



# Completed Internal Investigation Summary

## Colorado State Patrol

Date of alleged misconduct: 8/18/2022

Title and name of the subject of the investigation: Master Trooper David Conway

Name of the complainant: [REDACTED]

Investigator(s): Sergeant Sean Schlessman

Blue Team Case Number: L12022-055

Completed by Appointing Authority: Major Mark Mason

Date Completed: 1/31/2023

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### **Allegation(s):**

(Failure/neglected/incompetent) to perform duties  
Lying/dishonesty

### **Summary of the Allegation(s):**

[REDACTED] from the Monument Port of Entry reported witnessing Master Trooper David Conway fail to properly conduct several commercial motor vehicle (CMV) safety inspections. [REDACTED] provided a memorandum detailing the incident, in which he reported the following:

- [REDACTED] witnessed Conway fail to properly conduct five level II inspections (CO2B51210050-CO2B51210054).
- Conway never informed the driver of the CMVs they were being inspected.
- Conway never left the port of entry building and did not walk around the inspected vehicles.
- Conway apparently failed to check the status of the licenses of the involved drivers.
- Conway annotated several pieces of incorrect information on the inspection reports, including inspection times, vehicle IDs, and driver IDs.
- Conway let a driver who did not possess a valid driver's license drive away from the port.

### **Statement of Fact(s) and the Investigative Process:**

The complaint was initially sent to the District 2 major. The complaint was rerouted, and Major Mark Mason classified the complaint as a level 1 complaint and requested the Professional Standards Section (PSS) conduct the investigation. Sergeant Sean Schlessman of PSS was assigned as the investigator.

Sergeant Schlessman reviewed NICHE entries, CAD logs, DVES recordings for the day of the

complaint, searched for body worn camera videos, and conducted an interview with Master Trooper Conway.

The findings of the Sergeant Schlessman's investigation included:

- [REDACTED] from the Monument Port of Entry reported witnessing Master Trooper Conway fail to properly conduct several commercial motor vehicle (CMV) safety inspections. [REDACTED] provided a memorandum detailing the incident, in which he reported the following:
  - [REDACTED] witnessed Conway fail to properly conduct five level II inspections (CO2B51210050-CO2B51210054).
  - Conway never informed the driver of the CMVs they were being inspected.
  - Conway never left the port of entry building and did not walk around the inspected vehicles.
  - Conway apparently failed to check the status of the licenses of the involved drivers.
  - Conway annotated several pieces of incorrect information on the inspection reports, including inspection times, vehicle IDs, and driver IDs.
  - Conway let a driver who did not possess a valid driver's license drive away from the port.
- Conway did not capture any of the contacts in NICHE.
- Conway did not notify dispatch that he was in contact with any of the drivers or vehicles.
- Conway did not audio and/or video record any of the contacts.
- Conway's unit status was changed to doing crash reports at 0425, and his location and status did not change until 1451 when he cleared and went off duty.
- Conway indicated to Sergeant Sean Schlessman that his CMV inspections were inaccurate because he was "bitter" about having to conduct truck contact reports (TCRs) even though other members of his team were not required to do so.
- Conway gave several explanations for why he did not complete certain steps:
  - Conway would only give a driver a copy of the inspection sheet if he found violations.
  - Conway did not need to walk around a vehicle because he could see half of it as it drove by the port.
  - Conway based the need to clear a driver's status through CCIC/NCIC on his conversation with the driver.
  - Conway indicated that it was a clerical error in entering the wrong name for a driver on TCR CO2B51210052.
  - The times on the inspections did not match the times the vehicles were actually inspected because Conway wrote down the relevant information on a piece of paper and entered the actual inspections at a later time.
- Conway admitted that it was important to accurately capture CMV inspection information, including the inspection times, who the driver was, and what violations were discovered.
- Conway admitted he was not fulfilling the expectation of the inspections.
- Conway admitted that he would not stand by any of the inspections as legitimate.
- Schlessman discussed two traffic stops that Conway made earlier in the day, but Conway did not remember much about those contacts. It was reported that those contacts were not recorded on his body-worn camera, only his in-car video without audio.
- Schlessman reported that Conway did not believe he should have to complete TCRs and that he essentially filled in enough blanks to have the reports counted toward his annual requirement.
- Conway blamed his training and stated that he had been taught that he did not need to walk around the vehicle during a level II inspection or issue a copy of the inspection report to the driver if there were no violations.
- Conway admitted to Schlessman that he did not adhere to the following policies:
  - 1.01.0102 Code of Ethics
  - 1.01.0103 General Orders

