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LOFRESE , JOSEPH M -  
TROOPER

TYPE: Personnel

CASE# 20130362

FINDING: Founded

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Complainant:  
BRENDAN CASEY

INTERNAL AFFAIRS BUREAU  
PERSONNEL COMPLAINT TRACKING

DCN: <u>20130362</u>	CTV: <u>F3666</u>	REGION: <u>South</u>	LEVEL: <u>3</u>	TYPE: <u>Personnel</u>
Subject(s): <u>Trooper Joseph M. Lofrese</u>				
Investigated by: <u>Z/Sgt James A. Whittel</u>			Troop or Detail <u>F</u>	
Staff Inspector: <u>George Beach</u>			Date: <u>9/19/13</u>	
SUBJECT HISTORY REVIEWED? <input checked="" type="checkbox"/> AUDIO? <input checked="" type="checkbox"/> VIDEO? <input type="checkbox"/> ON PROBATION? <input type="checkbox"/>				

ALLEGATION: Improper Use of Taser

SYNOPSIS: Trooper Lofrese failed to follow Taser Use Policy by firing his taser at a fleeing suspect who was operating an ATV. Suspect subsequently fled scene and was not apprehended.

Founded.

*82*

Finding of Investigation:  Founded  Unfounded  Unsubstantiated  Closed by Investigation  
Recommended Level of Adjudication:  Troop Level  Division Level  
Adjudicated at Troop  Date: \_\_\_\_\_ Disposition: \_\_\_\_\_  
Date Forwarded to Assistant Deputy Superintendent - Internal Affairs 10/1/13 *Cecil J. Z...*

Assistant Deputy Superintendent - Internal Affairs \_\_\_\_\_ Date: 10-08-13  
Comments: \_\_\_\_\_

Finding of Investigation:  Founded  Unfounded  Unsubstantiated  Closed by Investigation  
Recommended Level of Adjudication:  Troop Level  Division Level  
Date Forwarded to Deputy Superintendent - Internal Affairs 10-08-13  
Deputy Superintendent - Internal Affairs \_\_\_\_\_ Date: 10/10/13

Comments: \_\_\_\_\_

Division Level Recommended  Troop Level Recommended  
Date Forwarded to First Deputy Superintendent: 10/10/13  
First Deputy Superintendent \_\_\_\_\_ Date: \_\_\_\_\_

Direction: \_\_\_\_\_  
 Troop Level -- Return to Chief Inspector  Division Level -- Forward to Division Counsel  
Date Forwarded to Counsel or the Chief Inspector: \_\_\_\_\_  
 Troop Level Rank/Name of Member Notified \_\_\_\_\_  
Date Notified: \_\_\_\_\_ Notified by Whom: \_\_\_\_\_

# Complaint of Personnel Investigation 20130362

**Type:** Personnel      **Sub Type**      **Troop:** F      **Status:**    
**Incident Date/Time** 8/14/2013 6:25 PM      **Mode Rec.** In Person   
**Report Due** 9/16/2013      **Level Inv.** T 3      **CTV:** F3601 - C/MIDDLETOWN   
**Commissioned Officer Assigned** No      **Report Location** IAB      10/7/2013

**Synopsis:**

Trooper Joseph Lofrese deployed his Division issue taser against an unknown individual operating an ATV (AMS# AMSM214234028). The use of the taser in the incident appears to violate Division Taser Policy forbidding the use of a taser against an individual operating a vehicle.

Troop F to investigate.

**Classification:** USE OF FORCE      **Finding:** F

**Subjects:**

**Employee ID** [REDACTED]      **Rank** TROOPER      **DOE:** 2/14/2005   
**Last Name** LOFRESE      **First Name** JOSEPH      **MI** M   
**Troop** F      **Location** MIDDLETOWN

**CCC 1:** TASEF      **CCC 2:** DISOD      **CCC 3:**

**Complainants:**

**Employee ID** [REDACTED]      **Last Name** CASEY      **First Name** BRENDAN      **MI** R      **TZS** F200   
**Shield** 4117      **Rank** CAPTAIN      **Sex** M      **SP Employee**       **DOE** 9/22/1986   
**Address**      **City**      **State**      **Zip**   
**Home Phone**      **Work Phone**

**Administrative Personnel:**

**Employee ID** [REDACTED]      **ID** RECEIVING MEMBER      **TZS** F200   
**Last** CASEY      **First** BRENDAN      **MI** R      **Date/Time:** 8/14/2013 7:00 PM

**Employee ID** [REDACTED]      **ID** MEMBER AT TROOP NOTIFIED      **TZS** F300   
**Last** NUZZO      **First** ROBERT      **MI** M      **Date/Time:** 8/14/2013 7:00 PM

**Employee ID** [REDACTED]      **ID** MEMBER WHO NOTIFIED TROOP      **TZS** F200   
**Last** CASEY      **First** BRENDAN      **MI** R      **Date/Time:** 8/14/2013 7:00 PM

**Employee ID** [REDACTED]      **ID** MEMBER AT DIV NOTIFIED      **TZS** H132   
**Last** BEACH II      **First** GEORGE      **MI** P      **Date/Time:** 8/14/2013 7:00 PM

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**Employee ID** [REDACTED]    **ID** MEMBER WHO NOTIFIED DIV    **TZS** F300  
**Last** NUZZO    **First** ROBERT    **MI** M    **Date/Time:** 8/14/2013    7:00 PM

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**Employee ID** [REDACTED]    **ID** INVESTIGATOR    **TZS** F200  
**Last** WHITTEL    **First** JAMES    **MI** A    **Date/Time:** 9/4/2013

