on behalf of the Chief of Police of the Hooksett Police Department.

Chief Agrafiotis: Yes.

Chief Agrafiotis: For better or worse what you have in front of you is what we have. If you don't think we documented it well enough we will take that message from these proceedings. We believe that the staff has answered the questions as best as we can with what you just presented to you and between the information that is in records form and gets backed up in the IA; by the IAs those we do a decent job with it. If an employee goes through an IA I don't know how they cannot have some clue to the discipline after that what the IA is about.

Commissioner Karolian: I can, I can appreciate that. If you conduct an investigation on an employee they are not given all the information that the department or the employers are looking into. They are conducting the paperwork and following up questions about certain things. I don't know how an investigation we don't have the information and I am not saying the investigation was lacking in any way of any shape or form. What I am saying is the employee does not always know and are not given the facts as what you are looking into, do you? You don't say we are looking to charge you with XY and Z because then you find out the employee is going to give you up and be in more trouble.

Chief Agrafiotis: The employee when they get this form if they don't agree they follow the steps whether they are union or not. They follow the steps to move forward to get the information.

Commissioner Karolian: You saying requesting the IA.

Chief Agrafiotis: Right. The same way they have done in the past. And they basically disagree and using the process of the entry form.

Commissioner Karolian: Is it the process that nobody gets copies of the IA.

Chief Agrafiotis: Unless they request them through the proper channels. And then as Atty. Bailey talked about that has occurred.

Commissioner Karolian: I want to make sure I get this straight you are saying the past practice has been if the employee has requested a copy of the internal investigation that was done on them that they would get copies of them.

Chief Agrafiotis: What happens if I can clarify what Atty. Bailey wrote my understanding is if the employee was to tell the union Attorney?

Commissioner Karolian: Assume they are non union and they receive discipline and they request a copy of their internal affairs investigation. Would they get that?

Chief Agrafiotis: They probably would get that. Basically under the same format to getting the parts that they need. Again I go back to what Atty. Bailey has said for better or worse that has been the practice we have followed for years.

Commissioner Karolian: I have some recollection that is to something not so distant.

Officer Defina: I would like to respond to what the Chief just said. In 2002 I asked him for an internal investigation and to find out which detective completed the investigation and who gave the files. The chief told me that I would have to sue the department sit in front of a jury of twelve and let them know I was a liar to get the detective on the stand and then I could ask him. That was what he said back then. It was 2002. Even to which detective had concluded the investigation he said I would have to sue them for it.

Chairperson McHugh: I think basically that is the end of the questions that we had. We would look to the chief or Officer Defina if you have any closing statements to make at this time to wrap it up.

Chief Agrafiotis: As I said I think the staff has laid out what the concerns and issues were. How we came to the conclusions that we came to and how we decided on the levels of disciplines. I think we followed the process that was fair. I think that in the end the goal of the staff is that we are providing police services. And I think that these write ups shows that we did not feel that Officer Defina's behavior and performance was providing police services with an officer of his time and the training he had as a school resource officer was appropriate for the situation. Let me layout to you there were other issues going on involving this officer that attorneys from both sides were working on and I am not prie to those discussions. So there is a certain level of information that we don't have.

Commissioner Karolian: Then don't include that in your conclusion. Because that would lead us to believe there was more going on?

ChiefAgrafiotis: Not is going on but was going on. That would play into the questions you have about the dates.

Chairperson McHugh: We can't consider that.

Commissioner Karolian: What was happening between the attorneys you can't consider that so how we can consider that.

Chief Agrafiotis: And I am just telling you in the closing that some of the questions that you have we can't answer that. I think all the staff members have answered where there thought process was and about the rules and regulations about rules and procedures. Where they felt Officer Defina was deficient. And they thought they were fair that we were performing proper procedures and how we performing or not performing our job. Thank you.