- 4.01.0207 Motor Carrier Safety Inspections
- 3.07.0102 Case Files/Field Reports, and Records
- 3.03.0101 Computer Aided Dispatch
- 3.07.0105 Administrative Reporting Program
- 4.01.0104 Professional Contacts and Stops
- Conway denied that he lied by stating that he did not generate inaccurate reports for the purpose of lying.
- Conway admitted he had a bad day on August 18, 2022 and stated in his response to what should happen, "Does it need explanation? Does there need to be accountability? Yes. I am a huge proponent of accountability, and Major Mason is very clear on that. He and I have had that discussion not too long ago. So, I'm all for accountability. Did I screw up? Hell yes, I screwed up. Did I toe the line? No. Have I let us down? Yes."

In response to these issues, Conway told Major Mason that, "I was not competent. I did not do the inspections as required. So, I failed that miserably. So, I would say that charge is more or less valid. As for the lying/dishonesty, I don't agree with that. I don't see what I did as being dishonest or lying, I see that as being a lack of thoroughness. I had no ill intent in mind during any of these inspections, any of this paperwork. It was not my intent to deceive, to misconstrue, however you want to phrase it, that was not my intent. I see lying and dishonesty as an intentional act."

In addition, Conway stated the following:

- Conway stated that in the field training officer (FTO) program he was never trained to "touch" a truck; that he only looked at the truck and had the driver point out their triangles and fire extinguisher; and that he only gave a copy of the TCR to the driver if there was a violation they had to sign for and fix. Conway identified his FTOs as Corporal [REDACTED] and Master Trooper [REDACTED].
- Conway offered that he was overwhelmed with stress at home, but that it was no excuse for his behavior.
- Conway disagreed that he did not walk around any of the CMVs, and said that he walked around some (at least two), but some he did not.
- Conway stated that he researched the status change issue in CAD and reportedly found that it was a problem with his Fujitsu tablet rather than him not changing his status.
- Conway admitted that he did not tell the drivers they were being inspected because he thought it was obvious.
- Conway admitted that he did not do walk-around inspections on level II TCRs, but that he should because it is required.
- Conway admitted that he did not check on the status of driver's licenses because he was not being thorough. Conway further admitted that he had let the drivers go prior to entering the TCRs in ASPEN, so they did not receive copies of the TCRs. Conway also admitted that he amended the times on the TCRs to try and reflect the times he was actually with that driver. Conway said that he understands the need to accurately report the TCRs and that he regretted his lack of accuracy and that he was wrong in not doing so. Conway stated that he thought the contacts earlier in the day were recorded on his body cam. Conway also felt that he had reasonable suspicion to contact those vehicles. When Mason asked Conway if he pencil-whipped his TCRs to get the required number for the year, Conway stated, "That's fair."
- Conway admitted that he failed to perform his duties as required and follow policies as required.
- Conway stated that he was not trying to be dishonest; that he did contact those trucks; that he did contact those drivers; that he was there; that he did not create anything; that he did not accuse anybody of anything; and that he was not trying to "hem up" a company or driver.

- Conway said that he didn't write down things he didn't see, he only wrote down things he did see.
- Conway admitted that this initially tarnishes his credibility.
- Conway admitted to violating all of the same policies Schlessman discussed with him with the exception of the Code of Ethics and that Computer Aided Dispatch was unintentional, as it was a computer problem.
- Conway agreed that he needs to be held accountable, and that the police profession needs accountability.