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**Employee ID** [REDACTED]    **ID** REVIEWER    **TZS** H132  
**Last** BEACH II    **First** GEORGE    **MI** P    **Date/Time:** 10/1/2013

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JOSEPH A. D'AMICO  
SUPERINTENDENT



MAJOR PATRICK J. REGAN  
TROOP COMMANDER

**STATE OF NEW YORK  
NEW YORK STATE POLICE  
TROOP "F" HEADQUARTERS  
55 CRYSTAL RUN ROAD  
MIDDLETOWN, NY 10941  
(845) 344-5300**

December 18, 2013

Trooper Joseph M. Lofrese  
New York State Police  
Middletown, New York

**LETTER OF CENSURE**

Dear Trooper Lofrese:

On August 14, 2013 you pursued an ATV that was driving on the roadways in the area of Mud Mills Road and Silver Lake Scotchtown Road in the Town of Wallkill. Upon locating the ATV, you ordered the driver to step off the ATV. The subject failed to comply and accelerated at you in an attempt to inflict bodily harm. You deployed your taser at the subject and jumped out of the way. The subject then fled the scene and was unable to be identified. In using the taser in this incident, you were in violation of Regulation 8A2, specifically the NYSP Taser policy, section E(h), which instructs members to not discharge an ECD against an individual who is in control of a vehicle in motion, or a vehicle that could be immediately put into motion.

On December 18, 2013 you appeared before me, executed a waiver and requested that I adjudicate the discipline in this matter.

Accordingly, it is my decision that you receive a letter of censure for your actions. I trust that you will not allow this to happen again.

Sincerely,

Patrick J. Regan  
Major  
Troop Commander

# NEW YORK STATE POLICE

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## MEMORANDUM

**Troop F Station Middletown**

**Date November 5, 2013**

**To:** Major Patrick J. Regan, Troop Commander

**From:** Trooper Joseph Lofrese *J.M.L.*

**Subject:** **DISCIPLINARY ACTION**

I hereby request to have the above-captioned investigation adjudicated by the Troop Commander pursuant to Rule 3, Disciplinary Action, of the New York State Police Manual.

I waive the following:

1. The right to have this matter disposed of by the Superintendent or by a formal hearing.
2. Any right to appeal the Troop Commander's adjudication, which may be a determination of unfounded or, upon a finding of guilt, the imposition of the following penalties:
  - i. A letter of censure and/or
  - ii. An intra-troop transfer and/or
  - iii. A fine to be expressed in the loss of no more than five vacation days to be worked by me with no additional compensation or overtime.

NEW YORK STATE POLICE

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MEMORANDUM

**Troop F Station** Middletown

**Date** December 18, 2013

**To:** Deputy Superintendent Daniel R. Penny

**From:** Major Patrick J. Regan / Troop Commander

**Subject:** **COMPLAINT AGAINST PERSONNEL – 20130362 - LEVEL 3  
TROOPER JOSEPH M. LOFRESE, SP MIDDLETOWN**

Reference is made to the previously submitted Level 3 report regarding the above subject.

On December 18, 2013, Trooper Lofrese appeared before me and executed his consent to have me adjudicate this matter at Troop level.

Pursuant to Rule 3 of the New York State Police Administrative Manual, I have determined that he receive a Letter of Censure for his actions. I have attached a copy of the Letter of Censure and consent waiver.

This matter is closed.

Attach.

**NEW YORK STATE POLICE**

**MEMORANDUM**

**TROOP F STATION** Middletown

**DATE** September 13, 2013

**TO:** Deputy Superintendent Daniel R. Penny  
**FROM:** Major Patrick J. Regan, Troop F Commander  
**SUBJECT:** **COMPLAINT AGAINST PERSONNEL – 20130362 - LEVEL 3  
TROOPER JOSEPH M. LOFRESE, SP MIDDLETOWN**

Reference is made to the attached report of Zone Sergeant James A. Whittel and cover memorandum of Captain Brendan R. Casey regarding the above subject.

I have reviewed the attached report and agree that it is founded. Trooper Lofrese violated Regulation 8A2, specifically the NYSP Taser policy Section E(h), when he deployed a Taser against an individual who was operating a vehicle.

Recommend appropriate administrative action at Troop level. Forwarded for your review.

Attach.




**NEW YORK STATE POLICE**

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**MEMORANDUM**Troop F Station SP MonroeDate September 9, 2013

**To:** Major Patrick J. Regan Troop Commander, Troop F

**From:** Captain Brendan R. Casey, Zone 2 Commander 

**Subject:** COMPLAINT AGAINST PERSONNEL 2013-0362  
TROOPER JOSEPH M. LOFRESE, EOD 02/14/05, SP MIDDLETOWN

Reference is made to the attached Genl. 30 Investigative Report of Zone Sergeant JAMES A. WHITTEL, SP Monroe, dated September 4, 2013, regarding the above-captioned subject.

I have reviewed the attached report submitted by Zone Sergeant WHITTEL and concur with his findings. On August 14, 2013, Trooper JOSEPH M. LOFRESE pursued an ATV that was driving on the roadways in the area of Mud Mills Road and Silver Lake Scotchtown Road in the Town of Wallkill. Upon locating the ATV, Trooper LOFRESE ordered the male subject to step off the ATV. The subject failed to comply and accelerated at Trooper LOFRESE in an attempt to inflict bodily harm. Trooper LOFRESE deployed the Taser at the subject and jumped out of the way. The subject then fled the scene and was unable to be identified. The use of the Taser in this incident violated the Division Taser Policy forbidding the use of a Taser against an individual operating a vehicle.

