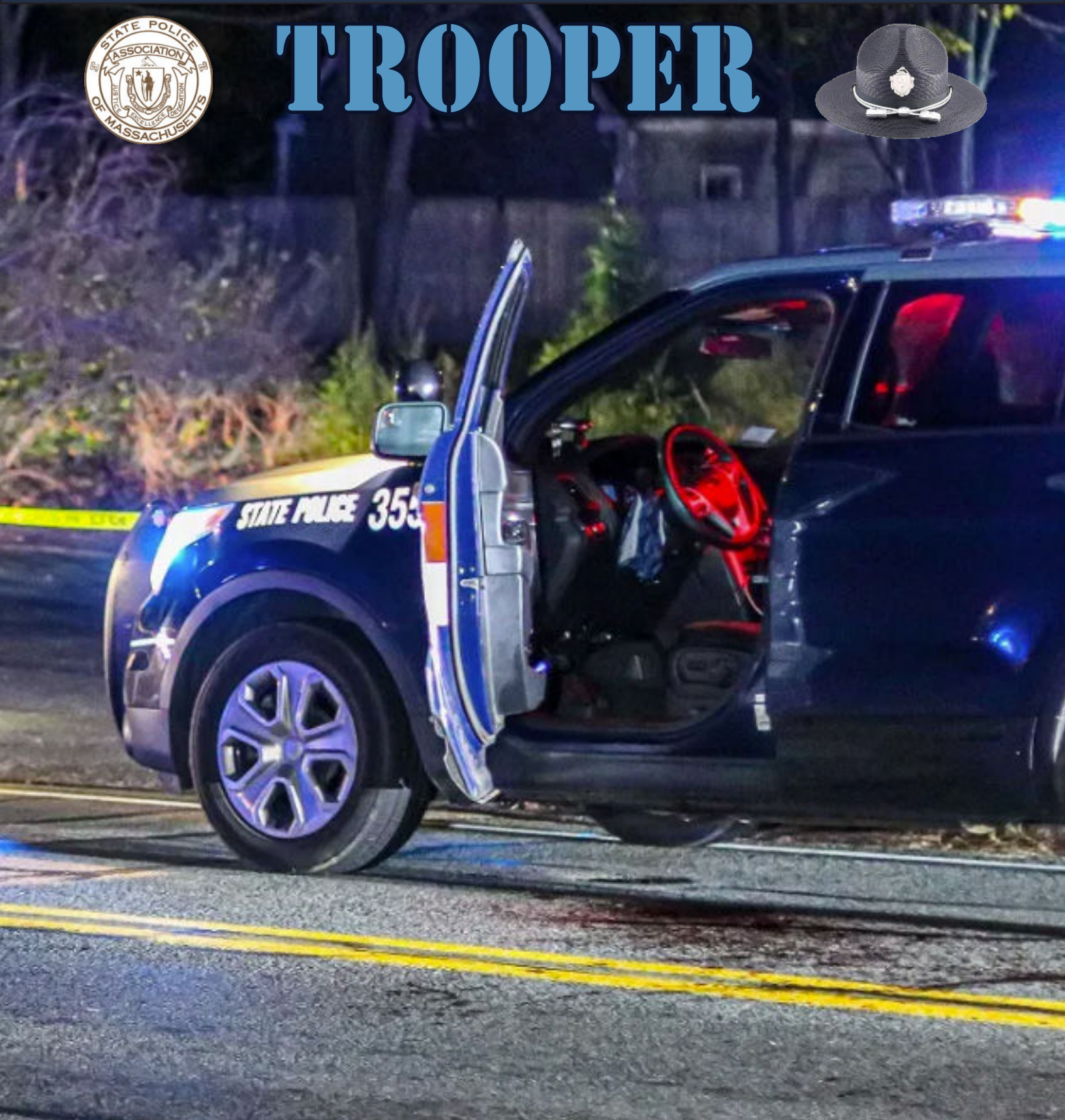




# TROOPER





# From the President



Welcome to the restart of the Trooper Newsletter. We hope you enjoy the articles and photos of your fellow SPAM members. As we continue to refine and improve our own reporting on the happenings within the MSP, we are in need of “in the book” stories from around the Troops. If you are interested in writing for the Trooper Newsletter, please email our office at [secretary@msttrooper.org](mailto:secretary@msttrooper.org).

