



Executive Summary Report

Under the leadership of Colchester Town Manager Dawn Francis and with the full cooperation of the Colchester Police Department, the Town of Colchester, Vermont retained Daniel K. Troidl, DBA DT Investigators, to conduct an independent and objective assessment of the circumstances that led to the arrest of former Colchester Detective Tyler Kinney for heroin use and stealing evidence from Police Department Evidence Room. The scope of the work requested by the Town of Colchester was as follows:

1. Review all policies and procedures that intersect with the Tyler Kinney incident and provide feedback on:
 - a. Whether or not policies are current and represent best practices, etc.
 - b. Whether or not the policies were followed appropriately.
 - c. Are there any additional policies or procedures needed; if so, make recommendations.
2. Review Colchester Police Department's handling of an earlier allegation of drug use and a potentially inappropriate relationship with a Confidential Informant by Tyler Kinney. Specifically:
 - a. Was policy followed?
 - b. Was the decision to close it out after an administrative review, without referring it to an outside agency for an Internal Affairs Investigation appropriate?
 - c. Does the current policy sufficiently outline distinction between administrative review and a full-blown Internal Affairs investigation?
 - d. Did Colchester Police Department personnel take actions during the course of this administrative review that were thorough and reasonable?
 - e. Any additional feedback related to this allegation and investigation.

Introduction:

For the purpose of context, the following is a chronological synopsis of events that is the basis for this report. Following the synopsis are specific Focus Areas with findings and recommendations:

In June 2014, Colchester PD was made aware of an allegation that Detective Tyler Kinney was involved in a sexual relationship and using heroin with [REDACTED]. The information came from an officer of another Vermont Police Department who had learned of the allegations from a concerned citizen. Within days, Colchester PD received a second report of the same information from a local Private Investigator, however the source of the information turned out to be the same concerned citizen who made the initial allegation.

After receiving this information, Chief Morrison met with the Command Staff of the Colchester Police Department to discuss the allegations and determine how they should be addressed. Chief Morrison admitted thinking at the time that the allegations were far fetched, but opted to conduct an Administrative Review to determine if sufficient

information existed to initiate an Internal Affairs Investigation. A detective was assigned to conduct the Administrative Review and was to report his findings to Chief Morrison. The Administrative Review concluded that the concerned citizen making the allegation was not credible. Tyler Kinney was interviewed regarding these allegations and denied them. As a result, the Administrative Review was closed and considered unfounded.

On Oct 24, 2014 a Colchester PD officer requested assistance from Det. Kinney to reweigh some marijuana from a pending case. The officer noted discrepancies between what he recalled tagging into evidence and what Det. Kinney provided to him to reweigh. Further, some of the original evidence packaging was missing. The officer brought this discrepancy to the attention of a Colchester PD Supervisor, consistent with General Order #45. The Colchester PD supervisor did not follow General Order #45 which required an investigation into the circumstances and notification to the Chief of Police that there was a discrepancy in evidence. Members of command staff were never made aware of this incident.

On November 10, 2014 the Burlington Police Department executed a search warrant on North Avenue in Burlington, VT at the residence of [REDACTED]. During the execution of this warrant, a .38 caliber revolver was recovered.

During an interview with Alcohol, Tobacco and Firearms (ATF) Special Agent Matthew Ekstrom, [REDACTED] advised that Colchester Police Department Detective Tyler Kinney had given him the gun for "protection." [REDACTED] told Special Agent Ekstrom that he met Kinney approximately one year ago after being arrested by Colchester PD and that he and Kinney had developed a friendship that included doing heroin together. According to [REDACTED], the gun had come from the Colchester PD evidence room, which Kinney had access to and that Kinney had taken other items as well, including heroin for their mutual use. [REDACTED] had also obtained heroin on his own for the two of them to use.

Special Agent Ekstrom was able to confirm with Colchester PD that the firearm found at [REDACTED] residence had been seized by Colchester PD during another investigation and was supposed to be secured in the Colchester PD evidence vault.

ATF Agents interviewed Tyler Kinney and he admitted that he had been using opiates for approximately one year and that he was attempting to recover from opiate addiction. Kinney confirmed his friendship with [REDACTED] and confessed that they had used heroin together, which was obtained several different ways. First, [REDACTED] would purchase heroin, occasionally with money Kinney provided him. Second, Kinney would take heroin from the Colchester PD evidence vault for them to use. Third, Kinney would take other drugs from the evidence vault, which he gave to [REDACTED] to sell or swap for heroin. Kinney also admitted that he had removed the gun that was found at [REDACTED] residence from the evidence vault and had given it to [REDACTED] for protection approximately 1-2 weeks earlier.