Chairperson McHugh: Officer Defina

Officer Defina: I will try to be as brief as possible. I would like to hit upon some things that were said here tonight. Chief stated that step three is just filing with the commission. I have had numerous conversations with him about this. He personal explained to me that it is a hearing in front of the commission. It is not handing a paper to the commission step four is not the coming before the commission. He is the one that taught me. That is not the information that he gave me. There was some discussion about the report that was done between the two students. It says that one student swung he ducked it was a mutual conduct. At no time was that report listed as a hate crime it came in a threatening report. The student came to me about what was on MySpace because he was threatening him at the bus stop. It was not about the race and it was because of the threatening. These two students were former friends. It was not a race issue. To complete a completed report stating it was a race issue. To look at the completed report after the detectives got to interview both parties, one student wrote a letter about being sorry for the MySpace issue. I just wanted to make that clear. Another thing that was said tonight that really bothered I was on December 23rd writes up suspension. I brought up the fact that untruthfulness is a serious issue. They snuck it in on page two and hid it from me. If they are saying there was a complaint about me being untruthful why didn't they start a report? If they had they would have been able to secure those tapes like I have here the actual minutes of the police commission meeting. All the facts that surround that shows I was telling the truth and they weren't. Yet there was no internal investigation on that then all of sudden the month earlier Francine had told us, the tapes are destroyed when they are recorded over a t anew meeting. There was no meeting in between that point and the tapes were destroyed.

Chairperson McHugh: Can you give us those minutes.

Officer Defina: Sure.

(Conversation between Officer Defina and the commissioners)

Chairperson McHugh: That was the reason for the lowering from the five to the two and half days.

Officer Defina: That is what Commissioner Roy had said; because there was confusion on both parts even though it was clear and in writing.

Commissioner Karolian: Are you saying on the December 23rd when it was heard in April you said they were aware of the truthfulness issue.

Officer Defina: That was our understanding from our attorneys. Commissioner Roy said that there was confusion right there in writing. They said we are going to give you back two and half days.

Commissioner Karolian: Did they strike.

Officer Defina: They never removed it from my file it is still there. Which I brought up in front of them again, which was before I was fired.

Commissioner Karolian: They did not eliminate one of the charges.

Officer Defina: They just paid me for the two and half days back but they never changed anything in my file.

Commissioner Karolian: Is this the only entry form that shows the five days suspension for December 23, 2008 that shows five days suspension.

Chief Agrafiotis: I don't know I don't have his personnel file in front of me.

Commissioner Karolian: Does anyone know if that five days suspension was lowered.

Chairperson McHugh: It was lowered to 2 ½ days

Commissioner Karolian: On the personnel records form it says that is was paid and it was lowered.

Chief Agrafiotis: I don't recall.

Commissioner Karolian: Typically an employee goes in front of the commission and there is a change to what is recommended. Is there another updated personnel records entry form or revised personnel records entry form that shows what happened in front of the commission if they up it or if they lowered? Is there any record of that or is the only thing that gets put in the employees records form.

Chief Agrafiotis: I can't tell you right now I would have to look

Commissioner Karolian: It would be the common practice wouldn't it. Let's say this one went in front of the Commission does it get removed.

Chief Agrafiotis: If the suspension was dropped in the best case it should be noted on that and then with just a note next to it saying see the commission minutes. Then somebody would be able to go back to those minutes.

Chairperson McHugh: Where it was not dropped and it was reduced and notification to that to the extent.

Chief Agrafiotis: In the best world there should be.

Commissioner Karolian: Not on this particular one it is a general question. If a personnel records entry form is entered for disciplinary purposes and it gets changed, gets dropped or changed moved or lower; minus the sustained. Does that mean the personnel records form as opposed to see Commission minutes? Now someone has to go and see what the Commission said.

Chief Agrafiotis: In the best world it would be it would say see police commission minutes. If that employee had their hearing in non public we would not attach the nonpublic minutes to that. So we not normally attach the minutes we would just refer back to that proceeding.

Commissioner Karolian: But when the employee makes an annual request for their personnel file there is nothing in there that shows it was lowered.

Chief Agrafiotis: In a perfect world it would show on that form.

Commissioner Karolian: What I am asking is, is there another form.

Chief Agrafiotis: In a perfect world it would show on that form just as when Lt. Cline had on 09/06 originally made a recommendation and then it was changed and it was initialed.

Commissioner Karolian: So that is the only notification.

Chief Agrafiotis: That is probably what would happen.

Officer Defina: The copy you have is what was in my current personnel file, if it had been altered or changed that would be in there also.

