

**STATEMENT OF CHARGES AGAINST
NICHOLAS FOLGER
A MEMBER OF THE MINNESOTA STATE PATROL**

Lt. Colonel Rochelle Schrofer, as Assistant Chief of the Minnesota State Patrol, files with the Commissioner of Public Safety, State of Minnesota, the following Statement of Charges against T/Sgt. Nicholas Folger (badge number 98), a member of the Minnesota State Patrol, who she believes is guilty of:

Violations of General Orders:

- 02-10-029 Conduct – Sworn Members
 - IV. D. Sworn members of the State Patrol shall not, whether on or off duty, exhibit any conduct which discredits themselves or the department or otherwise impairs their ability or that of other officers or their department to provide law enforcement services to the public. A peace officer's ability to perform their duties is dependent upon the respect and confidence the public has for the officer and law enforcement officers in general. Sworn members of the State Patrol must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.
- 17-30-023 Audio/Video Recording Equipment
 - II.B. 1. The primary purpose for using audio and video recorders is to obtain evidence. Therefore, troopers shall use the squad camera system to record all traffic stops, pursuits, emergency vehicle operations, and all other investigative and law enforcement-related interactions with the public. Troopers shall not intentionally turn off their recorders prior to or during any of the events described above.
- 18-40-011 Mobile Data Computer (MDC)
 - VII.B.1. In all cases where practical, members shall use the "Create Field Event" command for all field-generated activity such as traffic stops, motorist assists, assists to other agencies not assigned through dispatch, etc. In extreme cases where it is not practical to use "create field event," members shall notify dispatch with the necessary details for dispatch entry into CAD.
 - VII.B.2. Members shall enter event type, sub-event type (where applicable), license number (where applicable), and GPS/CAD location (where available). When GPS/CAD location is unavailable, a manually-entered location shall be utilized.
- 20-90-013 Citations, Warnings and E-Citation
 - V.B. A warning form must be completed for all stops that do not result in a citation being issued or a custodial arrest being made. This requirement also applies to federal project shifts.

Circumstances related to the above allegations are as follows:

On April 14, 2020, the Minnesota State Patrol received a call from Bloomington Police to report a complaint they fielded from a citizen. Upon realizing it was a State Trooper who was the subject of the complaint, they contacted the Minnesota State Patrol. Sergeant Folger was identified as the trooper from this incident and a complaint was filed. The complaint alleges that Folger engaged in misconduct by inappropriately touching a female driver (Female 1) and later requiring her to expose her breasts. The investigation into the complaint led to additional allegations that Folger failed to appropriately record, and document events and also failed to issue warnings/citations on other occasions.

During the investigation of the initial complaint, a second incident involving similar alleged conduct was found (Female 2). This second incident was also included in this investigation.

The investigation supports a finding that Folger turned off his video recorder just prior to making contact with the Female 1. Video evidence and Folger's statement during the investigation support this finding. Video system analysis was conducted on Folger's in squad WatchGuard camera. Video system analysis shows that Folger manually powered down the video at 1731 on the day of the incident. Initially in his interview, Folger denied purposely turning the camera off at the time of the traffic stop. Further into the interview, Folger claims he recalls "having issues that day . . . [so he] had pushed the power button" but he did not recall "messing with the power button" at the time of the stop. He added, "If I did, you know, maybe it was muscle memory or something, I don't know. But I wasn't trying to power off my computer. Or my camera."

The investigation supports that Folger did not issue warnings or citations during either of these events. During his interviews, Folger admitted he did not issue a warning or citations in either of these situations.

The investigation supports a finding that Folger intentionally did not record all traffic stops and commercial vehicle inspections from April 1 – April 30, 2020 which was the timeframe focused upon and reviewed during this investigation. The investigation further supports that some recorded events capture only a portion of an event, while other events have no recordings associated with them. During the interview, Folger alleges that his video camera has not worked properly since the "get-go." He stated that the issues include randomly "powering down during my shift, getting reboots and errors. Um...a timer coming on saying that it was shutting off. Um, and then sometimes just being off." He provided several emails showing requests for videos from the 4700 office manager and prosecutors as evidence that he has an issue. These emails date back approximately 1-2 years. Although it is agreed upon that technical issues were occurring with the video camera, the evidence is clear that Folger does not record certain events, and, in some cases, he only records part of the event.

The investigation supports a finding that Folger failed to enter event data into his MDC, including event type, license number, and location data. Finally, it supports a finding that Folger allowed drivers without valid licenses to continue driving.

Troopers must not exhibit any conduct, which discredits themselves or the department. Folger's conduct discredits both himself and the agency. In total, his actions have created a strong inference of wrongdoing because he has routinely failed to record stops in their entirety or, in some cases, at all as required. He failed to create events and document his stops by entering data as required. Finally, he failed to perform his job by failing to issue warnings or citations as required and he allowed violators in many instances to drive away, creating liability for the agency.

In violating the policies documented in this statement of charges, Folger exercised discretion that he was not authorized to use. He repeatedly failed to perform his job in line with the core value of excellence. He did not provide effective service that made the motoring public more safe on the roadways. This type of conduct and disregard for basic, common-sense policies discredit himself and the State Patrol.

Dated: December 17, 2020


Lt. Colonel Rochelle A. Schrofer
Assistant Chief

DATE: December 17, 2020

TO: T/Sgt. Nicholas Folger #98
District 4700

FROM: Lt. Colonel Rochelle Schrofer *RS*
Assistant Chief

PHONE: [REDACTED]

SUBJECT: NOTICE OF INTENT TO TAKE DISCIPLINARY ACTION – IAD CASE #20-09

The Internal Affairs investigation into the allegations contained in the attached Statement of Charges has been completed and the allegations have been *sustained*. It is my intent to take disciplinary action against you in this matter.

You are entitled to an informal meeting for the purpose of allowing you to review the charges against you, review the evidence, and present any additional information on your behalf. Be advised that an Association representative may be in attendance as directed by the trooper's labor agreement.

I have scheduled the meeting at 1030 hours on Tuesday, December 22 at District 4700.

Attachment

cc: Major Sokol
Captain Olsen
Sgt. LeDoux
Lynn Mueller
Megan Yang
Annie Porbeni

DATE: December 22, 2020

TO: T/Sgt. Nicholas Folger #98
District 4700

FROM: Lt. Colonel Rochelle Schrofer *RS*
Assistant Chief

PHONE: [REDACTED]

SUBJECT: DISCIPLINARY ACTION – NOTICE OF SUSPENSION – IAD CASE #20-09

This is to inform you of my decision to take disciplinary action against you in the form of a 15 day (120 hours) unpaid suspension for violations of General Orders as outlined in the Statement of Charges dated December 17, 2020.

The dates of the suspension will be:

- January 25-29, 2021
- February 8-12, 2021
- March 1-5, 2021

This action may be appealed pursuant to the grievance procedures set forth in Article 16 of the labor agreement between the Minnesota Law Enforcement Association and the State of Minnesota.

cc: Major Sokol
Captain Olsen
Sgt. LeDoux
Lynn Mueller
Annie Porbeni
Megan Yang
Julie Bever