

CASE SUMMARY

On Wednesday, June 10, 2015, the Georgia Department of Public (DPS) received from Haren Construction Company President, Frank Haren Jr. (referred to from this point forward as Frank) six formal written complaints each describing separate incidents on different dates involving Lt. Mark Mitchell. Frank alleged on six different occasions Lt. Mitchell used his position as a Georgia State Trooper to intimidate and threaten other employees with Haren Construction (HC) and abused his (Lt. Mitchell) authority as a State Trooper. On Monday, June 15, 2015, OPS Director Angie Holt assigned case IA-0124-2015, to Capt. Les Wilburn and TFC Todd Hinson for further investigation.

HC is a family owned and operated contracting company, which provides commercial and industrial building, mechanical and electrical contracting, public and private utilities, highway and heavy construction. In approximately February of 2014, HC was hired by the City of LaGrange to upgrade the Yellow Jacket Creek Pump Station located in LaGrange, Georgia. According to a copy of an email contained in one of the complaints (Exhibit 2.1), Bill Hall, HC, offered a pre-survey of Lt. Mitchell's residence, but he (Lt. Mitchell) failed to accept the offer.

Lt. Mitchell's residence [REDACTED] Yellow Creek Pump Station. Lt. Mitchell described the Yellow Creek pump station as being on 6.6 acres of land with five feet tall chain link fence surrounding the property. Access to the jobsite could be made by walking through

gates which were posted with "Authorized Personnel Only" signs on the outside of the gates. This was confirmed by HC Safety Manager Mike Herrell and Job Superintendent, Randall Knepper.

The first date HC referenced Lt. Mitchell acted in an unprofessional manner was on June 25, 2014 (Exhibit # 2). According to HC, on the aforementioned date, Lt. Mitchell entered the jobsite wearing civilian clothes and threatened to arrest Knepper if the work from the jobsite shook his (Lt. Mitchell's) residence "one more time." Lt. Mitchell claimed the work HC was performing violated of the city noise ordinance.

On Friday June 26, 2015, Knepper stated in his interview with TFC Hinson and Capt. Wilburn, Lt. Mitchell entered the jobsite wearing civilian clothes and yelled at the HC employees to stop working (Exhibit # 6). According to Knepper, Lt. Mitchell got in his face, pointed his (Lt. Mitchell) finger at him and threatened to arrest him. Lt. Mitchell did not deny the fact he threatened to take law enforcement action on June 25, 2014. Knepper told TFC Hinson and Capt. Wilburn, Lt. Mitchell entered the jobsite after being warned previous times he was not allowed inside the jobsite because he was not authorized personnel.

Lt. Mitchell stated he and his wife were awakened by a large concrete dump truck revving the engine at 6:14 a.m., and the noises continued throughout the morning. According to Lt. Mitchell, at approximately 8:00 a.m., he walked over to the jobsite after realizing he would not be able to continue with his sleep, to question Knepper about how long the work would last.

Lt. Mitchell told TFC Hinson and Capt. Wilburn he informed Knepper not to vibrate his residence again. Lt. Mitchell further threatened to take criminal trespass warrants out on the employees of HC for vibrating his house and for violating the city's noise ordinance. This admission confirmed HC's allegation. Lt. Mitchell disclosed he talked with the district attorney about taking criminal warrants and was informed the vibration of his residence was more of a tort claim than a criminal issue. According to Lt. Mitchell, he was aware of the "Authorized Personnel Only" signs before he entered the jobsite.

The second date HC referenced Lt. Mitchell used his position as a State Trooper in an inappropriate and unprofessional manner was on August 25, 2014. On August 25, 2014, HC asserted they sent an email to Mr. Mark Mitchell at email address mmitchell@gsp.net (Exhibit 2.1). The email was in regards to the construction project located at the Yellow Creek Pump Station. The response they received back was from Mark Mitchell, however; it was "signed" as Lt. Mark Mitchell with the Georgia State Patrol (GSP) (Exhibit 2.1). HC felt because the issue was not of GSP concern, the response should not have been signed as Lt. Mark Mitchell in his official capacity as a Trooper with GSP.