Commissioner Karolian: Suspension five days. Is there a personnel entry form that shows he grieved it and went in front of the commission and lowered down to the 2 ½ days.

Chief Agrafiotis: I can't tell you. I don't recall.

Commissioner Karolian: There should be.

Chief Agrafiotis: There should be hopefully in the file.

Chairperson McHugh: That goes back to what you say about document, document, document.

Commissioner Karolian: If he would have looked at it or someone else would have looked at it. If another employee was looking at the personnel records entry form it would show five days suspension and not show it was dropped down to two and half

days. That is my concern. We talk about a perfect world but we talk about what H.P.D. does and the way we do it.

Chairperson McHugh: You had the floor

Officer Defina: I would also like to address an issue here. I got my conclusion of the investigation nowhere on here does it state the finding that I hear here tonight. That is was a finding of untruthful that I made to the Lt.

Commissioner Karolian: Sorry say that again.

Officer Defina: That I heard here tonight that based on a comment that I was untruthful that I made to Lt. Cline. Nowhere on here does it say does it show it on the conclusion. There saying it was a finding of it is supposed to say it was sustained. Based on a comment I made to Lt. Cline we are going to initiate an internal investigation. The conclusion is supposed to state whether or not it was sustained. Nowhere on the conclusion has it said that. But now I am being told if you read the 100 or so pages it does.

Commissioner Karolian: I want to clarify. Is that accurate or would that be accurate based on statements made by an employee to Lt. Cline by the employee that he received the December 23rd action form based on that is what started the investigation that the Lt. thought he was lying. That is where the memorandum came up or down the chain to conduct the IA.

Captain Daigle: There was that information that came from Lt. Cline that was looked into during the IA. There was old stuff on there and the new thing was from the December 23rd conversation their old stuff submission of reports, and dates, those kinds of stuff that was discussed. The information was from December 23rd.

Commissioner Karolian: The old information was used in the December 23rd discipline correct.

Captain Daigle: That is correct.

Commissioner Karolian: That was taken care of December 23rd in the personnel records entry form for the suspension, right?

Captain Daigle: Correct.

Commissioner Karolian: Then there was another issue that came up with the conversation the employee had with the Lt. and got new information and that was looked into; the part about him being untruthful.

Captain Daigle: Yes.

Commissioner Karolian: So the IA included stuff prior to the December 23rd records entry form.

Captain Daigle: That is correct.

Chairperson McHugh: Continue.

Officer Defina: I would just like to touch upon the 09/06 if I could read this briefly. This is in regards to the fake drugs. Standard operating procedure P250 development discipline that was handed out we all got that the first night. It clearly states that corrective action should be designed to correct the proficient performance. The discipline in opposed should successfully remediate the employee and encourage him to perform at an acceptable level. Det. Sgt. Dupuis memo which we have gone over a plenty of times, to Lt. Cline clearly brings into question my investigating skills and knowledge of specific drug laws; a two days suspension containing no remedial training regarding the specific drug laws; any additional training or schooling or proper investigation techniques. Is in no way to design to correct the proficient performances or to encourage the employee to any degree; the only thing discipline of this kind issuing two days suspension for this offense without any training or their own policy P250. Corrective action in this agency has gone from means to remedial discipline without any improving job performance. I feel that this personnel records entry form contains a two days suspension and was lowered to a two days written reprimand. I would like to take into account the SRO all of his knowledge of his situation and at no time was an actual crime committed. I would just like to get that out there again. As far as 09/07 I just wants to say to the commission that through the internal investigation I was truthful during the investigation and gave my explanation about why I had done what I had did. I did not try to purposely mislead anyone with work that I had taken place. In a time other than it did and the materials were the same was not the case. During the hearing we heard the Chief state that he read the whole IA more than once "he did not believe that he knowingly told the truth but that he was very confused about what he was supposed to be doing and required for the reports". We also heard the Chief state "face value you look at these issues and the department has certain concerns, and talking to the officer or in the second case you realize that there may be some misunderstanding on the officers part on what he is supposed to be doing on outside influences that he talked about that made him act like he did. Combined with the fact back on December 23rd I was given a five days suspension for the same incident that I am grieving tonight from the July 15th. You neglect to report the assault in a timely manner is a direct violation of submitting reports of neglectful duty. Which is exactly on the next one with the IA with the failure to accurately submit all reports required it is the same within. Four days after I submitted my report it was reviewed and I was given a five days suspension. I don't think it is fair seven months later that I am getting disciplined after it was reviewed by my supervisor. One last thing this entire incident was what happened on December 11th it was a felony issue it was not the same it was a mutual between students. It was a felony that was happening in Cawley Middle

