



CITY OF PORTLAND, OREGON



Bureau of Police

Ted Wheeler, Mayor

Charles Lovell, Chief of Police

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MEMORANDUM (CONFIDENTIAL)

February 28, 2022

TO: Officer Brian Hunzeker #39600, PRNR #489290
Personnel Division

SUBJECT: Imposed Discipline: Suspension without Pay
Termination
IA Case #2021-C-0031

You are hereby notified that your conduct, while employed with the Portland Police Bureau, has not met standards acceptable to the Bureau. Your conduct is in violation of the following Bureau directives (in relevant parts):

Directive 310.70 – Dissemination of Information

Members shall treat the official business of the Bureau as confidential. Information regarding official business, shall be disseminated only to those for whom it is intended, in accordance with established procedures. Members may remove or copy official records or reports from a police installation only in accordance with established procedures. Information obtained from the Portland Police Data System (PPDS), Reports Viewer (R-View), Law enforcement Data System (LEDS), National Crime Information Center (NCIC), Department of Motor Vehicles (DMV) or similar systems are not for public disclosure, nor should they be accessed for personal reasons. Questions concerning the legality and appropriateness of document/record dispersal should be referred to the Records Division manager and/or City Attorney liaison.

Directive 310.20 – Discrimination, Harassment, and Retaliation Prohibited

Definitions:

Retaliation: Adverse conduct towards an individual, not otherwise authorized by law or policy, which is in response to an action taken or perceived to be taken by the individual. Conduct that would likely deter an individual from reporting or supporting a claim or harassment or discrimination may constitute retaliation. Retaliation can occur even if the underlying complaint of harassment or discrimination is not substantiated.

Policy:

1. To build and sustain community trust, the Bureau is committed to constructing relationships and an environment in which community members do not fear reprisal. The Bureau strictly prohibits members from engaging in any form of discrimination, harassment, or retaliation against community members, including discouragement, intimidation, coercion, or adverse action, against any community member or Bureau member who files a complaint, tort claim and/or lawsuit, or cooperates with an investigation of a complaint against a Bureau member.
2. The Portland Police Bureau is also committed to establishing and maintaining a positive and supportive working environment in which all members have the opportunity to perform their duties to their fullest potential; therefore, the Bureau expressly prohibits members from engaging in all forms of discrimination, harassment, or retaliation against other Bureau members or employees of the City, including discouragement, intimidation, coercion, or adverse action, against any person who reports misconduct, makes a misconduct complaint, or cooperates with an investigation of misconduct.

Procedure:

4. Retaliation Prohibited.

4.1 Members shall not engage in adverse conduct in response to action taken or perceived to be taken by any individual.

4.2. The intent of applicable City rules and this Directive is to prohibit conduct that is unlawful, as well as other inappropriate conduct, before it rises to the level of unlawful retaliation. Retaliation by a member against any City employee for any reason is expressly prohibited. Examples of actions that may constitute explicit or implicit workplace retaliation include, but are not limited to:

4.2.1. Adverse employment action such as termination of employment, demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment decisions, assigning undesirable work, shunning;

4.2.2. Intentionally not providing cover, support, or assistance, or intentionally responding to calls for cover, support, or assistance in an untimely manner;

4.2.3. Reprisal in response to a member reporting misconduct, making a misconduct complaint or cooperating with an investigation of misconduct;

4.2.4. Reprisal in response to a member filing a tort claim and/or lawsuit;

4.2.5. Reprisal for testifying against a Bureau member;

4.2.6. Creation of a hostile work environment;

4.2.7. Intimidation or ridicule;

4.2.8. Rude, discourteous, or disrespectful behavior; or

4.2.9. Inappropriate jokes, comments, or gestures. 4.3 Members shall not engage in any form of explicit or implicit retaliation against a community member. For example, a member shall not issue a citation to, or take other action against, a community member solely for:

4.3.1. Exercising their legal rights:

4.3.2. Reporting or making a claim of misconduct regarding a Bureau member;

4.3.5. Questioning the legality of a Bureau member's actions.

Under City of Portland Human Resources Administrative Rule 5.01(8), a violation of federal or state law, or of the City Charter, ordinances or any City rules or regulations, including Bureau-specific policies, is cause for disciplinary action.