Lt. Mitchell did not deny the fact he responded to the email sent by HC utilizing his work email address, mmitchell@gsp.net. Lt. Mitchell explained he forgot to remove the signature from the email before responding. Lt. Mitchell's signature reads:

Lt. Mark Mitchell # 061

Georgia State Patrol
Criminal interdiction Unit
1659 LaFayette Parkway
LaGrange, GA 30241
706-845-4104 Office
404-978-3488 Cell

Lt. Mitchell stated during his interview, he did not utilize a personal email address before this incident and every correspondence with anyone was with email address mmitchell@gsp.net. According to Lt. Mitchell, HC obtained the email address mmitchell@gsp.net when Mitchell sent them videos of his residence shaking on March 25, 2014.

On March 25, 2014, Lt. Mitchell and Herrell conversed via email regarding the videos taken by Lt. Mitchell. Herrell informed Lt. Mitchell the company could not accept the videos because they were not performed by an independent consultant. Lt. Mitchell responded back to the email by stating, "Drive Safe!" Lt. Mitchell told TFC Hinson and Capt. Wilburn he did not mean any ill intentions by the response; only as a "smart ass" response. TFC Hinson explained to Lt. Mitchell how the response could be misinterpreted as threatening. Lt. Mitchell indicated he understood.

The third date HC referenced Lt. Mitchell used his position as an officer with GSP in an inappropriate and unprofessional manner was on December 1, 2014 (Exhibit 2.2). HC alleged on this date, Lt. Mitchell unlawfully entered the jobsite in full GSP uniform taking pictures and video.

HC alleged Lt. Mitchell threatened Knepper by stating "come and get some of this." The jobsite was marked with "Authorized Personnel Only" signs when Lt. Mitchell entered the jobsite.

Knepper stated during his interview, he observed Lt. Mitchell enter the jobsite wearing the GSP uniform taking pictures. Knepper stated Lt. Mitchell exited the jobsite as he (Knepper) walked in the direction of Lt. Mitchell. Knepper told Lt. Mitchell to stay outside the gates and showed him the "Authorized Personnel Only" signs again. Knepper told Lt. Mitchell he has done nothing but intimidate him (Knepper) the entire time he had been at the job. According to Knepper, that was when Lt. Mitchell made the threatening comment "come and get you some of this." Knepper documented Lt. Mitchell's actions and comments in the jobsite daily report (Exhibit # 15).

According to Lt. Mitchell, on December 1, 2014, the construction site was very noisy with diesel engines revving up, alarms beeping, and a large green pump truck going in and out of the site. Lt Mitchell told TFC Hinson and Capt. Wilburn, he walked approximately 20 yards inside the fence to take some pictures because the gates were open. Lt. Mitchell described Knepper approached him in an "agitated posture," yelling, "May I help you?" Lt. Mitchell explained Knepper told him to stay outside the jobsite and acknowledged he (Lt. Mitchell) was aware of the "Authorized Personnel Only" signs.

During his interview, Lt. Mitchell did not deny he made the comment towards Knepper or being in uniform that day. Lt. Mitchell explained he made the comment to Knepper because Knepper approached him in an "aggressive posture," and he felt like Knepper was going to cause

physical bodily harm. Lt. Mitchell documented his actions and the incident in an email he sent to himself (Exhibit # 10).

The duty roster for December 1, 2014, depicted Lt. Mitchell was to work from 1000 hours to 1800 hours (Exhibit # 16). The *Mobile Forms* server showed Lt. Mitchell actually worked from 1130 hours to 1933 hours (Exhibit # 17). Lt. Mitchell stated during his interview, he considered himself on duty at the time he was taking pictures which were to be used in a personal matter and not GSP business. Lt. Mitchell confirmed the pictures were a personal matter between HC and himself and had nothing to do with the State Patrol.