School I was ordered to leave the school. In my opinion that was criminal in itself. In fact that I was ordered to walk away from that school no other officer relieved me at the school, no detective came to relieve me, and no one else was notified. The principal at the school could not believe we just abandoned them and then you want to turn around and talk about incompetence and neglect of duty, I have never been a part of something so shocking. That is all.

Commissioner Karolian: Lt. Cline I would like to ask you a question on the heels of what he just said. The day he left the school were you made aware about that texting issue?

Lt. Cline: I was aware of the texting issue but not of the fight.

Commissioner Karolian: Still of being aware of the texting issue he was still not to continue to working to leave.

Lt. Cline: As far as I was concern the detectives were handling it. Everything was passed up to the detectives.

Commissioner Karolian: What do you mean passed up?

Lt. Cline: They were well aware of what was going on.

Commissioner Karolian: How did they find out?

Lt. Cline: From Det. Sgt. Pinaradi.

Commissioner Karolian: Detectives were now in charge of that investigation.

Lt. Cline: As far as I was concern they were well aware of it. I was ordered to have Officer Defina leave at that time.

Commissioner Karolian: I am not holding you at fault for following orders.

Lt. Cline: I was aware of the texting issue yes.

Commissioner Karolian: And the department was aware of it and the detectives were made of it through whom.

Lt. Cline: Officer Defina notified Det. Sgt. Pinaradi of that case cause myself and Captain Cecilio was sitting on some oral boards. There was also a Sgt. on duty at the time.

(Tape Changed)

Chairperson McHugh: Can I follow up on that. Lt. Cline when he was asked to leave the school by you because you said there was no overtime or whatever. Did you feel as the situation had resolved itself or that it was handled and there was nothing more to handle on it? Why did you tell him to leave if it was such a serious situation? He is calling it a felony.

Lt. Cline: I am not going to minimize two punches to the face. He says it was a mutual combat. I am not going to minimize that. I am given an order I am going to relay the order. That is what I am told to do that he is going to leave now it is going to be handled my detectives that is going to be handled by detectives. That is my understanding when I gave him that order.

Chairperson McHugh: But it was considered it a felony. Didn't you consider that serious enough that he should do whatever it takes to follow up? That is a serious issue. Didn't you see one of your supervisors about the seriousness of the crime?

Lt. Cline: I was told by my supervisor to instruct him to leave. I am not going to look at my supervisor and say no.

Commissioner Karolian: Who was that?

Lt. Cline: Captain Cecilio

Chairperson McHugh: Didn't you tell him the seriousness of the situation.

Lt. Cline: He knew the situation that was going on.

Chairperson McHugh: Captain Cecilio if you would.

Commissioner Karolian: I would like to know why you ordered him to leave.

Captain Cecilio: I was in oral boards at that time the incident was not ongoing. You have a felony a setting of sexting case among juveniles. Juveniles are sending a picture among the group.

Officer Defina: Video.

Captain Cecilio: The chances of the juveniles of being charged with a felony with that type of incident was slim.

Commissioner Karolian: To whom.

Captain Cecilio: We had it in the past and similar incident not of a video but pictures of kids taking pictures of them.

Chairperson McHugh: Why get the attorney general's office involved with this if it wasn't so serious.

Captain Cecilio: We asked them to come on board we tried to follow what Salem had. If you look at the Salem case and our case we filed no charges.

Chairperson McHugh: What was the sexting about?

Captain Cecilio: It was a video of a student of their private parts sent to another student that was now being sent to other students.

Chairperson McHugh: And that is not serious.

Captain Cecilio: It is serious and we took it very serious. We sent detectives to handle the case however; we were not going to have Officer Defina do the case.