Kinney further advised that he had also obtained drugs from the voluntary prescription medicine drop-off box located in the Colchester PD lobby, which he was in charge of.

As a result of ATF's investigation, Kinney was arrested for Federal drug and firearm related offenses.

During the course of the review, all sworn and civilian members of the Colchester Police Department were interviewed, including Dispatchers and Administrative Staff. All pertinent Colchester Police Department Policies and General Orders were reviewed, as were relevant cases from the Valcour database and the Affidavit from Kinney's arrest. The questions asked of all employees included the following:

1. How many years have you been employed by Colchester PD?
2. What is your current assignment?
3. In what capacity (if at all) did you work with Tyler Kinney?
4. Were you aware of his drug problem? Do you know of anybody that was?
5. Were there any indications of Tyler Kinney's drug problem?
6. Who were Tyler Kinney's closest friends at Colchester PD?
7. Are you aware of anyone that may have assisted Tyler Kinney in obtaining drugs, stealing from the evidence room or concealing his activities?
8. Is there any additional information that you believe may be pertinent to this investigation?

Members of the Colchester PD Command Staff were asked more detailed questions regarding Policies and Procedures, supervisory responsibilities, and their specific role in the Administrative review conducted in June 2014.

Kinney was unanimously described as odd and quirky, known for making unusual sounds and constantly fidgeting. He was known to sweat profusely and his hands were always shaking or trembling. Kinney told people that he had a medical condition that caused the sweating and trembling. Kinney was also known to consume caffeine in the form of coffee or soda and nicotine in the form of chewing tobacco all day long. Nearly every employee spoke of his poor dietary habits and the fact that he was overweight. Many employees stated that Kinney was like this from the day he started at Colchester PD and some believed it got worse over time. Several said that after Kinney returned to Colchester PD after spending approximately five years in the Chittenden Unit for Special Investigations (CUSI) he was "different" and his idiosyncrasies more pronounced.

Kinney had a working relationship with all of the members of the Colchester PD, but no close friends and nobody that he regularly socialized with off duty. Most assumed Kinney spent his off duty time with his family.

In the month preceding Kinney's arrest, there were two events, which, in hindsight, nearly everyone agreed were indications of his drug use. However, at the time it was considered a byproduct of his medical condition(s), poor diet and reliance on caffeine and nicotine. The first event occurred at the conclusion of a search warrant in Burlington

where Kinney looked grey, was sweating profusely and was having problems catching his breath. Co-workers were so concerned that he was ultimately ordered by a supervisor to go to the hospital. Kinney was examined at the hospital, but released. The second event was at a non-lethal use of force training where Kinney's face again looked grey, he was shaking, sweating and at one point laid down on the mat and looked like he was sleeping. Other Officers at this training noticed Kinney's odd behavior and discussed it, but attributed it to his medical condition and dietary habits.

Not one employee admitted to knowing about Kinney's drug use prior to his arrest and all but one said that they knew he was odd and had some medical issues, but they never suspected that he was a drug addict.

Focus Area #1 – Administrative Review of prior allegation regarding Kinney's potential involvement in drugs and other illegal or improper actions.

Findings:

- The decision to opt for an Administrative Review rather than an Internal Investigation appears to stem from misguided faith in Kinney and a failure to seriously consider that these allegations might actually be true. The ensuing Administrative Review resulted in a cursory investigation that neither proved nor disproved the allegation. In addition, interviewing Kinney as part of the Administrative Review made him aware of the allegations and could have negatively impacted a future Internal and/or Criminal Investigation.
- The Administrative Review conducted by the Department was consistent with the existing policy, General Order #2 "Citizen Complaints & Internal Investigations, which allows for the Chief of Police to opt for an Administrative Review to determine if there is sufficient information to warrant a more comprehensive Internal Affairs Investigation.
- General Order #2 requires a written report of the Administrative Review to document the allegation and what action was taken. This policy was not followed and no reports were written until after Kinney was arrested more than 5 months later.

Recommendations:

- Colchester PD General Order #2 "Citizen Complaints and Internal Affairs Investigations" should be modified to automatically require an Internal Affairs investigation any time a member of the organization is accused of felonious criminal behavior.
- Amend or rescind General Order #27 "Criminal Investigations (Special) in order to reconcile with General Order 2 "Citizen Complaints & Internal Investigations"

as it pertains to when an Internal Investigation should be requested from an outside agency.