The fourth date HC referenced Lt. Mitchell used his position as an officer with GSP in an inappropriate and unprofessional manner was on January 13, 2015 (Exhibit 2.3). HC alleged Lt. Mitchell was took pictures and videoed the construction site in full uniform. HC felt this activity should not have been conducted while Lt. Mitchell was serving as an officer of GSP if there was no criminal investigation being conducted of the construction site. Knepper photographed Lt. Mitchell in uniform holding a video camera. These pictures had a time and date stamp: January 13 2015, with a time of 11:45 through 11:48. HC attached the photographs taken by Knepper to the complaint form filed by Frank Haren Jr. (Exhibit # 2.3).

During Lt. Mitchell's interview, Capt. Wilburn showed him the photographs taken by Knepper. Lt. Mitchell identified himself as the individual in the photographs wearing a GSP Class A uniform. The duty roster for January 13, 2015, depicted Lt. Mitchell worked from 1000 hours

to 1800 hours (Exhibit # 16). The *Mobile Forms* server for the date of January 13, 2015, showed Lt. Mitchell actually worked from 11:03 hours to 20:29 hours. Once again, Lt. Mitchell stated he was videoing and documenting personal matters between him and HC; not for the purpose of a criminal investigation the GSP.

Lt. Mitchell explained he was videoing to document HC unloading the heavy equipment right in front of his residence and the buildup of mud in the roadway. Lt. Mitchell told Capt. Wilburn he (Lt. Mitchell) did not have any intentions to make a criminal case but wanted personal documentation.

The fifth date HC referenced Lt. Mitchell used his position as an officer with GSP in an inappropriate and unprofessional manner was on March 19, 2015 (Exhibit 2.4). On the date mentioned, Lt. Mitchell initiated a traffic stop on a HC truck, pulling a trailer, for failure to maintain lane (O.C.G.A. 40-6-48). The vehicle was being driven by Knepper. HC felt the video did not show any evidence Knepper violated O.C.G.A. 40-6-48. HC alleged Lt. Mitchell's actions was yet another attempt of intimidation and Lt. Mitchell used his position in an inappropriate and unprofessional manner.

During Knepper's interview, he declared there was a lot of scrap material left on the jobsite and it was his responsibility to clean up the jobsite. Knepper explained he owned a personal trailer so he loaded up the scrap material on the trailer and left the jobsite. Knepper described as he was leaving the jobsite, he observed Lt. Mitchell at his patrol vehicle in the driveway. Knepper further

explained he observed the gate to the jobsite needed to be fixed, so he stopped and fixed it which took approximately 15 to 20 minutes. Knepper described the entire time he was fixing the gate, Lt. Mitchell sat in his patrol vehicle with his hand on the steering wheel, just watching Knepper.

According to Knepper, he motioned for Lt. Mitchell to pull out in front of him but Lt. Mitchell did not. Knepper continued on and Lt. Mitchell pulled out of his driveway behind Knepper. Knepper stated he obeyed all traffic laws but when he was approximately one mile from the Alabama/Georgia state line, Lt. Mitchell activated his emergency equipment (blue lights). Knepper provided all documentation Lt. Mitchell requested. Knepper stated Lt. Mitchell had the opinion the trailer was overweight but Knepper described the trailer had 3500 pounds axles and was equipped with two axles. Knepper explained there was not a tag displayed on the trailer because he had bought the trailer a week prior.

Lt. Mitchell explained during his interview on Fridays there was typically no work performed at the jobsite. Lt. Mitchell thought it was suspicious when he saw a HC truck leaving the jobsite with a trailer loaded with material. Lt. Mitchell wondered if the individual was stealing the material. Lt. Mitchell stated when he got behind the HC truck, he observed the trailer had no tag displayed which made him even more suspicious, so he followed the truck for 18 minutes.

According to Lt. Mitchell, while he was following the truck, he observed the rear wheels bowed due to being overweight. Lt. Mitchell further noticed Knepper was having problems maintaining his lane of travel. Lt. Mitchell explained he decided to initiate a traffic stop because the trailer did not have a tag and in his opinion, failed to maintain his lane of travel.