BACKGROUND

You have been employed with the Portland Police Bureau since July 20, 2000.

You have no history of disciplinary actions.

You received command counseling on April 25, 2012, for violating Directives 317.40 – Authorized Use of Bureau Equipment, and 315.30 – Satisfactory Performance, related to a preventable vehicular collision (CRB 2012-025).

You received command counseling on April 11, 2007, for violating Directive 317.40 – Bureau Equipment Use, related to losing a LIDAR (2007-P-0003).

You received command counseling on October 30, 2001, for a preventable vehicular collision (CRB 2002-065).

FACTS SUPPORTING IMPOSED DISCIPLINARY ACTION

On March 4, 2021, media sources published articles about Commissioner Hardesty being an alleged suspect in a hit-and-run accident. Shortly thereafter, on March 5, 2021, several media posted articles stating Commissioner Hardesty was cleared as a suspect in the hit-and-run. Due to the nature of the information posted in the March 4, 2021 articles—including pictures of the CAD report and confidential information that part of an internal, ongoing criminal investigation—PPB determined there had been a leak of confidential information to the media and opened an investigation.

Internal Affairs Investigator Jon Rhodes requested a query of who had accessed the CAD report for the hit-and-run call to determining who might have disclosed the information to the media. The query logs provided by the Records Division showed you queried and viewed the CAD call on March 4, 2021 but would not have had a business reason to do so.

You resigned from your position as Portland Police Association President on March 15, 2021, with an effective date of March 16, 2021.

The March 16, 2021, the Portland Police Association released a media statement which read, in part:

Over the last 24 hours, we learned that Portland Police Association President Brian Hunzeker made a serious, isolated mistake related to the Police Bureau's investigation

into the alleged hit-and-run by Commissioner Hardesty. We apologize to Commissioner Hardesty for that mistake and will be reaching out to meet with her personally.

Brian's mistake was not driven by malice. But it was a serious mistake. He has held himself to account by resigning his position as PPA President effective immediately. The PPA'S Executive Board has accepted his resignation.

Investigator Rhodes, with Michael Gennaco, principal of OIR Group, present, interviewed you on May 24, 2021, and June 18, 2021, and asked about your involvement relevant to the two allegations outlined herein.

Violation of Directive 310.70 – Dissemination of Information: Officer Brian Hunzeker #39600 disseminated confidential information to the media. (CONDUCT)

You told Investigator Rhodes on the morning of March 4, 2021, you received a text message from a Portland Police Association member indicating there was a rumor within the Police Bureau that Commissioner Jo Ann Hardesty had been involved in a hit-and-run crash (IA Interview, May 24, 2021, lines 335-338). You recalled receiving the information about the rumored hit-and-run incident involving Commissioner Hardesty at around 7:45 a.m., and you said you initially spoke with Maxine Bernstein, a reporter for *The Oregonian*, between 8:15 a.m. and 8:30 a.m.

At the time, you were the new to the role of President of the Portland Police Association (PPA), and therefore you were not sure what to do with the information you received from your member about the hit-and-run rumor. Therefore, prior to deciding to contact Ms. Bernstein, you sought advice on what to do with the information. Thereafter, you sent a text to Ms. Bernstein and asked her if she had a moment to talk (May 24, 2021, lines 367-381). You said:

A few minutes later she calls me back... and I explain to her that I wanted to talk to her off the record. I didn't – all the information that I currently had, which was very limited... was unverified. It was unknown to be true, and it was something that if she were interested in doing her own follow-up work... she could do that.

(IA Interview, March 24, 2021, lines 381-391).