Trooper LOFRESE violated the following Division Rules and Regulations:

8A2 – failed to comply with Rules, Regulations, Instructions, specifically:

Trooper LOFRESE was found to be in violation of NYSP Taser policy section E(h) where Members shall not discharge an ECD against an individual who is in control of a vehicle in motion, or a vehicle that could be immediately put into motion.

Recommend this case be CLOSED – FOUNDED. Recommend appropriate administrative action for Trooper LOFRESE.

Attachment

NEW YORK STATE POLICE  
COVER PAGE

TITLE OF CASE  Trooper Joseph M. Lofrese EOD 02/14/05 SP Middletown	REPORTING TROOP F	MANAGING TROOP F	DATE OF REPORT 09/04/13
	DATE OCCURRED 08/14/13	TZS F221	CTV CODE F3666
	INVESTIGATIVE PERIOD 08-14-13 to 09-04-13		TYPED BY JAW
	REPORT OF Z/Sgt James A. Whittel <i>JAW</i>		SHIELD 2461
CHARACTER OF CASE - (CC CODE) Complaint against Personnel PCT0100	STATION SP Middletown	CASE # 20130362	
	STATUS OF CASE ( ) CA ( ) C/EC ( ) C/INV ( ) C/UNF ( ) C/UNS (X) C/FND ( ) OPN		

Reference: Report of Personnel Investigation 20130362

Enclosures: To Division Headquarters and Troop "F"

- 1) Gen 34D and associated photographs
- 2) AMS message AMSM214234028
- 3) SJS entry 5237279
- 4) Gen 89 – NYSP use of Taser X26
- 5) Gen 91 – Pursuit Report
- 6) Taser down load report
- 7) Memorandum of Trooper JOSEPH LOFRESE

	<b>FOR TROOP/DIVISION HEADQUARTERS USE ONLY</b>	
APPROVED:	DESTROY IN 20 _____	INITIALS _____
ZONE _____	PERMANENT RETENTION _____	
TROOP _____	INITIALS _____	
DHQ _____	RCN _____	

## **SYNOPSIS:**

On August 14, 2013, Trooper JOSEPH M. LOFRESE pursued an ATV that left the roadway onto railroad tracks. Upon terminating the pursuit, Trooper LOFRESE was able to locate the ATV operator again on the railroad tracks. The ATV operator stopped upon Trooper LOFRESE's verbal command, but then accelerated at Trooper LOFRESE in an attempt to inflict bodily harm. Trooper LOFRESE deployed the Taser at the ATV operator, but it was ineffective due to only one prong striking the ATV operator. Trooper LOFRESE was able to jump out of the way of the ATV. The subject then fled the scene and was unable to be identified. Trooper LOFRESE was forced to make a split second decision as to where or not to deploy the Taser. The deployment of the Taser against an individual who is in control of a vehicle in motion, or a vehicle that could be immediately put into motion is a violation of the NYSP Taser policy. Trooper LOFRESE drew the Taser and pointed it at an individual that was in control of a vehicle that could immediately be put into motion. He then deployed it against an individual who was in control of a vehicle in motion. I recommend appropriate disciplinary action.

## **DETAILS:**

### **RAILROAD TRACKS, MIDDLETOWN, NY:**

1. On August 14, 2013, at approximately 6:25 pm Trooper JOSEPH M. LOFRESE (EOD 02/14/05 SP Middletown) had a pursuit and deployed his Taser against an unknown ATV operator on railroad tracks in the Town of Wallkill near the intersection of Mud Mills Road and Cottage Street. One prong stuck in the unknown operator, and the operator was able to get away since the Taser had no affect. Sergeant JARED W. DUFFY (EOD 01/07/02 SP Haverstraw) was advised and responded to the scene.

2. On August 14, 2013, at approximately 6:45 pm Trooper LOFRESE was interviewed by Sergeant DUFFY. Trooper LOFRESE stated that he saw an ATV driving on the roadways in the area of Mud Mills Road and Silver Lake Scotchtown Road. The ATV went off the roadway then and up onto rail road tracks where Trooper LOFRESE terminated the pursuit. Knowing the area, Trooper LOFRESE was able to get up on the railroad tracks on foot and locate the ATV. Trooper LOFRESE ordered the ATV operator to stop. He ordered the ATV operator to step off the ATV where the operator failed to comply. Trooper LOFRESE ordered the operator to again step off the ATV while also drawing his Taser at the unknown operator. The operator accelerated at Trooper LOFRESE who deployed the Taser at the unknown operator and jumped out of the way of the ATV. Sergeant DUFFY secured the afids and Taser cartridge at the scene. Sergeant DUFFY photographed the scene. Gen 34D and associated photographs are enclosed as enclosure #1.

### **AT SP MIDDLETOWN, MIDDLETOWN, NY:**

3. On August 14, 2013, Sergeant DUFFY advised Captain BRENDAN R. CASEY of the facts surrounding the case. Since the incident involved the deploying of the Taser against an individual operating a vehicle in motion, which is in violation of the Taser policy, Acting Troop Commander, Captain ROBERT NUZZO, was advised and a complaint against personnel was initiated. Zone Sergeant JAMES A. WHITTEL (EOD 09-27-93 SP Monroe) was assigned to investigate.