After Lt. Mitchell spoke with Knepper, he walked back to the driver's side trailer tires and photographed the trailer utilizing his departmental issued cell phone. Lt. Mitchell told Capt. Wilburn the reason he took photographs was to show why he initiated a traffic stop and to prove he had a legitimate reason to initiate a traffic stop. Lt. Mitchell issued Knepper a warning for failure to maintain lane. Lt. Mitchell confirmed it is not normal practice for him to take pictures when issuing courtesy warnings; however, felt the need to do so for documentation reasons.

The sixth date HC referenced Lt. Mitchell used his position as an officer with GSP in an inappropriate and unprofessional manner was on March 26, 2015 (Exhibit 2.5). On this date, Lt. Mitchell stopped HC employee Joe Henry Smith and issued him a courtesy warning for Failure to Signal Lane Change and Following Too Closely. Smith alleged to HC, Lt. Mitchell made certain comments that were deemed offensive by Smith (see next paragraph for specifics). HC wanted an explanation why there was no audio on Lt. Mitchell's video of the traffic stop. HC felt the traffic stop of another HC employee was another intimidation tactic. TFC Hinson viewed Lt. Mitchell's video and confirmed there was no audio on the video.

During Smith's interview with TFC Hinson and Capt. Wilburn, he stated he observed a police car behind him and changed lanes so the "policeman" could observe an individual hanging out of a vehicle in front of him. Smith told TFC Hinson and Capt. Wilburn, Lt. Mitchell told him why he was pulled over. According to Smith, he told Lt. Mitchell why he (Smith) changed lanes and that is when Lt. Mitchell made the comment "This is my town, you should have used a turn

signal; this is the way we do things here.” Smith confirmed Lt. Mitchell issued him a courtesy warning but Smith did not believe he was following too closely.

Lt. Mitchell told TFC Hinson he observed a HC construction truck traveling over the posted speed limit and that caught his attention. According to Lt. Mitchell, he observed the driver of the truck follow a vehicle too closely and then make a lane change without using a turn signal. Lt. Mitchell did not have a viable explanation as to why there was no audio on the video. Lt. Mitchell stated he did not recall making any of the comments he was alleged to have said. Lt. Mitchell did not think he said anything out of the ordinary to Smith during the stop.

TFC Hinson obtained the Troop D stop log of all traffic stops performed by Lt. Mitchell from June 2014 to June 2015 (Exhibit # 8). The stop log revealed Lt. Mitchell performed a total of 114 traffic stops during that time frame. TFC Hinson determined by the stop log that out of the 114 vehicles stopped by Lt. Mitchell, six pertained to the vehicles leaving the Yellow Creek Pump Station jobsite. Lt. Mitchell did not issue any citations to any of the drivers in those six vehicles. Lt. Mitchell stated he only initiated a traffic stop of any of those vehicles because he observed a traffic law violation or a state law violation. Lt. Mitchell was adamant during his interview he did not stop any of those individuals because of a personal vendetta.

On February 25, 2015, Lt. Mitchell utilized his Watchguard camera in his patrol vehicle to record four separate incidents (Exhibit # 12). One of those videos was a traffic stop on a City of LaGrange pump truck for violating O.C.G.A. 32-6-1. (Causing of any buildup of rock, gravel, mud, and dirt). Lt. Mitchell told TFC Hinson and Capt. Wilburn while following the pump truck,

he observed a big rock of mud come from the rear tandems of the truck. During the traffic stop, Lt. Mitchell took a total of eight photographs utilizing his state issued cell phone. Lt. Mitchell claimed he only took the photographs to document what he observed even though the incident was video recorded.

After completing the traffic stop, Lt. Mitchell returned to the entrance of the Yellow Creek Pump Station and again utilized his Watchguard camera to recording an individual cleaning off the mud in the roadway. Lt. Mitchell again claimed he only returned to record and document what he observed (mud in roadway) in the event a formal complaint was made against him.

On July 8, 2015, TFC Hinson and Capt. Wilburn interviewed Cpl. Jay Thompson with the Criminal Interdiction Unit (CIU) at the OPS office located at DPS Headquarters. Cpl. Thompson is the video evidence custodian for CIU. Cpl. Thompson is responsible for making copies of any video request made through Open Records request regarding CIU. Cpl. Thompson stated in his interview, request for videos had been made by DPS Legal Director, Melissa Rodgers, TFC Hinson, and Capt. Wilburn regarding HC and the investigation.