You provided your understanding around the meaning of “off the record” conversations with Ms. Bernstein: “[S]he explained to me that when you say off the record, she won't use anything you say, she'll do her own – researching” (IA interview, March 24, 2021, lines 399-402). You asserted you provided the information to Ms. Bernstein because of your previous conversations and understanding that you were talking to her off the record. You explained:

I gave Maxine a background of, like, how investigations - work and how they often fail - or they have so many different outcomes, and that I wanted to verify – or make sure that,

as I was talking to her off the record, that this information may not be any good and not to be surprised by it leading nowhere.

(IA Interview, May 24, 2021, lines 516-522).

Ms. Bernstein called you again at around 10:00 a.m. for details related to your initial phone call, including the case number and reports, because she was being pressured by people who claimed the police were fabricating the story about Commissioner Hardesty. You told her the police would not fabricate the story (IA Interview, May 24, 2021, line 596-598).

Ms. Bernstein called you again on the same day at approximately 1:50 p.m. Ms. Bernstein reiterated she was being pressured by people who were claiming the story was fabricated by police, asked for copies of the police report, and asked how *Save PDX* (the other media source to which information had been leaked) had obtained copies of the reports (IA Interview, May 24, 2021, lines 665-696). This was when you logged into CAD and queried and located the CAD call (IA Interview, May 2, 2021, lines 721-792).

You used your PPA-issued phone to take a picture of the CAD call on the computer screen and captured the image at 2:10 PM on March 4, 2021 (IA Interview, May 24, 2021, line 817). You explained: “*So, I took that photo... and then my thoughts were that police officers are not lying...And so, I then sent that photo to Maxine*” (IA Interview, May 24, 2021, lines 828-832).

You added:

It was my understanding that, off the record, it would never be used; it was never my intent to have this published or broadcast for anyone; it was literally a conversation between Maxine and I... And I had zero intent of this being taken any further than Maxine.

(IA Interview, May 24, 2021, lines 848-852).

Ms. Bernstein called you again around 5:00 p.m. and again asked for a copy of the police report, and you told her you did not have it.

You and Investigator Rhodes had the following exchange regarding Directive 310.70:

RHODES: *Okay. So, I mean, you’ve done the acknowledgement things with the Directives over the years, although the dissemination of information Directive I don’t believe has changed recently. They probably should fine-tune it. But so, are you familiar with that Directive in terms of that, as a police officer, you’re not supposed to disseminate information to someone who it’s not meant for, like somebody’s who’s not actively involved in the investigation, for example.*

HUNZEKER: *The answer is, yes, I’m familiar with the policy.*

RHODES: *Mm-hm.*

HUNZEKER: Yes, I'm accountable to the policy. The mistake that I made was a mistake of this policy.

(IA Interview, May 24, 2021, lines 917-925).

Conclusion:

Directive 310.70 states, in relevant part:

Members shall treat the official business of the Bureau as confidential. Information regarding official business, shall be disseminated only to those for whom it is intended, in accordance with established procedures. Members may remove or copy official records or reports from a police installation only in accordance with established procedures. Information obtained from the Portland Police Data System (PPDS), Reports Viewer (R-View), Law enforcement Data System (LEDS), National Crime Information Center (NCIC), Department of Motor Vehicles (DMV) or similar systems are not for public disclosure, nor should they be accessed for personal reasons. Questions concerning the legality and appropriateness of document/record dispersal should be referred to the Records Division manager and/or City Attorney liaison.

You acknowledged knowing Portland Police were investigating a hit-and-run traffic accident that occurred on March 4, 2021, in which City Commissioner Hardesty was listed as the suspect. You also acknowledged that on the same day you spoke with *The Oregonian* reporter Maxine Bernstein at around 8:30 a.m. to relay that information to her and suggested to Ms. Bernstein that she could do her own follow-up work. You acknowledged capturing a screen shot of a portion of the CAD call of the same incident which listed the case number and the call remarks and, in part read: "SUSP IS CITY COMMISSIONER JOANNE HARDESTY." You admitted to sending the screen shot of the CAD call to Ms. Bernstein. You also admitted to using a PPB computer to conduct a CAD call query to access the information for of which you took a picture.