I have recently stopped in at various barracks across the state in hopes of meeting with, and hearing from, as many of you as I can. It is my intention to continue these visits, along with the restart of Troop Townhalls. These meetings are part of our commitment to being responsive to the membership, and the intent is to provide a small group setting for a more informal discussion. Below are some of the recent topics discussed.

We know that many of our barracks were built in the 30's and 40's and have had minimal modernizations. With the accreditation process coming, I do not see how most of our facilities will be suitable without significant infrastructure funding, expansion and modernization. This has been a consistent topic of discussion between SPAM and the Department. Recently, after meeting with members at SP Cheshire (B-4), we were able to have facility testing conducted, which identified a significant mold issue and health risk. As a result, one of the Department's mobile command posts was deployed for temporary operations as cleaning and mitigation is performed. Currently, we are exploring a more permanent solution and engaging with local legislative representatives for support.

The recent onslaught of new responsibilities through the updated policy promulgation – needed for the Department to comply with accreditation – has resulted in a significant change in our working conditions. As a result, SPAM has filed an unfair labor practice with the Department of Labor Relations (DLR) and sought injunctive relief through the Courts. While the injunction was denied in Superior Court, our case in DLR is moving forward. These changes are also a mandatory subject of impact bargaining.

The archaic desk and two staffing that hasn't changed since the 1950's continues to put an unreasonable strain on our members. Add to that numerous radio troubles and an outdated records management system (RAMS), and no wonder one of the common discussions that occurs across the state is that we are likely not capturing 50% of our call volume. Although a \$125,000,000 bond was approved and a multi-year radio project is underway to modernize our system, we also continue to advocate for a modern Computer Aided Dispatch (CAD) system.

The Commonwealth recently commissioned a staffing study. The results of this study recommended a force of 2,700. This is an estimate that was concluded absent a true evaluation of our DIS and DHS divisions. We can only imagine the number would be in excess of 3,000 members if we had accurately analyzed and staffed the Division of Investigative Services and Homeland Security. While the 86<sup>th</sup> RTT was recently upped from an expected 150 to 175 new Troopers, we are in dire need of several follow-on classes just to keep up with attrition.

We have a long road ahead of us as we enter the summer months after a year-long isolation. We have seen the increase in violence across the state and we are being asked to do more with less. We will rise to the occasion and continue to provide the best services possible. We at SPAM will continue to fight for your rights as we enter contract negotiations and work with the command staff to raise our barracks staffing to safe levels.

In the coming months we hope to bring back some fundraisers, golf tournaments, the State Police Chase and in-person meetings. As we continue to monitor the CDC and the Governor's orders as they pertain to COVID restrictions, we will keep you informed of upcoming events. Please watch out for each other, as we and our families are in this together and we all have an interest in each Trooper's safety and well-being.

Thank you,

Mike Cherven  
President

State Police Association of Massachusetts

On the Cover: Tpr John Lennon of the 85th RTT was rushed to the hospital after being shot in the right hand. The bullet went through his hand and struck him in his shoulder, where his ballistic vest stopped the round from causing further damage. The blood he left behind on the pavement shows the serious nature of his gunshot wound.  
-Photo courtesy of Hyannis Times

# Working For You

Each issue we will introduce you to the members of the Massachusetts State Police Association that work for you, the union members. This issue profiles our Director of Community Engagement, Business Director and the Trooper Newsletter Editor. We are excited to introduce them and let you know a little about what the people employed by SPAM do for you. Also in this issue you will find messages from the Safety Committee, the General Counsel and the Treasurer.

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## Building Bonds and Strengthening Ties: SPAM and Community Engagement

With a little over a year in SPAM's Director of Community Engagement, Cathy Draine is looking forward to working with SPAM leadership and members to develop a five-year community engagement strategy. "While the past year was certainly not an easy one, I think it provided us with clear indicators on how to move forward with building bonds and strengthening ties which are at the heart of effective community engagement," Draine commented.

SPAM's community engagement efforts focused primarily on responding to needs created or exacerbated by the COVID-19 pandemic in the first year. Food insecurity, the social isolation of older adults, and supporting youth learning remotely were the main focus areas for the response. Work Out with a Trooper, Chat With A Trooper and a handful of partnered food distribution days were all direct responses organized through SPAM. Cathy received the National Hockey League's Star Player of the Month for February alongside Boston Bruins player David Pastrnak for her leadership. Additionally, SPAM's efforts included commemorating Mother's Day and Black History Month with partner community-based organizations in Boston. On March 27<sup>th</sup>, SPAM partnered with the MA State Police to host a G.I.R.L.S. Day to celebrate Women's History month and female MA State Troopers past, present, and future.