4. On August 14, 2013, Sergeant DUFFY advised Trooper LOFRESE of his contractual rights and advised him to prepare a memorandum detailing the incident. Sergeant DUFFY also completed AMS # AMSM214234028 detailing the incident. Copy of the AMS entry is enclosed as enclosure #2.

5. On August 14, 2013, Trooper LOFRESE completed SJS entry 5237279 detailing the incident. Copy of the SJS entry is enclosed as enclosure #3.

6. On August 14, 2013, Trooper LOFRESE completed the Gen 89 (NYSP use of Taser X26) form and Gen 91 (Vehicle Pursuit Report). Originals submitted through channels under separate cover. Copy of Gen 89 and Gen 91 are enclosed as enclosures #4 and #5 respectively.

7. On August 14, 2013, Sergeant DUFFY down loaded the Taser report. A review of the report shows only one 5 second firing of the Taser at 6:24 pm. Taser down load is enclosed as enclosure #6.

**AT SP MONROE, MONROE, NY:**

8. On August 15, 2013, I advised Trooper LOFRESE that I will be conducting the investigation into the incident. I advised Trooper LOFRESE to submit his memorandum to me after consulting with his PBA delegate.

**AT SP MIDDLETOWN, MIDDLETOWN, NY:**

9. On September 4, 2013, I interviewed Trooper LOFRESE about the incident. Trooper LOFRESE maintained the same version of events as articulated to Sergeant DUFFY. He saw the ATV operating recklessly on Silver Lake Scotchtown Road where he activated his lights and sirens in attempt to stop the ATV. The ATV made a U-turn and then proceeded onto Mud Mills Road where it eventually turned off the road and entered railroad tracks. The pursuit lasted only a mile. Trooper LOFRESE terminated the pursuit and went to a different area along the railroad tracks in an attempt to locate the ATV again. After being on foot on the tracks he located the ATV and ordered it to stop. The ATV stopped, and then the operator was ordered off the ATV which the operator failed to comply. The operator was now demonstrating numerous signs of aggression; thus Trooper LOFRESE drew the Taser and pointed it at the operator. He again ordered the operator off the ATV at which time the ATV suddenly accelerated at Trooper LOFRESE in an attempt to strike him. Fearing for his life, Trooper LOFRESE deployed the Taser at the unknown operator and also jumped out of the path of the ATV. The Taser was ineffective due to only one probe striking the unknown operator. ATV operator fled the scene. Sergeant DUFFY was notified of the incident. Trooper LOFRESE stated he was aware of the Division policy forbidding the use of the Taser against an individual who is in control of a vehicle in motion. He felt with the fear for his life and the rapid, aggressive actions on the part of the unknown operator necessitated the use of the Taser. Memorandum of Trooper LOFRESE is enclosed as enclosure #7.

**CONCLUSION:**

Trooper LOFRESE was confronted with a split second decision as to whether or not to deploy the Taser against an individual who was attempting to use physical force against him which could potentially have resulted in serious physical injury. A review of the photographs of the scene show that the incident occurred in an open area allowing for Trooper LOFRESE to get out of the way of the ATV. The subject then fled the scene and was unable to be identified. Trooper LOFRESE's memo indicates that he was able to get out of the way of the ATV even with the very short delay of deploying the Taser. Trooper LOFRESE's memo indicates that he was in fear for his life but section 16C2d-2 does not allow the use of a firearm in these circumstances; consequently, the Taser should not be considered as an option. The investigation into the facts concludes that Trooper LOFRESE did violate the following cited Regulation of the New York State Police:

8A8(2) - It shall be the duty of all Members to sturdly and comply with the Rules, Regulations and Instructions and to require like compliance of all other Members under their supervision or control. Specifically, Trooper LOFRESE violated NYSP Taser policy section E(h) where Members shall not discharge an ECD against an individual who is in control of a vehicle in motion, or a vehicle that could be immediately put into motion. Trooper LOFRESE drew the Taser and pointed it at the unknown individual who was in control of a vehicle that could immediately be put into motion and then deployed that Taser against the same individual who had put the vehicle into motion.

I recommend appropriate disciplinary action for Trooper LOFRESE.

DIGITAL PHOTO RECORD

INSTRUCTIONS: • Complete a separate form for each investigation recorded on digital media  
• Print or type all entries