Your actions were in violation of Directive 310.70 – Dissemination of Information. You failed to treat the official business of the Bureau as confidential, and you disseminated the information related to an ongoing investigation to a person not authorized to have the information and outside of established procedures. Additionally, you copied an official record from a police installation outside of established procedures. You provide the information to a member of the press, a person to whom it was not intended. Further, you admitted you violated Directive 310.70 by these actions.

**Violation of Directive 310.20 - Discrimination, Harassment, and Retaliation Prohibited:
Officer Brian Hunzeker #39600 disseminated confidential information to the media in
retaliation for Jo Ann Hardesty speaking negatively about Portland Police Bureau Officers.
(CONDUCT)**

During your first interview, Investigator Rhodes Mr. Gennaco asked you about your intentions and motivations in providing Ms. Bernstein with the information about Commissioner Hardesty. You stated numerous times that the reason you provided Ms. Bernstein with the information was to build trust in your relationship. You also acknowledged that the Police Bureau, in your experience, would have been “*up front and honest about this investigation*” and the information would be provided to the community once the criminal investigation was completed, but that by waiting you would lose the opportunity to develop trust with Ms. Bernstein (IA Interview May 24, 2021, Lines 1235-1252). You noted several times during your interview that the information you provided about Commissioner Hardesty committing a hit-and-run may not be true.

During your first interview, you stated numerous reasons why you provided the information to Ms. Bernstein, including:

Maxine calls me again...And now she's very persistent about her being pressured about writing inappropriate articles. Writing – or – and fishing in the wrong areas.

(IA Interview, May 24, 2021, lines 667-670).

But now she's calling and she's pressuring, like, hey, now more people are saying the police are fabricating. Hey, now more people are saying that this is all internal and that the police made the call up, and that – and then she said something along the lines of – in questioning me, like, are the police lying about this? I took offense to the fact that she was calling police officers liars, and I was, like, police officers are not going to lie –

(IA Interview, May 24, 2021, lines 675-679).

...Commissioner Hardesty is in a position of City leadership...that has been very critical...of every Portland Police Officer that is here, or have retired...over the last year-and-a-half that she has been in office...And so, motive, or intent, for the I don't know, but what I can tell you is she's in a leadership position.

(IA Interview May 24, 2021, Lines 877-889).

So, my intent was to show the police are not lying. They are not fabricating stories.

(IA Interview, May 24, 2021, lines 857-879).

The information on Commissioner Hardesty, and if you're unfamiliar with it, there was other news articles about Commissioner Hardesty several months ago that turned out to be accurate and valid, from Clark County Washington, and so, your question was why did I do it. That was a mistake that I made in trying to do what I felt was good for our members of someone that controls the destiny of our members financially, work - working conditions, trying to establish peace in the City.

(IA Interview, May 24, 2021, lines 1104-1130).

So, I reached out to Maxine with many different reasons. I don't know if one supersedes the other. The underlying reason is my, I guess, young, naïve inability to manage a large organization, as such, and I made a bad decision on information that I had.

(IA Interview, May 24, 2021, Lines 1215-1217).

Commissioner Hardesty's in a leadership role over the police in her abilities to influence, or have control over my members – or the membership's lives and their safety and their well-being was another factor that played into it.

(IA Interview, May 24, 2021, Lines 1221-1223).

