

PORTSMOUTH POLICE COMMISSION
FINAL MINUTES OF THE OCTOBER 7TH /OCTOBER 20TH , 2015 SPECIAL MEETING

6:00 p.m. Public Session – Conference Room ‘A’, City Hall

John F. Golumb, Chairman
Brenna Cavanaugh
Wayne Lehman

- I. CALL TO ORDER:** The reconvened October 7th, 2015 special police commission public session was called to order on October 20th, 2015 at 5:06 p.m. in Conference Room ‘A’ in city hall.

Action: Commissioner Lehman moved to go into non-public session as provided for in RSA 91:A II (a).

Seconded by Commissioner Cavanaugh.

On a Roll Call Vote: Commissioner Cavanaugh: ‘Aye’.
Commissioner Lehman: ‘Aye’.

The motion carried to enter a non-public session as provided for in RSA 91:A II (a). The board moved to the Wm. Mortimer Room of the Police Department and went into non-public session at 5:10 p.m.

The Chair called the public session back to order at 6:05 p.m. in Conference Room ‘A’.

Present during the public session: Commissioners Golumb, Cavanaugh, and Lehman, Mayor Lister, City Manager Bohenko, City Attorney Robert Sullivan, City Negotiator Tom Closson, Exec. Assistant Kathleen Levesque, members of the public and the press.

II. OLD BUSINESS:

A. POLICE COMMISSION BUSINESS:

Items that require action:

- 1.) Separation Agreement for Chief Stephen DuBois – Chair asked the city negotiator to briefly explain changes to the agreement.

The Chair gave the floor to Commissioner Lehman. Commissioner Lehman began by saying that at the last meeting he stated that he had homework to do, and indicated that he has done that homework. The commissioner then read a prepared statement which is attached to the minutes of this meeting. The timeline referenced in his statement is also attached. At the conclusion of his remarks, the commissioner turned the floor back to Chairman Golumb.

The Chair began to ask for a motion, but was interrupted by Commissioner Cavanaugh bringing a different motion to the floor.

Action: Commissioner Cavanaugh moved to table the motion to approve Chief DuBois' separation agreement until after the November election.

There was no second and the motion failed. The Chair asked for a motion to accept the agreement.

Action: Commissioner Lehman moved to accept the separation agreement and bring it to the floor for discussion.

Seconded by Commissioner Cavanaugh.

On a Voice Vote: The motion passed to accept the separation agreement and bring it to the floor for discussion.

There was no discussion. Chairman Golumb said he felt the agreement was equitable and it was time to bring this matter to a close. There was no further discussion. The Chair called the question and asked for a roll call vote.

On a Roll Call Vote: The motion carried to approve the separation agreement before the commission.

Commissioner Lehman: 'Aye'.

Chairman Golumb: 'Aye'.

Commissioner Cavanaugh did not vote.

III. NEXT REGULAR MEETING:

The next regular meeting of the police commission is scheduled for Monday, October 26th, 2015, at 6:00 p.m. in Conference Room "A" in city hall.

IV. MOTION TO ADJOURN:

There being no further business before the commission, the Chair asked for a motion to adjourn.

Action: Commissioner Cavanaugh moved to adjourn the October 7th, 2015 meeting reconvened on October 20th, 2015.

Seconded by Commissioner Lehman.

On a Voice Vote: The motion carried unanimously to adjourn the meeting at 6:25 p.m.

Kathe

Respectfully Submitted By Kathleen Levesque, Executive Assistant

Reviewed By Commissioner Cavanaugh, Clerk of the Commission

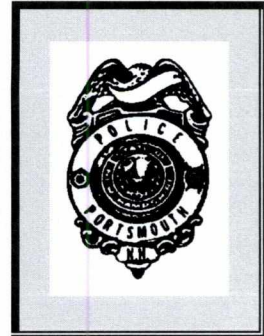
Brenna Cavanaugh

Brenna Cavanaugh
10/24/15

BOARD of POLICE COMMISSIONERS

of the

City of Portsmouth, N.H.



Chairman John F. Golumb...Commissioner Brenna Cavanaugh...Commissioner Wayne Lehman

“Providing Citizen Oversight of Your Police Department”

NOTICE: The Police Commission has a dedicated phone number at the police department. You can call the Commissioners at 603-610-7471 and leave a message regarding your concerns, along with your name and a telephone number. The Commissioners will be advised of your message and someone will return your call in a timely fashion. You can also email the Commissioners directly through the Police Department webpage, by clicking on “Police Commission”, and then clicking on any of the Commissioners’ names.