Chairperson McHugh: Which two detectives.

Captain Cecilio: Det. Sgt. Pinardi was told to get the detectives and have them handle it.

Chairperson McHugh: Did they go down to the school.

Captain Cecilio: I don't know if they went down to the school, I don't think so because the first time we got out of there Jason was already backing at the school. The school day was over by the time we found about it.

Commissioner Karolian: Wasn't the assault over?

Captain Cecilio: It was over, but we never knew about it. Otherwise we would send more detectives.

Commissioner Karolian: To me there was prioritizing going on that according to what I heard that the assault held more authority than the other.

Captain Cecilio: No the assault we didn't even know about it. The sexting was our priority at that time. Getting detectives to actively involve handle that case they would handle that case as Jason said he was in over his head.

Officer Defina: I did not say I was over my head. I never met that comment

Commissioner Karolian: That was the start of the investigation started before you got back from the school or when he got back to the school.

Captain Cecilio: I did not see him until I left the oral boards he was already back at the station.

Commissioner Karolian: When did this investigation start on the sexting?

Captain Cecilio: I have no idea. I was not informed until Sgt. Pinardi came in.

Commissioner Karolian: There should be reports for that day.

Captain Cecilio: There should be a lot of reports for that day.

Commissioner Karolian: On that day somebody would have had to say we received that information and this is where we are going with it. Is that the way they were working it.

Chairperson McHugh: You told him to leave because you felt that he was not qualified to do the sexting case.

Captain Cecilio: SROs would do the preliminary investigation he would kick off the report at this level it would go to detectives it was a felony case.

Commissioner Karolian: The SRO would do the initial report so it can get passed to detectives.

Captain Cecilio: Get the basics to the detectives.

Commissioner Karolian: Get the ball rolling.

Captain Cecilio: Correct.

Commissioner Karolian: Was he afforded the opportunity to finish or do a report. Did you do a report?

Officer Defina: I did not.

Commissioner Karolian: He was just sent home and you allow the detectives to take over.

Captain Cecilio: The sent home, what happened commissioner you have a conversation and he contacted Det. Sgt. Pinardi in between we had one thing to do and he said we have going on and I said get some detectives down there and get going on it. We finished our thing we came out and he was sitting there. And it was like what is he still doing here.

Commissioner Karolian: How are they supposed to follow up without the information from the responding officer?

Captain Cecilio: They already had some conversation with him and what my understanding. Det. Sgt. Pinardi gave me enough information that we needed to kick it off and someone needed to get down there.

Commissioner Karolian: Who kicked off the initial 101?

Captain Cecilio: That would be after the fact done by Jason.

Commissioner Karolian: Not by his fault because of no overtime. When did you do the report?

Officer Defina: I did it at my house the next day.

Commissioner Karolian: When did it get submitted?

Officer Defina: I am guessing the first day I was back to work. I was on vacation I was not due back to work until Monday.

Chairperson McHugh: Just to follow up on this and how this works because I am not up to speed on this. When someone takes a report or is working on it so to speak, don't you wait for the other two that are going to work on the investigation? Don't you wait for them and not just leave is that the way it works. We are talking about the sexting issue and he has a conversation with Det. Sgt. Pinardi. Isn't it normal for when you are going to do an investigation with someone that the person is there or whoever is going to replace them or who is going to do the investigation? Why is the person asked to leave and they go down there and they don't have anything to base it on. Do you understand?

Captain Cecilio: Yes. I do it depends on the circumstances at that time. The facts that I got while I was in the oral board if this is going on. You get some people down there and get working on it. If that translates to you get out of there and you go home is a translation. That is not what happened. It's you need to get this done and get working.

Commissioner Karolian: I am not trying to put you guys at odds, the order says from up above.

Captain Cecilio: The order was they did not want any overtime. That is a blanket order.

Commissioner Karolian: I understand it correctly Lt.

Lt. Cline: No overtime and you need to leave now

Commissioner Karolian: If I understand what you said is that it was lost in translation that you have to leave.

Captain Cecilio: The problem is and I agree with what you said earlier they have to be paid. Believe me I would love it if they did there reports at the end of the day and I did not have to pay them. But that doesn't happen.