Cpl. Thompson and Lt. Mitchell's offices are right next to each other located in the GSP Post in LaGrange, Georgia. Lt. Mitchell's videos from his WatchGuard DVD camera are mostly stored at the LaGrange Post. TFC Hinson and Capt. Wilburn asked Cpl. Thompson if Lt. Mitchell had knowledge of the OPS video request and to see if he (Lt. Mitchell) had given Cpl. Thompson any type of directive to provide Mitchell with copies. Cpl. Thompson stated Lt. Mitchell told Thompson to make a copy for Mitchell of anything Thompson made and sent to "them." Cpl.

Thompson further explained Lt. Mitchell talked about the investigation and HC even after Lt. Mitchell had been notified he was under investigation.

Lt. Mitchell is the commander of CIU and Cpl. Thompson's supervisor. Cpl. Thompson explained he felt like Lt. Mitchell's directive was an order and there might be discipline or retaliation if Thompson did not comply. Cpl. Thompson felt Lt. Mitchell placed him in a precarious position with the instruction.

On July 9, 2015, Lt. Mitchell was interviewed at OPS regarding his directive to Cpl. Thompson. Lt. Mitchell acknowledged he told Cpl. Thompson to make him a copy of anything requested regarding HC but did not do so to interfere with the investigation. Lt. Mitchell confirmed he had spoken with personnel regarding the investigation; however was unaware it was a violation of DPS Policy.

On July 13, 2015, Lt. Mitchell was placed on Administrative Leave with pay by Capt. Mark Hambert pending the outcome of the investigation.

FINDINGS:

ALLEGATION # 1:

On June 25, 2014, HC alleged Lt. Mitchell unlawfully entered the Yellow Creek Station Pump jobsite in civilian clothes and threatened Haren Construction employee, Randall Knepper, he would take a law enforcement action by arresting them if they (HC) "shook his house one more time." HC believed Lt. Mitchell's threats against HC employees was unethical, unprofessional, and inappropriate.

FINDING: Sustained

On June 25, 2015, Lt. Mitchell did not deny the fact he entered the jobsite. Lt. Mitchell stated he entered the jobsite because he was awoken at 6:14 a.m., by the blare from trucks revving their engines and other loud noises. During Lt. Mitchell's interview, he confirmed he threatened to take law enforcement action by swearing out criminal trespass warrants. Lt. Mitchell claimed the reason for the criminal trespass warrants were to prevent HC from shaking his house. Lt. Mitchell even spoke about obtaining warrants with the district attorney who informed him (Lt. Mitchell) the issue was a tort claim not a criminal matter.

Lt. Mitchell had prior knowledge of the "Authorized Personnel Only" signs and had been previously warned to not enter the jobsite prior to this date. Lt. Mitchell was aware he was not authorized to be inside the jobsite. Because of this knowledge, Lt. Mitchell should not have entered the jobsite.

The DPS Code of Conduct Policy 3.01.4.F.7.B, states members will not use their official position for obtaining privileges not otherwise available to them except in the performance of duty. Lt. Mitchell's attempted to use his official position to take law enforcement action by talking with the district attorney on swearing out warrants. Lt. Mitchell used his position as a State Trooper and unlawfully entered the gates to the construction site.

Lt. Mitchell actions in this allegation were unlawful, unethical, unprofessional, and entirely inappropriate. Lt. Mitchell's behavior on this date is clearly a violation of the DPS Code of Conduct Policy.

ALLEGATION # 2:

On August 25, 2014, Lt. Mitchell and Haren Construction were conversing via email. HC alleged Lt. Mitchell used his position as a State Trooper in an inappropriate and unprofessional manner by responding to an email in his official capacity as an officer of GSP. HC alleged the email was in regards to the Yellow Creek Pump Station which was a matter between Mr. Mark Mitchell and Haren Construction not Lt. Mark Mitchell with the Georgia State Patrol and Haren Construction.