*****AMENDED AGENDA*****

PUBLIC NOTICE OF POLICE COMMISSION MEETING

**RESUMPTION OF THE MEETING CONTINUED FROM OCTOBER 7TH,
2015**

The Board anticipates meeting for a non-public session as appropriate under RSA 91-A at the beginning of this meeting.

DATE: October 20th, 2015 (Tuesday)

LOCATION &

TIME:

5:00 p.m., - It is anticipated the Police Commission will open the meeting in the Wm. Mortimer Conference Room in the police department, and go into non-public session. The public session will resume in Conference Room ‘A’, City Hall at or about 6:00 p.m.

I. CALL TO ORDER - Because this is a continuation of the October 7, 2015 Special meeting, the public comment session of the meeting has already taken place.

II. OLD BUSINESS:

A. POLICE COMMISSION:

Items that require action:

- 1.) Separation Agreement for Chief Stephen DuBois – The interim minutes of the October 7th meeting shall serve as context notes on the meeting thus far.
 - a. City negotiator Tom Closson will briefly explain the document before the commission. (Anticipated Action: A motion will be brought forward to bring the agreement to the floor for discussion.)

III. NEXT REGULAR MEETING:

The next regular meeting of the police commission is scheduled for Monday, October 26th, 2015, at 6:00 p.m. in Conference Room “A”, in city hall.

IV. MOTION TO ADJOURN

(Anticipated Action: Chairman Golumb will ask for a motion to adjourn the meeting.)

NOTICE to members of the public who are hearing impaired: If you wish to attend a meeting and need assistance, please contact Human Resources Director Dianna Fogarty at 431-2000 ext. 7270 prior to the scheduled meeting. Thank You.

Katho Leisgue

(Posted on October 16, 2015)

Brenna Cavanaugh, Clerk of the Commission

I requested police department staff to prepare timelines and details and to have handouts ready for tonight's meeting." My purpose in doing so is to address what I see as key inaccuracies persisting in the public dialogue on the Goodwin/Webber matter and clarify just what Chief DuBois' role was.

I will have available a timeline for the public and press.

Within a very short period of time beginning in January 2011, all of the following things took place: complaints were filed by Geraldine Webber against Attorney Ritzo and John Connors; they were forwarded to the Department of Justice Bureau of Elderly and Adult Services (BEAS) as per department protocol. Attorney Ritzo filed a complaint against Detective Goodwin, and Mrs. Webber's neighbors filed complaints with BEAS; a report of self-neglect was filed by Ms. Webber's doctor at this same time. These inter-connected complaints took place approximately within a nine-month period. In the end, all these complaints resulted in dispositions of 'unfounded' by the various agencies.

Regardless of hindsight opinions as to whether or not the findings were appropriate, these were the findings.

In December 2011, and well into 2012, Attorney Ritzo filed another complaint with the police department and the Department of Justice; BEAS remained involved in Mrs. Webber's case, following up on related complaints and interviewing Sgt. Goodwin. This process took additional time and again, the findings came back as either 'unfounded', "not sustained", or in the case of the Department of Justice complaint, a finding that the matter, "doesn't rise to the level of a criminal investigation".

When Chief DuBois officially took over on August 15, 2012, this was the lay of the land. Department investigations incorporate the report results of external agencies as these agencies are the "subject matter experts" in their area. Public perceptions were and still are that, "There was no action taken." or, "Command staff in the police department were 'condoning' the behavior." Those statements are simply not accurate. The command staff, guided by the original directives of the Chief of Police at

the time [Chief Ferland], and by legal counsel, awaited results from the involved state agency investigations.

This “wait and see” position continued as events unfolded, because it was repeatedly reinforced by counsel. When the Robert’s report was published, the decision in the probate case was still pending, and again, advice from counsel continued to be “wait before taking any action.”

The level of anger was rising among residents; residents were talking to each other with only newspaper articles to guide them. Unfortunately, the paper didn’t have the entire story, nor could they, due to legal protections surrounding personnel matters. And even tonight, I still cannot give you the entire story, because of these same legal restrictions...it is just the way it is.

A collective mindset evolved among residents that corruption was rampant in the police department. Residents only source for this belief were the opinions and declarations in the newspaper by third parties. In addition, the Roberts’ Report and Cassavecchia decision are being misquoted and infused with “findings of corruption and conspiracy” regarding the department that they simply do not contain.