STATION AND CASE NUMBER SP Middletown SJS# 5237279	ID LEAD #	DATE 08/14/13	TIME	
			BEGAN 6:56PM	COMPLETED 6:59PM

INVESTIGATING MEMBER Sgt Jared Duffy	PHOTOGRAPHER'S NAME Sgt Jared Duffy
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CRIME OR INCIDENT Taser Usage	WEATHER Clear/ Warm
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ADDRESS OR LOCATION Cottage Street and Silverlake Scotchtown Rd (Railroad Tracks- T/Walkkill)	COUNTY Orange
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COMPLAINANT - DEFENDANT - DECEASED NYS	DATE OF BIRTH
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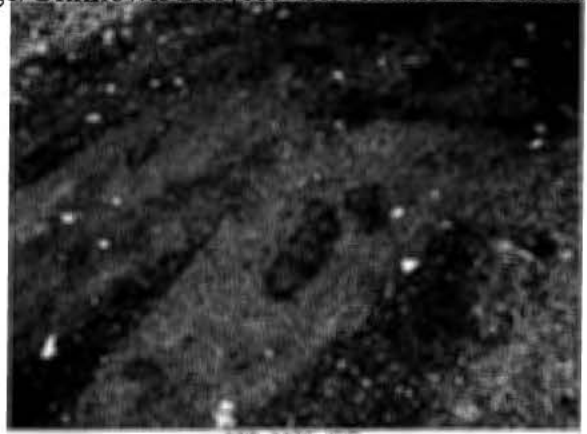
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IMAGE TYPE OR FILE FORMAT <input type="checkbox"/> JPEG <input type="checkbox"/> TIF <input type="checkbox"/> RAW	CAMERA Station	PAGE # 1 OF 1	DATE SUBMITTED TO ID SECTION 08/15/13	MANNER SUBMITTED: (Check one) <input type="checkbox"/> CD/DVD <input type="checkbox"/> FLOPPY <input type="checkbox"/> E-MAIL <input type="checkbox"/> OTHER
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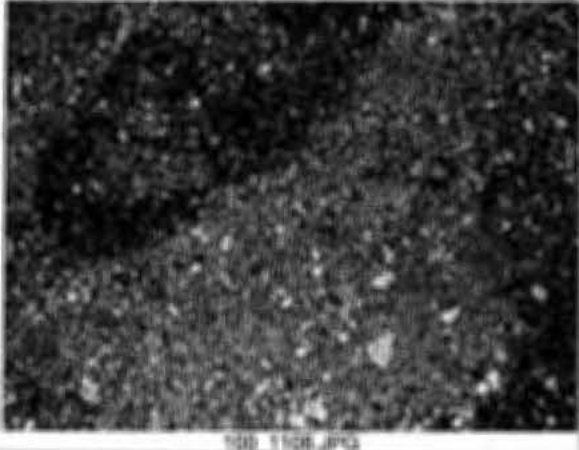
IMAGE#	CAMERA PHOTO ID#	DESCRIPTION:	IMAGE#	CAMERA PHOTO ID#	DESCRIPTION:
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2	05	Foot prints	40		
3	06	Aphids from Taser	41		
4	07	" "	42		
5	08	ATV tire tracks	43		
6	09	" "	44		
7			45		
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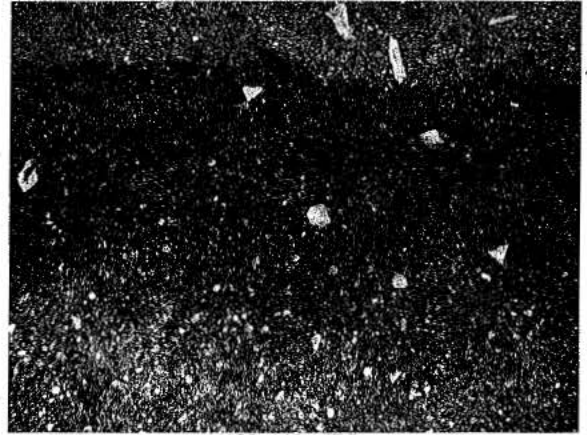
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1/64/F2.7/ISO200



# Administrative Message Report

ENCLOSURE #2

Print/Run Date 08/15/2013

AMS # AMSM214234028

Date/Time Reported/Discovered  
08/14/2013 18:25

Agency ORI  
NYSP MIDDLETOWN

TZS  
F221

### Message

PURSUIT, TASER USAGE

Investigated By  
SERGEANT JARED DUFFY

Units Responded  
UF

Photos YES

Videotape NO

### Narrative

On 08/14/13, at approximately 6:25 p.m., Trooper JOSEPH LOFRESE, EOD 02/14/05, was operating CITE vehicle F29 on Silver Lake Scotchtown Road in the city of Middletown when he observed an ATV traveling eastbound being operated recklessly. Trooper LOFRESE activated the emergency lights on F29 and the single occupant of the ATV fled continuing eastbound on Silver Lake Scotchtown for .3 mile at which point the ATV made a U-turn in the roadway, doubling back, traveling westbound on Silver Lake Scotchtown Road, making a right-hand turn onto Mud Mills Road, which he used to access railroad tracks. Trooper LOFRESE terminated the pursuit, and knowing the area, proceeding down Cottage Street into Woodside Knolls housing development where he accessed the railroad tracks, in an effort to stop the ATV. Trooper LOFRESE exited his vehicle and ran to the access area adjacent railroad tracks, ahead of the approaching ATV. The ATV, traveling westbound toward Trooper LOFRESE, came to a stop in front of him, at which point Trooper LOFRESE ordered the operator to step off the vehicle. The operator failed to comply with the order to step off the vehicle and Trooper LOFRESE pointed Taser (serial number X00-557375) at the ATV operator, issuing the order again. The ATV operator accelerated at Trooper LOFRESE and Trooper LOFRESE stepped out of the path of the ATV while simultaneously discharging the Taser cartridge, (serial number C4100EWYM).

### Extended Narrative 1

One prong struck the suspect and the Taser discharge had no effect. The operator of the ATV fled the scene and was not identified. The afids and Taser cartridge were secured at the scene. The pursuit lasted approximately 1 minute, traveling over a distance of approximately .5 mile with a top speed of approximately 30 miles per hour. Due to the short duration of the pursuit, no supervisor was advised or monitored it. Troop F Zone 2 Commander Captain BRENDAN CASEY notified.