Moving forward, Cathy expects SPAM's community engagement efforts to continue a hybrid approach to interaction and response in the Commonwealth. The Association will address emergent issues while also establishing initiatives aligned with SPAM members' civic priorities. "One of the most rewarding parts of my job is working alongside Troopers who are already agents for change in their communities. The more we work in alignment, the stronger our impact will be in shaping stronger, healthier, and safe communities in Massachusetts," Draine said. For more information about SPAM's community engagement work, Cathy can be reached by email: [cdraine@msptrooper.org](mailto:cdraine@msptrooper.org).

## Business Director Update

Dear Association Members,

As a follow up to my introduction last October, I want to share with you some of the tasks that I am currently working on or have accomplished since joining the State Police Association of Massachusetts in the newly created role of Business Director. I'll begin by sharing my background:

My professional background includes several years in the Financial Services sector with a focus on Operational Improvement, Relationship Management and Business Development. I also graduated from Boston College with an Accounting degree and earned an MBA from Suffolk University. I am originally from Boston and reside on the South Shore with my family.

Since joining the Association, I have been focused on enhancing Membership support, Benevolent Fund Growth and documentation, as well as Community Engagement and Election Committee support. I was also recently appointed as Treasurer of the Political Action Committee. Since duly sworn Members cannot serve in this capacity, I will provide representation from a fiduciary standpoint.

Another area of focus includes our real estate concerns. Our current office space in Boston represents a significant expense to the Association. From a historical perspective, the existing lease was re-negotiated in 2018 and was extended for a ten year period, at then competitive terms. We recently inquired to see if the landlord would consider a reduced cost and shorter term arrangement as well as the potential to sub-lease the space. These efforts were also attempted prior to the Covid-19 pandemic. We were given permission to actively seek a sub-lease arrangement but were informed by the landlord that these efforts may be difficult given the 11 Beacon Street building has several vacancies due to the impact the pandemic is having on real estate throughout the city. We subsequently contacted a sub-lease expert who conducted an on-site analysis of the office. We learned that in the City of Boston alone, there is over 4 million square feet of open space thus reinforcing the challenges of a sub-lease arrangement. Further, we were informed that any sub-lease arrangement was expected to involve a 30% reduced rent payment as well as at least 2-3 months of free rent based on demand. This was in addition to a sizable commission to the real estate agent. The broker that we spoke with regarding a potential sub-lease also told us that our current rental rate was comparable to other similar space in Boston. Given the current real estate environment, made worse due to the pandemic, there is no reasonable way to make any changes to our current lease arrangements at this time. Any actions contrary to the existing lease terms would also likely lead to litigation. We will reassess our lease arrangements when market conditions improve.

I remain focused on ensuring any project, initiative or task has our membership at the forefront. In addition to the above, my goals include the hiring of additional staff to improve overall service to the membership, fundraising to increase our Benevolent Fund and business practice improvement.

Please free to contact me at 617-523-0130 or [BusinessDirector@msptrooper.org](mailto:BusinessDirector@msptrooper.org) with any questions.

Respectfully Yours,

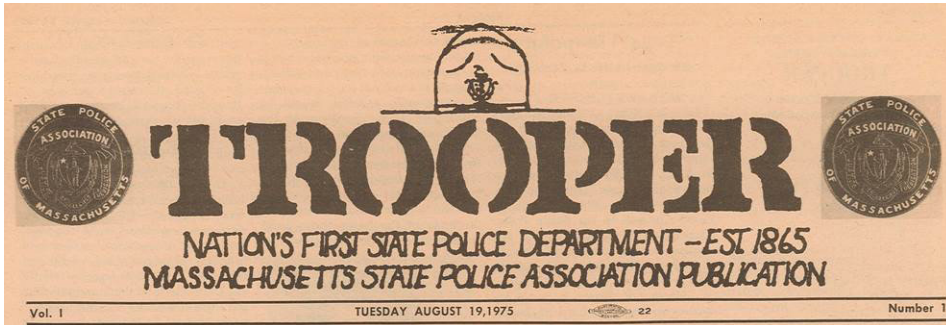
Mike Lawlor

Business Director



## From the Editor

It is an exciting thing to bring back a piece of history. Many of you may not know this, but the original Trooper Newsletter was first produced on August 19, 1975. Your Treasurer, Trooper Chris Donahue, provided me with the below header from the archives. It was stenciled and hand drawn. This revival will include quarterly issues which will come out in Spring, Summer, Fall and Winter.