The local paper continues to feed these notions in a daily stream of articles and comments. For example: even after the Robert’s Report was published stating, “We were unable to find any objective, empirical support for...[the claim that 100’s of visits were made to Mrs. Webber’s house by police personnel]”, the newspaper continues to print that statement as if it were fact.[SB1]

Which brings me to the subject of the “gag order”. A law enforcement agency doesn’t provide information to anyone inquiring about personnel investigations inside or outside the organization. The integrity of any investigation depends on this confidentiality. Internally, there are rules and standard operating procedures in place to protect all investigations and information. Why? It’s the department’s job **to uphold and protect the presumption of innocence until a person is proven guilty**. An employee

who presumes the guilt of another, and speaks-out during an investigation, robs the people involved of their due process. Whether we're talking about a member of the public or an employee who allegedly committed an infraction, these rules of confidentiality must be administered and enforced consistently.

Chief DuBois did not issue a "gag order" to anyone. What was in place then is the same thing that is in place now for all Police Department employees: To wit:

Department SOP O-170: III. Procedure: G. THE FOLLOWING INFORMATION IS NOT TO BE RELEASED AT ANY TIME: 1. Prior criminal record, reputation or character of suspect(s) or victim(s). 6. Identity, testimony or credibility of a prospective witness. 7. Any personal opinion as to the suspect's guilt, innocence or merits of the case. 10. Information which may be inflammatory or prejudicial to a defendant's rights. It is further stated in R&R 50.06 Prohibited Conduct – Release of Information. B. Security of Department Business: Employees will not reveal police information outside the department except as provided elsewhere in this manual or as required by law or proper authority. Specifically, information contained in police records, other information ordinarily accessible to employees, names of informants, complainants, witnesses, and other persons known to the police are considered confidential. SILENCE shall be employed to safeguard confidential information, (emphasis mine). (NOTE: this full SOP is available to anyone who wants to read it.)

If the newspaper had simply called the department to verify what they had been told, the fictional "gag order" could have been responsibly laid to rest. However no fact-finding by the newspaper occurred. Given the above department rules, there was no possible way a deputy or any other ranking officer would or should be discussing any aspects of this personnel matter with a subordinate employee. Unfortunately, this proper silence on the matter has become 'the basis of proof' of a 'whitewash', a 'cover-up', and 'corruption' on the part of command staff in the public dialogue.

I realize the good people of Portsmouth have become heavily invested in their beliefs about these allegations and statements. It is my opinion, the previous commission should have taken steps much earlier to publicly clear up these inaccuracies.

Remember, Chief Ferland was Chief of Police from 2010 through August of 2012 which included Webber's signing of her new Will in May 2012. It was his directives that framed the agency's response during this time period.

I understand the command model in place under Chief Ferland relaxed the lines and procedures in favor of direct contact with the Chief. This resulted in Chief Ferland handling things directly with subordinates without necessarily bringing other commanders or ranking staff into the loop.

The first time Chief DuBois received a thorough briefing on the Goodwin/Webber matter to date, was when he assumed command in August 2012.

As things quickly unfolded over the next several months, counsel advice continued to be, 'stay the course' for a number of reasons, not the least of which was there was a court case pending, and Sgt. Goodwin had been told by Chief Ferland that it was okay to have an off-duty caretaking relationship with Mrs. Webber. The weight of this direction from a prior Chief of Police cannot be minimized. This one decision cast a shadow over all subsequent actions, because it was in effect a policy statement.

As the incoming Chief in August of 2012, nothing known or advised at the time gave Chief DuBois grounds to revoke that instruction and turn on the sergeant for doing what he was told. I repeat, nothing known or advised at the time gave Chief DuBois grounds to revoke that instruction and turn on the sergeant for doing what he was told. Was Sgt. Goodwin given bad instruction? Absolutely. Everyone sees that now. The public needs to remember that nothing like this had ever occurred in the department before, and there was no precedent. For Chief DuBois to depart from the existing course of action at the time would have been tantamount to a boss telling an employee it was okay to do

something, and then firing him for doing it. Regardless of what you think now in hindsight with all the facts known, that was the framework under which Chief DuBois assumed command. These were uncharted waters for the police and the city's legal department.

As the Robert's Report revealed, all the way up through the ranks, the "military/paramilitary" mindset and training engender reluctance to question a superior's decisions, orders, or directives.

Pieces of the Roberts Report have been quoted in print and in comments to bolster accusations of corruption and malfeasance. In closing I too would also like to quote from the Report's final summary:

"Our goal is not to point fingers and place blame, but rather to recognize that individual and management lapses of judgement and oversights occurred, and to provide some initial suggestions for improvement."