# Vehicles	# Injured	# Deceased	Apparent Cause
1	0	0	PENDING INVESTIGATION

County	C/T/V Name	Location\ Street Name \ Mile Post Marker
ORANGE	MIDDLETOWN, CITY OF - 3601	COTTAGE STREET

Weather Conditions	Road Conditions
1 - CLEAR	1 - DRY

Description of Damage  
NONE

Criminal Action  
V&T

Sent Date \ Sent Time  
08/14/2013 21:44

Sent By  
DUFFY JARED

Authorized By	CAPTAIN BRENDAN CASEY
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Notification ZONE, TROOP

### Driver Information 1

Driver Name	DOB	Gender	License State	Chemical Test	NO Driver Charged
UNKNOWN,				NO	NO

Address	City	State	Zip

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**Violations**

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<b>Driver Member?</b>	<b>Member Rank</b>	<b>Date of Entry</b>	<b>Member Shield</b>	<b>Member Shift</b>
NO				

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**Owner Information 1****Name (exactly as printed on registration)**

UNKNOWN,

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<b>Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
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**Insurance Company and Code**

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**Vehicle Information 1**

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<b>License Plate #</b>	<b>State</b>	<b>Vehicle Year</b>	<b>Make</b>	<b>VIN #</b>
UNKNOWN			ABTR	

---

<b>Van #</b>	<b>Mileage</b>
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<b>School Bus</b>	NO	<b>Front Airbags Deployed</b>	NO
<b>Comm. Veh.</b>	NO	<b>Side Airbags Deployed</b>	NO
<b>NYSP Veh.</b>	NO	<b>Fire Suppression Deployed</b>	NO

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<b>Equipment Damage</b>	NO	<b>Equipment Damage Description</b>
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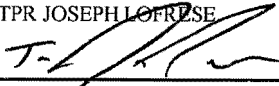


1. Agency F2 TROOP F - ZONE 2	2. Div/Precinct F221	New York State <b>INCIDENT REPORT</b>	3. ORI NY1350200	5. Case No.	6. Incident No. 5237279
7,8,9. Date Reported (Day, Date, Time) WEDNESDAY 08/14/2013 18:20		10,11,12. Occurred On/From (Day, Date, Time) WEDNESDAY 08/14/2013 18:20		13,14,15. Occurred To (Day, Date, Time) WEDNESDAY 08/14/2013 18:24	
16. Incident Type VEHICLE-RECKLESS DRIVING			17. Business Name		
19. Incident Address (Street Name, Bldg. No., Apt. No.) SILVERLAKE SCOTCHTOWN ROAD					
20. City/State/Zip MIDDLETOWN NEW YORK 10940					
21. Location Code (TSLED) WALLKILL TOWN 3666		23. No. of Victims 0	24. No. of Suspects 0		26. Victim also Complainant?
Location Type					

## NARRATIVE

Date of Action	Date Written	Officer Name & Rank
08/14/2013	08/14/2013	LOFRESE, JOSEPH (TPR)
<b>Narrative</b>		
<p>1. While on patrol I observed a white male operating a ATV recklessly on Silverlake Scotchtown road traveling eastbound in the Town of Wallkill. I activated my lights and sirens and followed the atv for approx 3/10 of a mile when the ATV made a u-turn in traffic almost causing motor vehicle accident with other vehicles. ATV proceeded westbound on Silverlake Scotchtown road and made right turn onto Mudmills road. ATV crossed over the roadway and entered entrance to railroad tracks.</p> <p>2. Knowing the area I patrolled to the railroad tracks located adjacent of Woodside Knolls development. I exited my patrol vehicle and entered the railroad tracks when I observed same white male on the ATV traveling westbound on the shoulder of the railroad tracks. I entered the path the ATV was heading and gave a verbal command by putting out my hand to stop. ATV stopped in front of me approx 10ft from me. I approached the ATV giving verbal commands to get off the ATV which the operator failed to comply. I was approx 3ft from the ATV when I pulled out my taser giving verbal commands to get off the ATV. ATV suddenly accelerated towards me when I jumped out of of the path of the ATV while simultaneously discharging the taser. I notified surrounding police departments off incident and description of subject. Sergeant was notified of incident and deployment of taser at scene. Checked surrounding areas for subject with negative results.</p>		

## ADMINISTRATIVE

74. Inquiries	75. NYSPIN Message No.	76. Complainant Signature	
77. Reporting Officer Signature (Include Rank) TPR JOSEPH LOFRESE 	78. ID No. 2435	79. Supervisor Signature (Include Rank)	80. ID No.
81. Status CLOSED BY INVESTIGATION	82. Status Date 08/14/2013	83. Notified/TOT	
			Solvability Total 0

ENCLOSURE # 4

Genl. 89 (11/12)

**NYSP USE OF CHEMICAL AGENT/ TASER X26**

**OC SPRAY**

**TASER X26**

Serial Number X00-557375

**SUBJECT INFORMATION**

Name (Last, First, MI) <u>Unknown</u>		2. Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	3. Age —	4. Ht. —	5. Wt. —
6. Race <input checked="" type="checkbox"/> White <input type="checkbox"/> White Hispanic <input type="checkbox"/> Black <input type="checkbox"/> Black Hispanic <input type="checkbox"/> American Indian and Alaskan Native <input type="checkbox"/> Asian (Asian Indians, Chinese, Japanese, Koreans, Filipinos, Indonesians, Polynesians, and other Non-Whites) <input type="checkbox"/> Unknown		7. Condition prior to use of Force (check all that apply) <input checked="" type="checkbox"/> Combative <input type="checkbox"/> Alcohol-Influenced <input type="checkbox"/> Drug Influenced <input checked="" type="checkbox"/> Hostile <input type="checkbox"/> Suicidal <input type="checkbox"/> Mentally Ill <input checked="" type="checkbox"/> Failed to follow verbal directions <input type="checkbox"/> Other _____			
8. Arrest <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9. Armed <input type="checkbox"/> Yes w/ _____ <input checked="" type="checkbox"/> No	10. Threatened Use of Weapon <input type="checkbox"/> Yes Describe: <input checked="" type="checkbox"/> No			
11. Injured <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	12. Injury Occurred: <input type="checkbox"/> Prior to use of Force / <input type="checkbox"/> During use of Force / <input type="checkbox"/> After use of Force Describe:				
13. Injuries (specify)		<input type="checkbox"/> EMS Notified / Responded			