FINDING: Sustained

Lt. Mitchell explained during his interview with TFC Hinson and Capt. Wilburn he did not utilize a personal email address. Lt. Mitchell provided the explanation he utilized his state email address mmitchell@gsp.net for everything including personal issues. Lt. Mitchell claimed he

forgot to remove his signature from his email when responding to email in question. According to Lt. Mitchell, it was an honest mistake and there was no intention of using his authority as a State Trooper. However, it can be and was interpreted that Lt. Mitchell was attempting to use his position with GSP in an inappropriate and unprofessional manner therefore, Haren Construction's allegation is sustained.

DPS Policy 3.03.4.A.1 (Code of Ethics) states that member shall make every effort to avoid even the appearance of a conflict of interest. The matter between Lt. Mitchell and Haren Construction is personal. Lt. Mitchell claimed he forgot to remove his signature from the email; however, when he did not remove the signature, it became a conflict of interest and a violation of policy.

ALLEGATION # 3

HC alleged that on December 1, 2014, at approximately 10:00 a.m., Lt. Mitchell unlawfully entered the jobsite dressed in his GSP Class A uniform, taking pictures and videoing. HC alleged Lt. Mitchell made a threatening comment to Knepper by stating "Come and get some of this." HC alleged this behavior by Lt. Mitchell went well beyond a "neighbor with a personal complaint." HC further alleged Lt. Mitchell abused his position with GSP to threaten and intimidate Knepper.

FINDING: Sustained

On the aforementioned date, Lt. Mitchell and Knepper both acknowledged Lt. Mitchell entered the jobsite dressed in a GSP Class A uniform. Knepper claimed he observed Lt. Mitchell

enter the jobsite even though "Authorized Personnel Only" signs were displayed. Knepper described as he told Lt. Mitchell to stay out of the jobsite, Lt. Mitchell placed his hand on his weapon and stated "Come over here and get you some of this."

Lt. Mitchell related he walked approximately 20 yards inside the gates of the jobsite to photograph the vehicles and the construction crew. According to Lt. Mitchell, as he was exiting the fence, Knepper walked over to him in an "agitated posture" yelling at him. Lt. Mitchell stated the two conversed and Knepper made another step towards him with an "aggressive posture" and that is when Mitchell made the comment. According to Lt. Mitchell, he felt as if Knepper was walking his direction in a threatening manner which why he made the comment. Lt. Mitchell acknowledged he was aware of the "Authorized Personnel Only" signs before he entered the gates of the jobsite.

The investigation revealed Lt. Mitchell actually did not go on duty until 1133 hours. Lt. Mitchell admitted to TFC Hinson and Capt. Wilburn the photographs taken had nothing to do with the Georgia State Patrol and was a personal matter between Haren Construction and himself.

Lt. Mitchell again did not have the authority to enter the gates to jobsite, therefore, he unlawfully entered the jobsite. Even though Lt. Mitchell was not actually on duty at the time the incident occurred, he was dressed in a GSP Class A uniform; therefore, he appeared to represent the Georgia State Patrol as a Commissioned Officer.

Lt. Mitchell's behavior on this date was once again a violation of the DPS Code of Conduct (Policies 3.01.4.F.1&12). DPS Policy 3.01.4.F.1 states members will not engage in any conduct

that is unbecoming of an employee. Furthermore, DPS Policy 3.01.4.F.12 states members will be courteous to the public, tactful in the performance of their duties, control their tempers and exercise the upmost patience. Lt. Mitchell described he felt threatened by Knepper and which was why he made the comment "come and get you some of this" however the comment was very rude, tactless and injudicious which constituted conduct unbecoming.

ALLEGATION # 4:

On January 13, 2015, Haren Construction alleged Lt. Mitchell was dressed in uniform while taking photographs and videoing the construction site. HC felt Lt. Mitchell's activity should have not been performed if there was no ongoing criminal investigation being conducted by the Georgia State Patrol. Haren Construction alleged Lt. Mitchell once again used his position as a State Trooper in an inappropriate and unprofessional manner.