Mr. Steve Myers, your attorney and representative, was also present during the interview and asked you questions related to your awareness of Commissioner Hardesty being critical of the Portland Police Bureau, her accusation that officers set fires during protests, and her efforts to defund and reduce the Police Bureau budget, to which you responded you were aware (IA Interview, May 24, 2021, lines 1289-1312). You and Mr. Myers then had the following exchange:

MYERS: *So, the – the fact that it was Commissioner Hardesty as the suspect, did her position on those, in terms of how her positions affect your members, does that play a part in your motive to pass on the information to Maxine Bernstein?*

HUNZEKER: *Yes.*

(IA Interview, May 24, 2021, lines 1317-1320).

Mr. Myers asked if you took action in the interests of the Portland Police Association membership as the president of the Association. You replied, “*Yes, in the interest of my members*” (IA Interview, May 24, 2021, lines 1338-1343).

The responses you provided during your first interview suggested that at least one reason you provided the information to Ms. Bernstein was to retaliate against Commissioner Hardesty for her statements and political positions she has taken against Portland Police officers, many of whom are PPA members. Due to these admissions, IA added a second allegation related to retaliation under Directive 310.20 – Discrimination, Harassment, and Retaliation Prohibited.

You were interviewed a second time on June 18, 2021. Investigator Rhodes explained the purpose of the interview was to address the new allegation of retaliation.

You acknowledged being familiar with Directive 310.20, and your training record shows you acknowledged reading Directive 310.20 in the Learning Management System (LMS) on May 18, 2020.

Investigator Rhodes asked you if you had anything to add after reviewing the prior interview transcript and in light of the added allegation related to retaliation. You replied:

I believe that I had a different role than I had been blessed with by the City for the last 21 years. I was acting as a private individual in a position as a PPA president. Once I became the PPA president in November of 2020, it was my understanding that although I was required to adhere to the directives... and that I would follow the directives and understand them, I was relieved of the duties and responsibilities of a patrol officer and then my full-time duties were responsibilities of the PPA, Portland Police Association, and in whole the membership and the needs of the membership. And so, that was my mindset on this day that we're talking about.

(IA Interview, June 18, 2021, lines 200-208).

You then explained that Commissioner Hardesty's statements that police were setting fires during the protests harmed the PPA membership, which you stated was a reason (though not the sole reason) you provided the hit-and-run information to Ms. Bernstein. You also tied the disclosure to the concept that it would be in the public interest to disclose such information:

HUNZEKER: *So, I understand that I'm in a public realm. And so, the question was the setting of fires the reason for the passing on of the information? No. The reason of the passing on of the information had a minor - it was a passing thought with the fires, but it wasn't the only thought, if - and I hope that clarifies.*

RHODES: *Yeah, I think - I should try to be more concrete with the question in terms of what - okay. Hardesty is saying that your members, some people within your members, are starting fires. How does that affect your members?*

HUNZEKER: *As a public official, making improper and what I feel absurd allegations against my membership -*

RHODES: *Mm-hm.*

HUNZEKER: *Only leads to fueling the anger from the community to my members. My members are going to take calls for service all day and all night. And as a public official to make allegations of that, it should be addressed. But again, just because that was said was not the sole reason of my tasks and job. It was of public interest and if it were true, I believed that would cause public concern.*

RHODES: *The what, the hit-and-run or the fire starting?*

HUNZEKER: *Yeah, my - my apologies. Let me clarify. The fire starting was not a - the sole reason. The information that I passed on has public implications. And so, that's what I meant by that. I'm sorry.*

RHODES: *Okay, the hit-and-run.*

HUNZEKER: *Yes.*

(IA Interview, June 18, 2021, lines 271-291).

Investigator Rhodes asked you if you believed Commissioner Hardesty's efforts to defund or reduce the Police Bureau budget impacted PPA members. You replied by offering that the significant increase in gun violence due to the elimination of the Gun Violence Task Force put police officers' lives in danger (IA Interview, June 18, 2021, lines 298-316). You explained:

The community-type style policing that officers want to be engaged in, that I want to be engaged in, is almost met with a roadblock because now every officer that is responding to a call, there's always that question of - from a statement of a public official, there's always that question of is this police officer trustworthy? This - police officers cannot function to manage civil disputes or custodial disputes or domestic disputes if they're not trusted. And without that trust, without that ability to do that, the police officers - everything they do and function and live for and come to work for is diminished. And so my job was to advocate for our members, so to make their well-being, to make their jobs safer in every way that I could.