**MEMBER INFORMATION**

14. Name (Last, First, MI) <u>Lofrese, Joseph M</u>		15. Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	16. Age [REDACTED]	17. Ht. <u>6'0</u>	18. Wt. <u>215</u>
19. Station <u>SP Middletown T2S F221</u>		20. Shield <u>2435</u>	21. EOD <u>02/14/2005</u>	22. Rank <u>TROOPER</u>	
23. Injured <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	24. Injury Occurred: <input type="checkbox"/> Prior to use of Force / <input type="checkbox"/> During use of Force / <input type="checkbox"/> After use of Force Describe:				
25. Injuries (specify)					

**INCIDENT INFORMATION**

26. Date <u>08/14/2013</u>	27. Tour <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input checked="" type="checkbox"/> 1 <input type="checkbox"/> F — <u>X2-5</u>	28. Time <u>6:28 AM (PM)</u>	29. Location <u>RTN of Wallkill County Orange</u>		
30. Nature of Initial Incident <u>VET Fleeing</u>		31. Situation upon arrival <u>Subject Fled on ATV at member</u>			
32. OC Product Brand name —	33. # Bursts of OC Spray —	34. Distance from Subject —	35. Was OC effective <input type="checkbox"/> Yes Describe reaction: <input type="checkbox"/> No		
36. Taser X26 <input checked="" type="checkbox"/> Deployed Probe <input type="checkbox"/> Contact	37. # of Discharges <u>1</u>	38. Distance from Subject <u>3 feet</u>	39. Was Taser effective? <input type="checkbox"/> Yes Describe <input checked="" type="checkbox"/> No, Was a 2 <sup>nd</sup> Cartridge Discharged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
40. Taser Cartridge Serial Number <u>C4100EWYM</u>	41. Spent Cartridge Disposition <input checked="" type="checkbox"/> Secured <input type="checkbox"/> Discarded	Taser X-26 Data Download (Attach) Supv. Initials <u>[Signature]</u> Date <u>8/14/13</u>			
42. Names of other Members/Witnesses present at time of occurrence <u>N/A</u>					
43. Additional Information ( Attach additional sheets as necessary)				SJS # <u>5237279</u>	
44. Name/Rank of Supervisor notified <u>JARED W DUFFY Sergeant</u>				45. AMS Message # <u>AMS M214234028</u>	
46. Member Signature/Date <u>[Signature] 08/14/2013</u>				47. Supv. Initials <u>[Signature]</u>	

## VEHICLE PURSUIT REPORT

*ENCLOSURE #5*

**DIRECTIONS:**    **Member:**    Complete and submit by end of shift to Supervisor who monitored the pursuit.  
**Supervisor:**    Review for completeness and sent through Channels to Zone Headquarters within 3 days of pursuit. Attach File 3, if applicable.

**MEMBER INFORMATION**

Member Involved - Name, Rank: TROOPER JOSEPH M LOFRESE	Shield #: 2435	EOD: 2/14/2005	T/Z/S: F221	Station/Detail: Sp Middletown	Vehicle RIN: F29
Other Division Members Involved (Include Passengers) - Name, Rank & Vehicle RIN:					
Supervisor Notified of Pursuit - Name, Rank & Station: JARED W DUFFY, SERGEANT & SP HAVERSTRAW					
Other Agencies Involved in Pursuit: (Include Names/ Car Numbers If Available)					

**PURSUIT INFORMATION**

Date: 08 / 14 / 2013	Tour: 2-5 A B C	Time Started: 06 : 20pm	Time Ended: 06 : 24pm	Distance Traveled: 1 Mile	Est. Speed of Pursued Vehicle: 40 - 45mph
Reason for Initiating Pursuit: <input checked="" type="checkbox"/> VTL <input type="checkbox"/> Penal Law <input type="checkbox"/> Other Specify _____		Weather Conditions: <input checked="" type="checkbox"/> clear <input type="checkbox"/> raining <input type="checkbox"/> snow <input type="checkbox"/> fog/mist <input type="checkbox"/> other _____		Light Condition: <input checked="" type="checkbox"/> daylight <input type="checkbox"/> dawn <input type="checkbox"/> dusk <input type="checkbox"/> darkness	
Road Condition: <input checked="" type="checkbox"/> dry <input type="checkbox"/> wet <input type="checkbox"/> snow/ice <input type="checkbox"/> other _____					
Type of Area: (Choose one or more) <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> Other (Specify) _____					
Location Pursuit Commenced: Silverlake Scotchtown Road, Town of Walkill					County: Orange
Location Pursuit Ended: Mudmills Road, which atv used access to railroad tracks. T/Walkill					County: Orange
Emergency Lights Used: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		Emergency Siren Used: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		Spike Belt Tire Deflator Used: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   Specify Type _____	
Was Pursuit Vehicle Video Equipped? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Was Pursuit Videotaped? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