FINDING: Sustained

Knepper with Haren Construction photographed Lt. Mitchell dressed in a GSP Class A uniform holding a video camera. The photographs taken by Knepper have a time date stamp of 01/13/2015 with a time of 11:45 through 11:48 a.m. A total of five photographs were taken by Knepper.

When Capt. Wilburn showed Lt. Mitchell all of the photographs taken by Knepper, Lt. Mitchell identified himself in all five photographs. Lt. Mitchell stated the camera he utilized was a personal camera. Lt. Mitchell admitted the videoing of the construction site did not have

anything to do with the Georgia State Patrol. Lt. Mitchell told TFC Hinson and Capt. Wilburn he was not videoing the construction site to build a criminal case but for documentation for his personal use.

The investigation revealed Lt. Mitchell actually came on duty at 11:03 a.m. on January 13, 2015. The time and date stamp on the photographs taken by Knepper was 11:45 through 11:48 a.m. The photographs taken by Knepper clearly prove Lt. Mitchell was conducting personal business when he claimed he was on duty working as a Georgia State Trooper.

While Lt. Mitchell's actions of videoing the construction site are not necessarily unprofessional, they are, however, inappropriate and a violation of DPS Code of Conduct Policy 3.01.4.F.1. DPS Policy 3.03.4.A.1 (Code of Ethics) states members shall make every effort to avoid the appearance of conflict of interest. Lt. Mitchell's ability to protect the public interest was compromised by his personal interest with Haren Construction by videoing the jobsite while on-duty working for DPS.

Because the Georgia State Patrol nor the Department of Public Safety was conducting a criminal investigation, Lt. Mitchell had no business videoing the Yellow Creek Pump Station while acting as an employee of the Georgia State Patrol. Lt. Mitchell let his personal interest come before protecting the public's interest, therefore, he was in violation of DPS Policy 3.03.4.A.1.

ALLEGATION # 5:

On March 19, 2015, Haren Construction alleged Lt. Mitchell used his position as a Georgia State Trooper to intimidate one of their employees by conducting a traffic stop on a Haren Construction vehicle. Lt. Mitchell initiated a traffic stop on a vehicle driven by Knepper and issued him a courtesy warning for failure to maintain lane (O.C.G.A. 40-6-48). Haren Construction felt there was no evidence on the video to constitute Lt. Mitchell initiate a traffic stop.

FINDING: Exonerated

On Friday, March 19, 2015, Lt. Mitchell told TFC Hinson and Capt. Wilburn he observed a Haren Construction leaving the jobsite pulling a trailer full of scrap metal. Knepper stated during his interview with TFC Hinson and Capt. Wilburn, he was responsible for cleaning up the jobsite and since there was scrap material left at the jobsite, he loaded the material on his personal trailer.

Lt. Mitchell explained no one usually worked on Fridays at the job site and found it suspicious when he observed a Haren Construction vehicle leaving with a trailer load with material and thought someone might be stealing the material. Lt. Mitchell stated he followed the vehicle pulling the truck and observed the trailer did not have a tag displayed. Lt. Mitchell further described he observed the driver fail to maintain his lane of travel. Lt. Mitchell explained how he observed the driver "was on the center line, run off the road on Country Club, and over the right white line."

Lt. Mitchell articulated he began to follow the vehicle because of the suspicion someone might be stealing materials from the job site. Lt. Mitchell explained once he was behind the

vehicle, he observed there was no tag displayed on the trailer and the driver failed to maintain his lane so he made the decision to initiate a traffic stop. Lt. Mitchell articulated valid reasons for his suspicions and for the traffic stop notwithstanding Mitchell's personal issues between Haren Construction. Because Lt. Mitchell was able to articulate his justification for his actions, the HC allegation has no merit.

ALLEGATION # 6:

On March 26, 2015, Lt. Mitchell performed a traffic stop on a Haren Construction employee, Joe Henry Smith, in LaGrange, Georgia and issued Smith a courtesy warnings for failure to signal when changing lanes and following too closely. Smith alleged Lt. Mitchell made offensive comments to him during the traffic stop. There is no audio on the video during the traffic stop to prove or disprove the allegation. Haren Construction felt Lt. Mitchell again attempted to intimidate one of their employees.