As the new editor I would like to greet you all and let you know a little about me. I am a combat veteran of Operation Desert Storm. I am also a member of the 72<sup>nd</sup> RTT, graduated in 1994 and spent nearly 20 years on the road. I worked in Troop D, Special Operations, Troop C and Troop H. I was proud to receive one of the Departments highest honors, the State Police Medal of Valor, in 2003. I spent the last years of my career in the Office of Media Relations where I worked for David Procopio and learned the intricacies of media work from him. I published the Departments' monthly newsletter, French & Electric Blue, for several years until suffering from medical issues related to my heart. I was not prepared for it, but I retired in 2017 with 23 years of service. Since my retirement I have been fortunate to continue to serve as the Drum Major for the Massachusetts State Police Pipes & Drums.

With the revival of the Trooper Newsletter, I look forward to also bringing back the 'In the Book' section which profiles great arrests and actions taken by your fellow members of the union. The 'In the Book' section will be published by Troop as it was historically. Troop Reps will need your help in creating this look at the activities of each Troop. We can only include what it is sent to us, so if you have a great pinch, are part of a great invest or just have a feel-good story, let your Troop Rep know so it can be included.

I look forward to working with the other members of SPAM and helping to keep lines of communication open and flowing to you, the workers of the Massachusetts State Police.

Respectfully,

Matthew J. Guarino, 72nd RTT (Ret)

On 7-21-75 Trooper Nelson Ostiguy and Joseph Souza investigated a motor vehicle spinning its tires in the rear of the barracks. Upon approaching the vehicle, operator attempted several times to run down the Troopers. Both service revolvers were used and the subject fled the scene in the MV but was later apprehended by SP officers and Dartmouth PD.

The suspect was charged w/A&B w/D.W., larceny of MV, operating after revocation, leaving the scene and endangering.

As the result of an extensive investigation, S/Sgt. Walter Drewnick and Tpr. Robert St. Jean, officers from the narcotics section at SP Dartmouth executed a search warrant for controlled substances at a home in Dartmouth. As a result of the search officers seized approximately 30,500 "hits" of THC worth approximately \$60,000. A 1973 CanAm MC worth approximately \$1,000 was also recovered in the raid. A suspect living at the house searched was charged with illegal possession of a class C substance with intent to sell. A good arrest assisted by the Dartmouth PD.

An excerpt from 1975  
'In the Book'

## Message from the Treasurer

I would like to thank all the Sergeants and Troopers of the State Police Association of Massachusetts for an outstanding job throughout the pandemic. Your hard work and vigilance has not gone unnoticed. I applaud all the volunteers who participated in the many community engagement initiatives hosted by the Association. We have received many heartfelt thank you sentiments that came in throughout the Commonwealth in the form of emails, letters, and donations through our SPAM Benevolent Fund.

I extend my gratitude to all of the advertising supporters and businesses of our Constabulary magazine. Your unwavering support through these difficult times has been well received by the members of the Association. Your support has a direct impact on the Sergeants and Troopers of the Association.

I extend my deepest condolences to the late Trooper Thomas Devlin's family. Trooper Thomas Devlin was killed in the line of duty. He was struck by a motor vehicle while conducting a traffic stop on the highway. He sustained multiple serious injuries to include a traumatic head injury. On September 3, 2020, he succumbed to his injuries. Additionally, my thoughts are with all the Sergeants and Troopers who are currently seeking medical treatment for serious injuries sustained in the performance of your duties. Your protection of the Commonwealth and courageous actions are commendable.

Over the past year, we were successful in executing and maintaining a multi-million-dollar budget. Spending was cut, which increased our overall savings. We were successful in maintaining positive interest in all our investments. We are seeing a healthy growth in our Legal Defense Fund. Our General Counsel Patrick Hanley and CPA Christopher Polito had been instrumental in the success of our Association. They are always accessible to render legal and financial opinions.

The SPAM Benevolent Fund had assisted many of our members, other first responders and members of the community with aid. Recently, the SPAM Benevolent Fund assisted the family of late Trooper Thomas Devlin. The SPAM Benevolent Fund was able provide the family with financial support during a time of uncertainty.

The SPAM Benevolent Fund is a Federally recognized 501(c)(3) charity where all donations are tax deductible. The Fund depends on donations to maintain growth in savings. There are many caring people who make donations to the SPAM Benevolent Fund. We receive donations through the SPAM Benevolent Fund website, checks mailed to our office, and the RMV's "Protect and Serve" special plates.