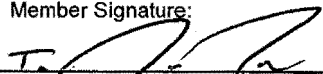
**OPERATOR INFORMATION**

Vehicle Plate #: ATV -(unregistered)	License State:	Vehicle Year:	Vehicle Make/Model:	# Of Occupants:
Driver Age: (Estimate if not identified) <input type="checkbox"/> <16 <input type="checkbox"/> 16-17 <input checked="" type="checkbox"/> 18-25 <input type="checkbox"/> 26-35 <input type="checkbox"/> 36-45 <input type="checkbox"/> 46-55 <input type="checkbox"/> > 55			Impairment: unknown <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Not impaired	
Sex: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female				
Driver's Name, If Known: (Last, First, MI) UNKNOWN				Date of Birth:
Reason Given By Driver For Failing To Stop:				

**RESULTS**

End of Pursuit: <input type="checkbox"/> Legal Intervention <input type="checkbox"/> Vehicle Stopped <input type="checkbox"/> Vehicle Lost <input type="checkbox"/> Vehicle Crashed				
<input checked="" type="checkbox"/> Member Terminated Pursuit <input type="checkbox"/> Supervisor Ended Pursuit <input type="checkbox"/> Division Vehicle Crashed				
Complete these boxes if pursuit resulted in Death, Damage or Injury.		Number Killed	Number Injured	Estimated Value of Property Damage
	Division Vehicle			
	Pursued Vehicle			
	Third Party			
Description of Charges Filed:				


**Synopsis of Pursuit:**  
Trooper JOSEPH LOFRESE was working a schedule 2-5 shift out of Sp Middletown operating unmarked patrol unit F29 on Silverlake Scotchtown road in the Town of Wallkill. Trooper LOFRESE observed white male operating a ATV recklessly on Silverlake Scotchtown road eastbound. Trooper LOFRESE activated his lights and sirens and followed ATV for approx 3/10 of a mile when the ATV made a u-turn in traffic almost causing motor vehicle accident with other uninvolved vehicles. ATV proceeded westbound on Silverlake Scotchtown road and made a right turn on to Mudmills road. ATV crossed over roadway and used access railroad tracks to elude member. Trooper LOFRESE terminated the pursuit at that point.

Member Signature:  #2435	Date: 08/14/2013	File 3 #:	Case #: 5237279
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**Pursuit Supervisor Comments:**  
DUE TO SHORT DURATION OF THE PURSUIT, THERE WAS NO PURSUIT SUPERVISOR.

Pursuit Supervisor Signature/ Rank/ Shield:  2461	Date: 08-15-13
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**Zone Commander/ Second Line Supervisor Comments:**  
NO ISSUE WITH PURSUIT

Signature/ Rank/ Shield:  4112	Date: 9/9/13
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**Taser Information**

**Dept.** New York State Police  
**Serial** X00-557375  
**Model** TASER X26  
**Firmware Version** Rev. 22  
**Device Name** F221-2  
**Health** Active

**Report Generated by**

**Name** duffy, jared  
**Badge ID** 2498  
**Local Timezone** Eastern Standard Time (UTC -04:00)  
**Generated On** 14 Aug 2013 21:05:15

**Device (x26)**

Seq #	Local Time [dd:mm::yyyy Hr:min:Sec]	Event [Event Type]	Duration [Seconds]	Temp [Degrees Celsius]	Batt Remaining [%]
1	14 Aug 2013 18:24:29	Fire	5	18	84

**NEW YORK STATE POLICE****MEMORANDUM**Troop Station SP MIDDLETOWNDate AUGUST 14, 2013**To: Major PATRICK J REGAN, Troop Commander, Troop F****From: Trooper JOSEPH M. LOFRESE** **Subject: TASER DEPLOYMENT**

I was advised of my rights to representation pursuant to Article 16.2 of the contract by Sergeant JARED W DUFFY.

On August 14, 2013 I was a scheduled 2-5 shift out of SP Middletown. I was operating unmarked patrol unit F29. I observed white male operating an ATV recklessly on Silverlake Scotchtown Road traveling eastbound in the Town of Wallkill. I activated my lights and sirens and followed the ATV for approx 3/10 of a mile when ATV made a u-turn in traffic almost causing several motor vehicle accidents. The ATV proceeded westbound on Silverlake Scotchtown Road, then made a right turn onto Mud Mills Road, crossed over the roadway, and entered the entrance to the railroad tracks. Knowing the area, I proceeded down Cottage Street into Woodside Knolls housing development where I accessed the railroad tracks in an effort to stop the ATV. I observed the same white male on the ATV traveling westbound on the shoulder of the railroad tracks. I entered the path the ATV was heading on foot and gave a verbal command by putting out my hand to stop. The ATV stopped in front of me. I approached the ATV and gave the operator verbal commands to get off the ATV. At which time the operator failed to comply. Operator of ATV showed planned aggression, evidenced by standing on ATV while jumping up and down on ATV and clinching his fist. I pulled out my taser while attempting to effect an arrest on the subject. The ATV suddenly accelerated trying to strike me, causing me to fear for my life. I was able to jump out of the path of the ATV and simultaneously discharged my taser with negative results. I was unable to stop and identify the operator who continued in a westbound direction. I notified Sergeant JARED W DUFFY of taser deployment who responded to the scene.

I am aware of the Division Taser Policy that "Members shall not discharge an ECD against an individual who is in control of a vehicle in motion." My initial intention was to effect the arrest on subject while the ATV was stopped. However, I took out my taser while the ATV was at a complete stop. ATV operator made aggressive actions toward me. These actions included: standing on ATV and clinching his fist toward me. Subject suddenly accelerated trying to strike me. I then felt fearful for my life. Therefore, I felt it was necessary to deploy my taser.