Regarding the Cassavecia decision, it was the probate court's purpose to determine if there was undue influence by Sgt. Goodwin over Ms. Webber in matters of her estate. In his written decision the judge was very careful to acknowledge the limits of the information available to him in his comments about how the department handled its actions. He was careful in his word choices and in no way can his words be used to indict or accuse Chief DuBois.

I was appointed as an interim Commissioner at the end of August. I immediately went through a month of intensive briefings to include reading the entire 5-volume confidential file on the Goodwin/Webber matter, reviewing the budget, studying numerous department documents, Rules/Regulations, General Orders, about 200 individual Standard Operating Procedures, talking at length with staff, going on ride-a-longs, etc., so that my decisions as a commissioner would be informed by facts. As such, I will step up to the plate here and

sincerely apologize to the citizens of Portsmouth for the roller coaster of events in this matter and for in any way they were made to feel betrayed by those entrusted with their safety.

In light of the information presented tonight and the long overdue timeline that you will now have in your hands, you can see that Chief DuBois' decisions after being fully briefed in 2012, were logical and grounded in existing information and counsel. We can no longer allow this one matter to dominate this agency. The department has to get back to focusing on police work; this is their job. We can end this tonight and move the department forward by approving a separation agreement which is fair given the facts laid out here tonight.

In closing, I want to publicly recognize and praise our officers for their outstanding professionalism and enduring passion for their work in the midst of this storm. In my short time as a commissioner, I have come to respect them and the work they do. They are skilled professionals who have risen above the fray and continue to deliver excellence in police work to every individual in the City of Portsmouth.

Comments

<p>Source: RR = Roberts' Report C = Cassavecia Decision PPD = Portsmouth Police Department</p>	<p>"It must be emphasized that the Webber/Goodwin Investigation Task Group is not providing any findings or opinions as to the matters pending before the probate court. The issues of testamentary capacity, undue influence, or any other factors that relate to the validity of Geraldine Webber's 2012 bequests are not within the scope of the investigation of the task group. Those issues are vigorously contested and were fully litigated by the relevant parties before the Honorable Gary Cassavechia. The task group expressly limited its focus and the findings...to those issues outside the jurisdiction of the probate court." (page 2)</p> <p><u>"None of the individuals were under oath, nor did the WGITG [Roberts' Report group] subpoena anyone: that authority was not present."</u> (p5)</p> <p>To determine if "...the 2012 Webber Estate Planning Documents [should be]...rendered invalid as a product of undue influence [by Sgt. Goodwin]. (p2)</p> <p>"That so, the Fiduciary and Aaron Goodwin, as proponents of the Estate Planning Document (collectively, the "Proponents"), bear the burden of demonstrating that they were not the fruit of undue influence." (p3)</p> <p>"This case is difficult because, like many such cases, undue influence is "not shown by gross or palpable instrumentalities" such as overt threats, rather, evaluation of the presence or absence of undue influence must be derived from the circumstances of the devise or grant....The Court's task is made immeasurably more formidable given that the precise point or moment that one's free will is destroyed or subjugated to another's control or coercion is rarely, if ever, discernable to the judicial eye owning to its imperceptible progression to full maturity." (p55-56)</p> <p>The judge was tasked with hearing the probate case alleging "undue influence". Although the police department handling of the Goodwin/Webber relationship was not on trial, the judge provided observations about the department based solely on the testimony presented at trial. Not being in possession of all the facts, the judge prefaced his observations with appropriate words so <u>they would not be construed as fact</u>. For example:</p> <p>"...apparent lack of concern..." (p33+35) "...not apparent from the record..." (p33) "...is not before this court, and will not be decided by it..." (p34) "...concern appears..." (p35)</p>
<p>Cassavecia Probate Decision</p>	

TIME LINE

— This is not an exhaustive accounting of the entire matter. It is an enhanced timeline along with waypoint decisions & rationale

CHIEF FERLAND TENURE		
Row	Source	Date
1	RR	Prior to 10/20/10
2	RR	10/20/10
3	RR	10/25/10
4	RR	Late October
5	RR	11/22/10
6	RR	Late November
7	RR	12/13/10
8	RR	12/24/10
9	RR	12/29/10
10	RR	Language from Report
11	RR	1/4/11
12	RR	Language from Report

No verifiable contact between Aaron Goodwin and Geraldine Webber (timeline p1)

1st verifiable contact: Aaron Goodwin investigates unrelated report of possible home invasion at Geraldine Webber's home; Geraldine Webber determined not to be target; Geraldine Webber in unrelated report indicates concern with Atty. Ritzo (timeline p1)