FINDING: Not Sustained

Smith told TFC Hinson and Capt. Wilburn during his interview, Lt. Mitchell made the comment "this is my town" when he explained why he changed lanes. TFC Hinson viewed the video and confirmed there is no audio on the video. Lt. Mitchell explained to TFC Hinson and Capt. Wilburn, he observed Smith traveling at a speed above the posted speed limit. Lt. Mitchell further explained, while he was behind Smith, he observed Smith follow a vehicle too closely and change lanes without signaling.

Lt. Mitchell stated he knew it was a Haren Construction vehicle because of the decals on the truck. Lt. Mitchell stated he did not recall making any offensive comments to Smith. Because there is no audio on the video, Smith's account of the incident cannot be clearly proven or disproven. Lt. Mitchell did not have an explanation as to why there was no audio other than his body microphone was not on.

ADDITIONAL FINDINGS:

ALLEGATION 1: Code of Conduct Violation (DPS Policy 3.01.4.F.1)

FINDINGS: Sustained

During Mike Herrell's interview with TFC Hinson and Capt. Wilburn, he provided a copy of an email thread between himself and Lt. Mitchell. The email conversation was in reference to some videos sent to Haren Construction by Lt. Mitchell. Herrell responded to Lt. Mitchell stating the Haren Construction would not be able to accept the videos because they are not from an independent contractor.

Lt. Mitchell replied back to the email with a response of "Drive Safe!" Lt. Mitchell told TFC Hinson he did not have any ill intentions and did not mean that as a threat to Herrell but was

just a "smart ass" response. Regardless of whether or not Lt. Mitchell had any malice intentions behind the response, the response could have been misinterpreted and was perceived by Herrell as a threat since Lt. Mitchell is a law enforcement officer. The response to the email "Drive Safe!" is violation of the Code of Conduct policy (3.01.4.F.1) and is conduct unbecoming of an employee.

ALLEGATION # 2: Code of Conduct Violation (DPS Policy 3.01.4.D & 3.01.4.F.7B)

FINDINGS: Sustained

Lt. Mitchell was notified by Capt. Wilburn he was the subject to an administrative investigation on June 15, 2015, via email. Lt. Mitchell responded to the email stating he was clear and asked if the investigation pertained to Haren Construction. Lt. Mitchell conversed with departmental employee Cpl. Thompson about the investigation. Cpl. Thompson told TFC Hinson and Capt. Wilburn, Lt. Mitchell talked with him on a daily basis about the investigation and the ongoing litigation with Haren Construction.

Furthermore, Lt. Mitchell told Cpl. Thompson to provide him with copies of anything requested regarding Haren Construction. Lt. Mitchell is the commander over CIU and Cpl. Thompson's supervisor. Cpl. Thompson told TFC Hinson and Capt. Wilburn he took those directions as an order and felt there would be a possibility of discipline or retaliation if he did not follow the order. Lt. Mitchell placed Cpl. Thompson in an untenable situation which should have never happened.

DPS Policy 3.01.4.D.3 states members who are target of a pending departmental investigation will not discuss the complaint with anyone other than OPS, Staff of Legal Services, or person conducting the investigation. Lt. Mitchell clearly violated the policy by discussing the investigation with Cpl. Thompson after Mitchell had been notified he was the target of an investigation. While Lt. Mitchell did state he did not realize this was a policy violation, he, as a commissioned officer with the Georgia State Patrol, cannot use his ignorance of policy as a defense.

Furthermore, Lt. Mitchell violated DPS Policy 3.01.4.F.7B when he gave Cpl. Thompson an order to provide him with copies of anything requested by Legal Services or OPS. The policy states members will not use their official position to obtain privileges not otherwise available to them except in the performance of duty. Though he may not have viewed it as such, Lt. Mitchell's directive to Cpl. Thompson was tantamount to interfering with the OPS investigation and could be construed as obstruction. Lt. Mitchell used his position as a Lieutenant over his subordinate, Cpl. Thompson, to obtain information that otherwise would not have been available to him. Lt. Mitchell clearly violated DPS Policy 3.01.4.F.7B.