The "Protect and Serve" special plate is available through the state Registry of Motor Vehicles. The plates cost \$40, \$28 of which goes directly to the SPAM Benevolent Fund in the first year. When you renew this specialty plate in two years, all \$40 goes directly to the fund. Please contact Michael Lawlor, our Business Director, at (617) 523-0130 to receive more information on the "Protect and Serve" special plate.



Please do not hesitate to reach out to me with any questions you may have (857) 378-4203 or [treasurer@msptrooper.org](mailto:treasurer@msptrooper.org). I am proud to stand beside all of you as a fellow Trooper and represent our organization as a Constitutional Officer.

Sincerely,

Christopher Donahue

Treasurer

State Police Association of Massachusetts

### **Message from the General Counsel**

Policing in America continues to undergo unprecedented scrutiny. As a prosecutor for 14 years, I understand the unique role of the State Police, its history and many of the men and women that proudly wear the uniform.

The legal issues facing the Association are varied and many. They range from advice facing any business, like insurance, leasing, personnel, and vendor contracts, to those facing employee associations, like member support, contract interpretation, litigation, engagement with management's attorneys, and advising on fundraising, lobbying and political contributions, to those specific to police, including advising on impact of police reform legislation, Brady/Giglio, qualified immunity, disciplinary issues, and media scrutiny.

During the year and a half that I have served as the Association's General Counsel, I have helped bring in additional legal resources to directly represent members, aided in the elimination of uncompensated travel time, advise the E-Board during nearly all of their bi-monthly meetings, and recently brought suit in Suffolk Superior Court on behalf of members to address the Department's undercalculation of your overtime rate.

I will continue to aid the E-Board in its stewardship of the Association. In the coming year I intend to continue advising the E-Board on any legal issue that arises, as well as add training on evolving issues like police reform to our agenda. I will continue to identify issues large and small that benefit the membership, and work to address them.

Yours Truly,

Patrick Hanley

Butters Brazilian LLP

### **Message from the Trustee**

Dear fellow SPAM members,

I want to express my heartfelt thank you for your vote of confidence in appointing me as the Trustee for the Association. The Trustee position is new and serves us all by advancing transparency and building mutual trust within SPAM and outside it. I am hopeful that as we shape this position, it makes us better and more effective as we work towards furthering the Membership's goals.

During this initial year, I will be focused on reviewing SPAM's ledger, examining how SPAM utilizes our bi-weekly contributions to meet the goals of the Association. As this position grows, I see potential to review other areas of interest such as grievance and committee processes. As this position suggests, it has both, oversight and investigatory roles, similar to that of an Inspector General in the Armed Forces.

As we read this, our SPAM leadership has been welcoming and our Treasurer has shared all aspects of our ledger, detailing the precise spending and operating costs associated with our Association. I will be preparing a financial report for all of us and administering it at the annual meeting.

I am seeking suggestions and feedback on the shaping of the Trustee position. Please send your suggestions and feedback to [Trustee@msptrooper.org](mailto:Trustee@msptrooper.org).

Sincerely,

Gary Comeau #3093

## **A Message from the Safety Committee**

The Safety Committee is comprised of Paul Powell, Michael Halstead and David Manning. They collaborate with the Department to address, resolve, and inform the Colonel of safety concerns faced by department members. Over the past year, the Safety Committee had addressed several safety concerns that directly impacted our Sergeants and Troopers, the radio system, injuries, cruiser issues, and purchasing of equipment, to name a few.

The radio system has been in need of major improvement for many years. The Commonwealth has secured a \$125M grant to improve the infrastructure of the radio system. The analog system will be removed at most locations and replaced with a digital system. Additionally, the Safety Committee had filed language to change the building codes to ensure the State Police radio repeaters are installed in new and remodel construction.

The Association's Radio Discrepancy Form has been successful in identifying radio problems throughout the Commonwealth. We have forwarded all of the radio discrepancies to the Communications Section where they have fixed several discrepancies that were reported. If you experience a radio discrepancy, please make a log note in the Daily Administrative Journal and please make an entry in the Association's Radio Discrepancy Form (click here to make entry).