### **Finding(s):**

**SUSTAINED:** *The allegation is found to be factual and substantiated by competent evidence.*

**NOT SUSTAINED:** *Insufficient evidence exists to prove or disprove the allegation. This disposition shall also be assigned to any anonymous complaint which, after investigation, lacks corroborative information or evidence.*

**UNFOUNDED:** *The allegation is not supported by the facts, or is determined to be a false allegation.*

**EXONERATED:** *The allegation is factual and did occur, however, the member acted lawfully and properly within State Patrol policy and the scope of acceptable conduct.*

**CLOSED:** *Investigation of the allegation was terminated. The reason for closing the case file will be stated.*

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(Failure/neglected/incompetent) to perform duties - SUSTAINED

Lying/dishonesty - SUSTAINED

### **Rationale for Finding(s):**

Based on the information Major Mason received, including Conway's statements at the meeting and the additional information Conway provided, Mason reached the following conclusions:

- Conway was trained as a Level II CMV inspector in the academy, and he retained that certification through August 18, 2022.
- Conway read and signed CSP policies, directives, and legal training bulletins and was up to date on these prior to August 18, 2022.
- [REDACTED] from the Monument Port of Entry witnessed Conway fail to properly conduct several commercial motor vehicle (CMV) safety inspections. This includes:
  - Conway failed to properly conduct five level II inspections (CO2B51210050-CO2B51210054).
  - Conway failed to inform the drivers of the CMVs they were being inspected.
  - Conway did not leave the port of entry building and did not walk around the vehicles.
  - Conway failed to check the status of the licenses of the involved drivers.
  - Conway annotated several pieces of incorrect information on the inspection reports, including inspection times, vehicle IDs, and driver IDs.
  - Conway let a driver who did not possess a valid driver's license drive away from the port.
- Conway did not capture any of the contacts in NICHE.
- Conway did not notify dispatch that he was in contact with any of the drivers or vehicles.
- Major Mason was able to find Conway's body-worn camera recordings of the two contacts he had earlier in the day, one of which was a TCR, and of one of the inspections Conway conducted at the port.
- On the traffic stop TCR, counting Conway's approach to the dump truck, and walking around it back to his patrol car, Conway's walk-around level II inspection lasted approximately 33 seconds.
- During Conway's inspection at the port, his contact with the driver lasted approximately 1 minute and 29 seconds (13:03:59-13:05:28), he never left his seat, he never walked around

the CMV, he did not inform the driver he was being inspected, and he never ran clearances on the driver.

- Conway's TCR for this contact indicated a start time of 12:55 PM and an end time of 1:30 PM, which Conway stated he manipulated to be accurate for the time he spent with the driver and/or vehicle.
- Major Mason contacted Conway's secondary FTO, retired Master Trooper [REDACTED], and [REDACTED] informed Mason that while he does not specifically recall conducting TCRs with Conway, it is more than likely he did. [REDACTED] also indicated that he trained all of his recruits the same way, in that he would conduct the first TCR and the recruit would conduct all subsequent TCRs in the same manner. [REDACTED] stated that the CMV driver had to receive a copy of the TCR in all instances, not just those where a violation was noted. Additionally, a level II inspection required a walk-around inspection of the vehicle and could not be counted as one absent that. [REDACTED] went on to state that his primary FTO was Corporal [REDACTED], just as he was Conway's, and that [REDACTED] taught [REDACTED] how to do level II inspections.
- Policy 4.01.0211 – Commercial Vehicle Inspections states a LEVEL II inspection means a cursory examination (walk-around inspection) conducted by an officer certified to do so by the standards referenced in 8 CCR 1501.7(II)(A) Rules and Regulations Concerning Minimum Standards for the Operation of Commercial Vehicles. This policy was last revised on 01/11/2018, and Conway signed this policy on 2/17/2018.
- Policy 4.01.0207 – Motor Carrier Safety Inspections states the certified inspector completes a safety inspection report using the ASPEN program and issues the driver of the vehicle a printed copy and that both the driver and certified inspector must sign the issued report. This policy was last revised on 01/11/2018, and Conway signed this policy on 2/17/2018.
- A member from the Motor Carrier Safety Assistance Program (MCSAP) informed Mason that a level II inspection should take no less than 20 minutes to conduct.
- The same MCSAP member informed Mason that the CMV driver is required to provide the TCR to the motor carrier, whether or not a violation is noted, and the motor carrier must retain a copy of that TCR. The motor carrier would be in violation during a compliance audit if they failed to have a copy of the TCR, which could result in penalties against the carrier.
- Conway represented that he was conducting level II inspections, but, in fact, he was not.
- Truthfulness and credibility are essential qualities of a trooper.
- Being a credible witness in court is an essential job function of a trooper.
- Brady v. Maryland requires prosecutors to disclose any exculpatory evidence to the defense, including character evidence on the part of officers. This includes sustained acts of untruthfulness.

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Appointing Authority Signature

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