Focus area #2 – Evidence Management

Findings:

- The former Colchester PD General Order #45 “Property and Evidence Management” issued on 7/26/2013 did not have sufficient safeguards in place for critical evidence. For further detail on this, see the report generated by the Vermont State Police outlining their findings and recommendations for best practices.
- The former General Order #45 required periodic audits to be performed. The audits required by policy were not conducted, except for a change of command audit conducted in September 2014. This audit examined 51 cases chosen at random and no discrepancies were found, however it should be noted that Tyler Kinney assisted in conducting this audit. What actions he may have taken to influence the audit are unknown.
- Colchester PD has recently issued an updated General Order #45 that addresses many of the recommendations made by Vermont State Police.

Recommendations

- Timely updates as needed, training and strict adherence to this General Order should be a high priority.

Focus area #3 – Policies and Procedures Generally

Findings:

- Prior to Chief Morrison’s tenure, Colchester PD’s General Orders were outdated and neglected, with many existing policies dating back to the 1980s. Chief Morrison has made considerable progress in updating nearly half of the General Orders manual but substantial work in this area remains to be done.
- Colchester PD’s Policies and General Orders contain no guidelines pertaining to the use of cooperating individuals, and/or related documentation.

Recommendations:

- As previously noted, General Order #27 is outdated and conflicts (in part) with General Order #2 and should be amended or rescinded.

- Continue to prioritize updating Policies and Procedures so that they are current and relevant.
- Develop and implement a policy on the use of cooperating individuals.

Focus area #4 – Personnel Accountability and Development

Findings:

- Prior to Chief Morrison's arrival on July 29, 2013 no employee of Colchester PD had received a performance evaluation for more than 20 years. This is a basic and necessary function that requires supervisors to meet with subordinates to provide feedback on strengths, areas that need improvement and to discuss department goals. At the Town Manager's direction, Chief Morrison has recently addressed this deficiency and many Colchester PD employees have recently received the first performance evaluation of their career.
- As noted previously, Colchester PD supervisors who conducted the Administrative Review on the prior allegation about Kinney failed to prepare the required reports. Chief Morrison failed to ensure these reports were completed and filed appropriately.
- As previously noted, periodic audits of the evidence room were not conducted as required by policy. Had these audits been done, Kinney's discretions likely would have been discovered sooner.

Recommendations:

- Continue on the path of re-establishing performance evaluations for Colchester PD personnel, sworn and civilian.
- Compliance with and enforcement of Policies and General Orders is critical.

Focus area #5 – Resources and Department Infrastructure

Findings:

- Colchester PD is a small agency tasked with providing 24/7/365 service to a large community.
- There is virtually no support staff at Colchester PD. There are 1.6 records clerks on staff. This number has remained unchanged since 1970.
- Nearly every employee interviewed recognized that the lack of support staff has increased the administrative burden on sworn members.

Recommendations:

- A staffing analysis or study to determine the need for a non-sworn position to provide administrative support.
- The General Orders manual needs to be entirely brought up to date and maintained.

Conclusion:

There were several opportunities missed by members of the Department to detect Kinney's misconduct prior to November 10, 2014. While acknowledging the benefit of hindsight, a more diligent investigation back in June, 2014 by an outside agency (due to the criminal allegations) might have turned up evidence of Kinney's activities five months earlier. In addition, had a culture of accountability, tighter evidence controls, performance reviews and tighter supervision existed, his activities as it relates to alleged tampering with evidence and personal behavior may have raised enough suspicion to warrant further review, thereby discovering his activities earlier.

Despite the fact that there were mistakes made and opportunities missed to stop Kinney's transgressions sooner, it is important to remember that the ultimate responsibility for this incident lies with Tyler Kinney. It was Kinney who disregarded his oath of office, disgraced himself and embarrassed Colchester PD. It was Kinney, who chose to befriend an individual with a known criminal history, chose to use heroin and chose to support his habit by stealing the evidence he was entrusted to secure.

Chief Morrison recognized early in her tenure at Colchester PD that numerous changes were needed and had been working re-establishing performance evaluations per the Town Manager's instruction, and on updating policies long before this incident with Kinney occurred. It was clear from my interviews with the personnel at Colchester PD that Chief Morrison has the support and respect of her staff and that she will continue to move the Department forward in a positive direction.

Executive Summary written and prepared by:


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Date