The Safety Committee is committed to reduce the number of injuries Department members receive through the performance of their duties. Prior to the pandemic, the Safety Committee had addressed the increase of injuries to our members at prominent locations. We expect larger gatherings as the Commonwealth reopens and COVID-19 restrictions are lifted. The Safety Committee will be monitoring injuries as it relates to staffing within Troops, Sections and Units.

Please forward all safety concerns to your Troop Representative and send an email describing the safety issue to [trooper@msptrooper.org](mailto:trooper@msptrooper.org). The Safety Committee wishes that all our Sergeants, Troopers and supporters remain healthy and safe.

Respectfully,

The Safety Committee

State Police Association of Massachusetts

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### **SPAM BENEVOLENT FUND**

Help us in helping our Troopers by making a donation to the Benevolent Fund. In the online Flip Book version of our newsletter you can click the Benevolent Fund bulldog to make a donation to the SPAM Benevolent Fund. If you have the print version or would like to speak to someone for your donation, you can contact Michael Lawlor at 617-523-0130 or [BusinessDirector@msptrooper.org](mailto:BusinessDirector@msptrooper.org). To mail a donation please make a check payable to the SPAM Benevolent Fund and mail the check to STATE POLICE ASSOCIATION OF MASSACHUSETTS • 11 BEACON STREET • SUITE 700 • 7TH FLOOR • BOSTON, MASSACHUSETTS 02108.





# Hitting The Streets With SPAM



# Things We Missed

Covid-19 made gatherings for celebrations, memorials and other special events difficult. Here is a look at some of the things you may have missed:

## SERGEANT DOUG WEDDLETON 10-YEAR MEMORIAL SERVICE

### AT STATE POLICE FOXBORO

On June 16, 2010, Sergeant Doug Weddleton was killed in the line of duty. Sgt. Weddleton was working a construction detail on Rt. 95 in Mansfield when he encountered a vehicle that had blocked the ramp. While speaking with the operator of this vehicle a second vehicle struck the first vehicle, which ultimately caused the death of Sgt. Weddleton.

Members of the State Police gathered at SP Foxboro to participate in a wreath laying ceremony remembering Doug. Present were Doug's wife Judith, Doug's family, friends, and co-workers. Presently three of Doug's children have followed in their dad's footsteps and have become troopers. Mark, Stephen and Ross are now wearing the French and Electric Blue and serving the citizens of the Commonwealth. We all know how proud Doug is of you as you continue his legacy of serving.

The State Police Benevolent Fund provided lunch for our members, members of the Weddleton family, and other distinguished guests that attended today's service. The State Police Association Benevolent Fund is a 501(c)(3) charitable organization where your donations go directly to helping our members, first responders and their families in a time of need. In order to make a charitable donation to the Benevolent fund [click here](#). We at SPAM thank you for your continued support which allows us to help our members who are in need.





## **Trooper Mark Charbonnier award**

On September 2, 1994 Massachusetts State Trooper Mark S. Charbonnier was killed in the line of duty. His murder will remain with us forever. Mark was special beyond common men. He was our guiding light to do the right thing, to fight crime and stand up to evil.



### **2019: Sergeant Brian Tully**

#### **Norfolk State Police Detective Unit**

The 2019 Trooper Mark Charbonnier award winner was instrumental in putting together a top notch homicide investigators seminar. Norfolk State Police Detective Unit, Sergeant Brian Tully, took the initiative to organize, sought funding, researched topics which would enhance our members in the field of homicide and death investigations. Sergeant Tully organized the first seminar in 2018 which included 79 attendees from the MSP and the Office of the Chief Medical Examiner. Topics included crime scene processing, fugitive investigations, buccal swab certification, Uber, Chief Medical Examiner Dr. Mindy Hull, digital evidence, street gangs, biohazard safety, Pulse Nightclub case study.

After a successful 2018 course Sgt. Tully began to plan and execute a 2019 course. He again began the arduous task of searching for funding, researching topics and finding presenters. The 2019 seminar included 140 attendees from the MSP, OCME, Springfield, Brookline, Cohasset, Dover, Franklin, Medway, Needham, Norwood, Randolph, Stoughton, Weymouth, and Quincy. Topics were Chief Medical Examiner Dr. Hull, DVR evidence, buccal swab certification, Todd Keohlhepp case study, legal update, legal panel discussion, officer involved shootings, call detail records, street gangs, Golden State Killer case study, and genetic genealogy.

Congratulations to Sgt. Brian Tully for his hard work, dedication to our members in improving their overall knowledge and techniques as we recognize him as the 2019 Trooper Mark Charbonnier award winner.