(IA Interview, June 18, 2021, lines 318-325).

Investigator Rhodes asked you if you said anything to Ms. Bernstein to the effect that you were giving her the information because Commissioner Hardesty had been critical of the Police Bureau. You replied: "*I do not remember or recall using any statements like that*" (IA Interview, June 18, 2021, line 349). You denied that Commissioner Hardesty was targeted and said, "*...there was never a retaliation intent in my mishandling of information that I fully admit that I did*" (IA Interview, June 18, 2021, lines 468-469). However, you offered the following explanation about what was on your mind when you decided to release the information about the hit-and-run case to Ms. Bernstein:

What was in my mind was this information about a public official that might have implications on their credibility and on their policies, but I was not, to use the term far enough or playing far enough in the game to want or anticipate an outcome, it was information I was passing on. What happens with it happens with it. Again, keeping in mind my mindset was to advocate or to care for a membership that has been under scrutiny and ridiculed for numerous months.

(IA Interview, June 18, 2021, lines 520-526).

You were asked if you thought sharing the information with Ms. Bernstein about the reported hit-and-run and Commissioner Hardesty's alleged involvement would impact Commissioner Hardesty. You responded:

I didn't have the intent for anything that I gave to Maxine to cause harm to any one person. I never had the intent for the photograph that I provided to Maxine to be printed. My intent and my thought process was, if a public official is involved in a crime; that would have high public interest. My passing on of the information was to bring together hopefully a bilateral relationship with Maxine.

(IA Interview, June 18, 2021, lines 339-342).

You were then asked if information similar in nature had come to you about a different City Council member, whether you would have called Ms. Bernstein and provided the information. You replied:

I think that's difficult to answer because as union president I have to weigh each independent information that I get and decide does this have a public - I guess - caveat to it that has either a negative or positive influence on my membership? And so, I think it's difficult for me to just say absolutely yes or absolutely no because I never try to make a decision predetermined. I try to make the decisions as they come to me. I try to elicit knowledge from other outlets and make that decision. So I can't - and I'm not trying to be disrespectful, answer a blanket yes or no.

(IA Interview, June 18, 2021, lines 440-445).

Your action of sharing official confidential business of the Bureau related to an investigation with an unverified suspect had an adverse impact on Commissioner Hardesty. She was identified in the media as being a suspect in an incomplete hit-and-run investigation, in which she was ultimately determined to not be the involved person. Commissioner Hardesty engaged in a public media event to address the false allegations, and her credibility was put into question. In explaining the need to hold a press conference, Commissioner Hardesty stated: "*And so for me, I felt like I have to immediately go out and make sure that I'm protecting my reputation, my integrity*" (IA Interview, date, lines 68-70). She added:

And because I had just been appointed Transportation Commissioner in January of this year...It had even more of an impact because now as Transportation Commissioner, how can I be talking about trying to stop traffic deaths when I'm out there hitting people with my car and then driving away?

(IA Interview July 1, 2021, lines 72-77).

I learned that this information had gone viral and all over the country people were having a conversation about this legislator who wanted to defund the police who now and

actually is accused of a hit-and-run incident. It - it - so there's no doubt in my mind that this – the intention was absolutely to discredit me and my role on the council...and in my new role as the Transportation Commissioner. So I was terrified because you can't - unrate Facebook, you can't - unrate national press. When somebody Googles my name...this information will come up for who knows how long...When I run for re-election a really sleazy opponent will use this information to allege that's who I am. And so as someone who has worked for over 30 years trying to change how government and community work cooperatively together...I would never call for the police right now because why would - why would I trust who would show up?