Commissioner Karolian: Is there comp time. Instead of overtime they put in for personal time.

Captain Cecilio: Comp time is considered overtime.

Chief Agrafiotis: That is their choice

Commissioner Karolian: I understand. That is there choice.

Chief Agrafiotis: They can but we can't tell them to take there comp time.

Captain Cecilio: Even now Commissioner I get questioned on the overtime.

Commissioner Karolian: I have a question for you Captain Daigle reference to the IA. Is Det. Sgt. Pinardi interviewed in this IA.?

Captain Daigle: Yes he was.

Commissioner Karolian: Does he collaborate anything about investigations going on does he have any collaboration.

Captain Daigle: Can I speak to what Det. Sgt. Pinardi said in an IA if he is not here to give his blessing to that. The first hearing said that we could not do that. I have no problem doing that if you want to go there.

Commissioner Karolian: I think that if it is an internal investigation and it is documented it should have been given to the employee and it is used as part of the discipline and used by someone at the police department doing the IA I would have full trust that the exactly what the Sgt. or witness said onto paper to use on the IA. That information should have been made aware. So you can in either general terms to say he collaborated or didn't the information that contradicts what's being said.

Captain Daigle: I believe he collaborated the information said

Commissioner Karolian: So he calibrated that information that Officer Defina said.

Officer Defina: When Det. Pinardi called me the next day the day after the incident this would be the 12th when I was at home. That is when he told me that this was his case and the day before the just the liaison to contact to get word to the Lt. and the captain to get word to. The one thing I want to say the schools concern and my concern this video getting in hands of the juveniles that was extremely important to the parents and the schools. You can see by the report that they did not interview the victim until seven days until after the incident was reported, and didn't interview the suspect until after thirteen days later after the incident was reported. That is taken directly from the report.

Commissioner Karolian: Captain is that accurate

Captain Agrafiotis: I don't know it could be.

Commissioner Karolian: So it is very possible that the report is referring to is accurate. Who did the report?

Officer Defina: I did some of the report and Det. Pinardi, actually I might have the report here.

Chairperson McHugh: So you are saying in this circumstance interviewing anyone in the sexting issue that they didn't occur seven days or even thirteen days.

Officer Defina: The victim that made the video was seven days and the first boy she sent it to was thirteen days. From there it then spread.

Chief Agrafiotis: How many days was the ice storm.

Officer Defina: About four.

Captain Cecilio: There were other things going on that could of led to things.

Chief Agrafiotis: I am just giving you other reasons why there could have been a delay.

Officer Defina: both suspects lived in town.

Commissioner Karolian: The reason I was asking was to determine was some of the facts used in the second discipline and I think we got our answers on that.

Chairperson McHugh: Do you have anything more to add.

Officer Defina: I believe that is it.

Break at 9:13PM

Return at 9:31PM

Chairperson McHugh: I guess Commissioner Karolian we are at the point of deliberation. There was a lot of information given both session's part 1 and part 2. I don't know if I am able at this point to deliberate or come to a decision. I don't know what your feeling is to this.

Commissioner Karolian: We need to review it on our own. I would like to see if we can do it at another meeting. I would like to do it at our regular meeting.

Chairperson McHugh: My only concern with regard to that is if you are saying the next schedule meeting we don't know how long the deliberation will take. I think having it combined before the meeting. The meetings tend to be long and we would be into the very late hours.

Commissioner Karolian: The 16th

Chairperson McHugh: Are you able to do it Monday the 16th.

Commissioner Karolian: Why don't we shoot for Monday the 16th?

Chairperson McHugh: The only issue is if this room would be available if not we could find another room. I believe I heard the planning board or whoever it is has upcoming meetings. We could go to the library.

Chief Agrafiotis: I will tell Francine tomorrow because she has to post it. We also have the training room.

Commissioner Karolian: The first preference would be the Hooksett training room

Chairperson McHugh: If you cannot accommodate that then we have to look at other areas.

Commissioner Karolian made a motion that we reconvene on the 16th at 5:30PM and the meeting place to be determined. Motion seconded by Chairperson McHugh. Motion carried unanimously.

Adjourned at 9:37PM