## **2020: Trooper James Higgins**

### **Troop F – E.O.D.**

The Charbo award is voted on and presented each year by the State Police Association of Massachusetts in memory of "Charbo." This award represents a member who has distinguished himself through enhancing our members or our membership. This year's award recipient has done exactly that, and more, for the past 23 years. Beginning in 1997 Trooper Jimmy Higgins volunteered to become a member of the SPAM election committee. Then in 1999 Trooper Higgins became the election committee chairperson, a position he held through the 2020 elections. This year Trooper Higgins stepped down from his position and passed the torch.

The election committee is an unpaid, volunteer position within SPAM that oversees the election process. The responsibilities of the election committee range from handling complaints, counting ballots, putting out correspondence associated with the election, ensuring a fair and equitable process, and organizing the results and preparing them for ratification at the annual meeting. This is no small task and Jimmy's years of dedicated service to the members and SPAM is hereby recognized as Trooper James Higgins is the 2020 recipient of the Trooper Mark Charbonnier award.

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Does your business want to reach the union members of the Massachusetts State Police? Advertising space is available in future issues by contacting our Business Director Mike Lawlor at 617-523-0130 or [BusinessDirector@msptrooper.org](mailto:BusinessDirector@msptrooper.org)

**ADVERTISE  
YOUR  
BUSINESS  
IN  
TROOPER**

# WORK INJURIES

## 3D PARTY CLAIMS/UNINSURED & UNDERINSURED MOTORISTS

### TROOPERS BEWARE!

Over the years, while acting in my capacity as counsel to S.P.A.M. and in connection with representation of numerous Troopers in personal injury matters, I have had repeated conversations with Troopers, concerning injuries sustained by Troopers when they are involved in “on the job” accidents. In particular, the questions which arise are whether a Trooper is entitled to recover damages, beyond the compensatory benefits which a Trooper receives pursuant to M.G.L. c.22C, §16 and the process of the Board on Claims, pursuant to Article 8 of the State Police Rules & Regulations. M.G.L. c22C, §16 authorizes the Colonel “to authorize the payment...of reasonable hospital, medical and surgical expenses incurred (by a Trooper), when temporarily or permanently disabled by injuries sustained while in the course of employment...” and Article 8 of the State Police Rules & Regulations provides for “injury related costs and wages”.

Many Troopers are under the misconception that they are precluded from any further recovery, such as a personal injury claim, when they are injured “on the job” as a result of the negligent conduct of a responsible party, such as in the case of a cruiser accident (or any other type of accident) which occurs in the scope of their duty. This is simply not true!

When a Trooper sustains injuries as a result of the negligent conduct of another party (other than a co-employee), whether it involves a cruiser accident, injuries sustained as a pedestrian while standing outside of a cruiser, or under almost any other circumstance, he or she is entitled to recover from the responsible party which proximately caused those injuries. That responsible party is considered a “third party”, for liability purposes and a Trooper is entitled to recover from that “third party” and its liability insurance company.

In a “third party” claim, a Trooper is entitled to recover any and all consequential damages, including all costs associated with medical expenses, damages for pain and suffering, damages for disfigurement and scarring and damages for permanent loss of bodily function. Moreover, a Trooper is entitled to recover lost wages, including lost detail pay and lost overtime pay, most of which is not recoverable under M.G.L. 22C, §16 and Article 8. Although the terms of section 8.1.10 of the State Police Rules &

Regulations require that “The Department shall be reimbursed... for the sums as have been paid”, the injured Trooper still realizes the full amount of compensation, over and above those sums paid through the Board on Claims process and M.G.L. c22C, §16 through the filing of a “third party” claim.

Typical scenarios which my office has been involved in have included severe neck, back and shoulder injuries sustained in cruiser accidents, life threatening injuries sustained by Troopers, Troopers and municipal officers involved in pedestrian accidents and even severe injuries sustained by Troopers and municipal officers who are injured as a result of responding to bar fights, where patrons were over served or a tavern is overcrowded.

### UNINSURED CLAIMS & UNDER-INSURED CLAIMS

One topic of primary concern to Troopers should be the negligent conduct of **uninsured operators and underinsured operators** of motor vehicles. As many Troopers are aware, there are thousands of motorists on our roadways who either fail to obtain ANY auto insurance for their vehicle, in violation of M.G.L. c. 90, or they fail to obtain adequate auto insurance, beyond the \$20,000 per person minimum coverage which is required by law.