(IA Interview July 1, 2021, lines 140-155).

Commissioner Hardesty was ultimately cleared as a suspect and had no involvement in the incident. However, as a result of the unauthorized disclosure and dissemination of information related to the incident, the local and national media reported information connecting Commissioner Hardesty to the hit-and-run investigation.

Conclusion

Directive 310.21-Discrimination, Harassment, and Retaliation Prohibited defines retaliation, in part, as, “Adverse conduct towards an individual, not otherwise authorized by law or policy, which is in response to an action taken or perceived to be taken by the individual.” The Directive is intended to prohibit conduct that is unlawful, as well as other inappropriate conduct, before it rises to the level of unlawful retaliation. Therefore, the Directive prohibits members from engaging “in adverse conduct in response to action taken or perceived to be taken by any individual” as well as “retaliation by a member against any City employee for any reason.” Examples of prohibited retaliation in the Directive include: “reprisal in response to a member reporting misconduct, making a misconduct complaint or cooperating with an investigation of misconduct”; “intimidation or ridicule”; and “rude, discourteous, or disrespectful behavior.”

You disseminated confidential information that you acknowledged may not be true about an active criminal investigation where the suspect was listed as City Commissioner Jo Ann Hardesty. As already described above, this dissemination violated Directive 310.70, and therefore was not authorized by law or policy. The public disclosure of Commissioner Hardesty's alleged involvement adversely affected her by calling into question her reputation and credibility during an ongoing criminal investigation, from which Commissioner Hardesty was ultimately cleared of any wrongdoing. You cited a number of factors for why you verbally and electronically shared the information, and you admitted one of the factors for providing the information was in response to Commissioner Hardesty's inaccurate allegations about officers setting fires during protests. You also admitted another factor was that Commissioner Hardesty had control over financial and political impacts on your union membership, and that you were “advocating” for your membership when you contacted Ms. Bernstein, which suggests you understood the information you were providing would be harmful to Commissioner Hardesty's reputation and credibility.

SUMMARY

The Police Review Board met on October 20, 2021, and unanimously recommended the conclusion that you violated Directives 310.70 and 310.20. The Board noted that you admitted to violating Directive 310.70 during your interview, and you admitted that you disseminated confidential information to the media by taking a screen shot of the CAD call and sharing it with *The Oregonian* reporter Maxine Bernstein. The Board also noted you acknowledged the investigation was not complete and that you chose to prematurely share confidential information outside the organization in an effort to build a relationship with Ms. Bernstein and negatively impact Commissioner Hardesty's leadership role.

Three members of the Board found your misconduct was defined under Category E of the Bureau's Discipline Guide and recommended a two work-week suspension without pay. One member recommended for a three work-week suspension without pay, and another recommended a three work-week suspension to termination if the Chief wished to impose termination.

You received a letter of proposed disciplinary action for termination on January 21, 2022. You were provided with the opportunity to meet with me and present any information you wanted me to consider prior to any final disciplinary decision. We met on February 24, 2022.

I have carefully considered the information you provided. During our meeting, you shared with me your devotion to duty and those you serve, the difficulties you faced in your new position as Portland Police Association president, and your intentions and motivation in sharing the information with Ms. Bernstein. You denied having acted with malice or motive to harm Commissioner Hardesty. You described your decision and actions as naïve and admitted that sharing the information was wrong. You said you shared the information with Ms. Bernstein in an attempt to build a relationship. You also offered additional reasons for the sharing of the information. You denied engaging in retaliatory conduct towards Commissioner Hardesty. You expressed regret for your decisions and accepted responsibility for disseminating confidential information in violation of Bureau policy. You shared with me a recent work-related experience when you engaged with and helped a young person who was going to jump from the St. John's Bridge. You expressed your desire to apologize to Commissioner Hardesty, as you were unable to do so due to the ongoing investigation.