Troopers especially should be aware of the scenario where he or she sustains injuries as a result of the negligent conduct of an **uninsured operator or underinsured operator**. As many of you know, there are numerous instances where Troopers sustain injuries as a result of the conduct of an uninsured or underinsured operator. In such instances, a (continued)

Trooper may receive benefits pursuant to the Board on Claims process and M.G.L. c220, §16, since he or she may become “temporarily or permanently disabled by reason of injuries sustained while in the course of employment”.

However, in the event that the negligent operator is uninsured, or where that operator flees the scene and his identity is not discovered, or in the event of an underinsured operator, the Trooper still has a right of recovery for the full value of all of his/her consequential damages, including all of those elements of damages mentioned above, in what is known as a “UM Claim” or Uninsured Motorist Claim (in the event of no insurance) or a “UIM Claim” or Under-insured Motorist Claim (in the event of inadequate insurance).

What is most important for all Troopers to be aware of is that there are a few major differences between “third party” claims and an Uninsured/Under-insured Motorist Claims. One very significant difference is that a “third party” claim is brought against that “third party” and the liability insurer of that “third party”. An Uninsured Motorist claim and an Under-insured Motorist Claim, on the other hand, would be filed against either the insurer for the vehicle which the Trooper is occupying, or **his or her own personal motor vehicle policy.**

Since the Massachusetts Department of State Police does not provide private insurance coverage for its cruisers which Troopers are driving, and is instead self-insured, there are no “Uninsured Motorist” benefits or “Under-insured Motorist” benefits available under the canvass of the State Police. Instead, a Trooper who is injured as the result of the negligent conduct of an “Uninsured Motorist”, **must seek benefits from his or her own private auto insurance policy, under the Uninsured Motorist provision and Under-insured Motorist provision of their own household vehicles.**

The good news is that such “UM Claims” and “UIM Claims” can be made by Troopers under these circumstances, and Troopers can be compensated, under **their own personal auto policies**, as the language of the standard Massachusetts Auto Policy provides such benefits to an operator, “while occupying your auto, **while occupying an auto you do not own**”, **(such as a cruiser) “or if injured as a pedestrian”**. An added benefit of such a claim is that you are NOT required to reimburse the Commonwealth for ANY amounts recovered under an uninsured or under-insured motorist claim. See **Reliance Ins. Co. v. Robertson, (1979), 7 Mass. App. Ct. 735.**

Given that most Troopers spend a considerable amount of time operating their department issued cruisers, rather than their own private vehicles, it is imperative that Troopers are aware of the implications of the self-insured status of State Police cruisers, as mentioned in this article. Moreover, Troopers should take the time to check the insurance coverage on their personal vehicles, by checking their “Coverage Selection Sheet”, which they obtained from their insurance agent, and they should speak to their personal insurance agents, to be sure that they have sufficient Uninsured Motorist benefits and Under-insured Motorist benefits, on their personal auto insurance policies.

*Daniel J. Moynihan currently serves as counsel to the State Police Association of Massachusetts. His office, The Law Office of Daniel J. Moynihan, PC, is located at 271 Main Street, Suite 302 in Stoneham Ma. Attorney Mark A. Russell is an associate at The Law Office of Daniel J. Moynihan.*

*Atty. Moynihan is a former Assistant District Attorney in Middlesex County and he served 13 years as Sr. Trial Counsel for Royal and Sun Alliance Insurance Company in Boston Ma., where he litigated and arbitrated hundreds of personal injury cases and insurance related matters. The Law Office of Daniel J. Moynihan, PC has represented numerous law enforcement officers in connection with third party claims and uninsured/underinsured motorist claims. The Office also represents troopers in defense of civil rights claims filed against them and in matters before the Massachusetts Civil Service Commission.*

*Atty. Russell is a former prosecutor for 9 years and subsequently served for 4 years as the Chief Civil Attorney for Lake County, Montana. He tried hundreds of misdemeanor and felony trials and served as the chief legal advisor to all local government officials including law enforcement in Lake County. Prior to relocating back to Massachusetts, Attorney Russell was a finalist for appointment as a District Court Judge by the Governor of the State of Montana.*



IN MEMORY OF  
SERGEANT DOUGLAS A. WEDDLETON  
WHO SERVED THE COMMONWEALTH OF  
MASSACHUSETTS FROM 1982 -- 2010  
KILLED IN THE LINE OF DUTY  
JUNE 18, 2010



MASSACHUSETTS STATE POLICE