I have considered your statements. You admitted that you disseminated information in violation of Bureau policy. While you did not agree that your actions were retaliatory, based upon the information and statements contained in the record, I find that your actions violated the retaliation policy because of your admission in the investigation that you were motivated in part because of Commissioner Hardesty's comments about the police during the 2020 protests. The allegation for the dissemination confidential information is included in Category C on the Bureau's Discipline Guide. The allegation of retaliation falls under Category E on the Discipline Guide. You have no prior discipline.

The Discipline Guide states that for multiple concurrent sustained violations, as occurred here, the presumptive discipline level is set at the category of the most serious sustained violation, and the additional violations may increase the penalty level by one.

I agree with the Board's conclusion that this violation constitutes a Category E offense, and this violation of disclosing confidential information is the second violation within seven years because of the sustained finding for disseminating information.

I have identified the following mitigating factors in this case: (1) you have worked for PPB for over twenty years and have no prior history of discipline; (2) you have many commendations on file; (3) you have a complimentary work history; and (4) you expressed remorse for the dissemination of confidential information.

The aggravating factors that apply are: (1) your conduct harmed a member of the public, Commissioner Hardesty; (2) your stated intention in taking this action, even if only in part, was to get back at Commissioner Hardesty because of her public criticism of the police; and (3) the damage to the reputation of the PPB is considerable, at a time when public confidence in the police is very low.

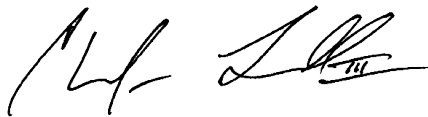
You were required to take and pass a test regarding the use of CJIS and confidentiality. It was communicated to you that the unauthorized release, dissemination, or discussion of Criminal Justice Information could result in criminal prosecution and/or termination of employment. You were also informed that any misuse of Criminal Justice Information that is ongoing could result in an agency being denied access until violations have been corrected. You were informed of the seriousness of this type of violation.

Under the Discipline Guide, the presumptive level of discipline for a Category E offense as a second violation within seven years is a range of a three work-week suspension to termination. While I recognize the mitigating factors of your long tenure, lack of prior discipline, large number of commendations, your complimentary work history, your willingness to accept responsibility and your expressed remorse for disseminating confidential information, I am also very cognizant of the extreme harm caused by your actions to Commissioner Hardesty and the community's trust in the Bureau and its operations.

You have an exemplary record with the Bureau, and I want to commend you for the years of service you put in on behalf of the Bureau and the public. At the same time, I must consider the extreme harm you caused and the significant impact your actions had on numerous people and the Bureau. I have balanced these differing points and I conclude that the extreme harm and significant impacts of your actions outweigh the mitigating factors that I considered. The range of allowable discipline is between a three work-week suspension and termination. Due to the egregiousness of this conduct, and the significant harm caused I have determined that termination is appropriate.

A copy of this letter will be placed in your personnel file. Under the provisions of the current labor agreement, you are entitled to file a grievance through your union, if you believe this action was not for just cause.

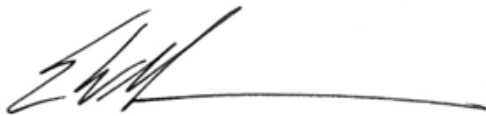
You are being disciplined in good faith and for the purpose of improving public service, and not for political or religious reasons.



02/28/2022

CHARLES LOVELL
Chief of Police

Date



02/28/2022

TED WHEELER
Mayor, Commissioner In Charge

Date

Read and Reviewed:

Officer BRIAN HUNZEKER #39600
I certify that I have read and received a copy of this notice.

Date/Time

- c: President Aaron Schmautz - PPA
- Employee File, Bureau of Human Resources
- Jerrell Gaddis – BHR
- Employee 201 File, Police Bureau Personnel Division
- Employee File, Standards and Accountability Unit 119/1221

CL/cp

RECORD RETENTION: 10 years after separation