Geraldine Webber leaves message for Aaron Goodwin about possible prowler; Aaron Goodwin responds; Geraldine Webber tells of bank calls in 8/2010 regarding Atty. Ritzo cashing checks and using POA (timeline p1)

Geraldine Webber gifts to Aaron Goodwin for his children; reported to Sgt. Keaveny (timeline p1)

Atty. Ritzo calls Capt. MacDonald to report above gifts accepted by Aaron Goodwin (timeline p1)

Geraldine **Webber becomes suspicious of relationship between John Connors and Atty. Ritzo** as Aaron Goodwin visits to Geraldine Webber are followed by telephone call from Atty. Ritzo (timeline p1)

Det. Kristen Bernier accompanies Aaron Goodwin to Geraldine Webber's home; on 12/21 Geraldine Webber leaves voicemail message for Aaron Goodwin about visit with Det. Bernier (timeline p1)

Geraldine Webber tells Aaron Goodwin in a phone call she wants to leave him her home (timeline p1)

During Aaron Goodwin's visit to Geraldine Webber Atty. Ritzo calls; Geraldine Webber wants new lawyer and wants to see Chief [Ferland] about Connors (timeline p1)

"We are not clear on why Sgt. Goodwin did not report to Sgt. Keaveny as to Mrs. Webber's desire to bequest him her house. **Sgt. Goodwin appears to have by-passed formal notice of the bequest intention from Mrs. Webber to his Sergeant, Lieutenant, Captain and Deputy Chief, and met directly with Chief Ferland in January 2011 on this question.**" (p15)

Aaron Goodwin meets with Chief [Ferland] about developing relationship with Geraldine Webber becoming more of a friendship - Chief's [Ferland] "off-duty" decision (timeline p1)

"... Chief Ferland acknowledges the meeting but disputes the subject matter... **Sgt. Goodwin was permitted to maintain an off-duty friendship with Mrs. Webber while her police needs were to be handled by Capt. Schwartz.** We find that it is inconsistent with modern police practices that Mrs.

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13	PPD	<p>Webber would be directed to contact Capt Schwartz and that he would be directed to respond as her "police officer" for any needs she had regarding police services. <u>"We conclude...was a reflection of poor command advice [from Chief Ferland]"</u> (p7)</p> <p><u>Based on Chief Ferland's decision to allow the friendship, on the occasions the Webber/Goodwin relationship was brought up in operation meetings, the staff were told that he (Chief Ferland) couldn't tell Sgt. Goodwin who he could be friends with. Chief Ferland provided an example of his friendship with Buzzy from Hanscom's. His relationship with Buzzy started on-duty and if Buzzy wanted to will stuff to him, he could.</u></p> <p><u>This was the policy staff was to follow for this relationship.</u></p> <p>Chief Ferland chose to handle this case directly and did not include/update his command staff and ranking staff on an on-going basis on the full details of it. Deputy DuBois' position was to be in charge of day-to-day operations and Chief Ferland handled administration and direction on personnel issues (complaints, etc.).</p>
14	RR	<p>"... We conclude that Goodwin was improperly supervised and advised by the former Chief Ferland and that the command staff at the time (2011-2012) failed to recognize the risk of Duty Manual or Code of Ethics violations and the community's outrage regarding this matter. <u>Further, we conclude that the original advice given to Goodwin by former Chief Ferland may have had a chilling effect on the subsequent action or inaction by other members of the command staff. It is unlikely, in a hierarchical/paramilitary organization that a subordinate would question or countermand the Chief's decision, even if there were private reservations...</u>" (p14)</p>
15	RR	<p>Chief [Ferland] meets with Geraldine Webber [Capt. Schwartz and R. Currie present] <u>regarding complaints about Connors and Atty. Ritzo</u> (timeline p1)</p>
16	RR	<p>Aaron Goodwin writes summary of his contacts with Geraldine Webber for Chief [Ferland] (timeline p1)</p>
17	RR	<p>Capt. Schwartz makes Bureau of Elderly and Adult Services report on behalf of Geraldine Webber re: Atty. Ritzo (timeline p1)</p>
18	RR	<p>Capt. Schwartz emails Department of Justice and faxes to Senior Law Project regarding 1/14/11 report; Capt. MacDonald sends memo to Capt. Schwartz about Atty. Ritzo's complaint of Aaron Goodwin [notes that Aaron Goodwin visiting Geraldine Webber weekly] (timeline p1)</p>
19	RR	<p>Department of Justice/Bureau of Elderly and Adult Services email to Capt. Schwartz re; Atty. Ritzo complaint (timeline p1)</p>
20	RR	<p>Nurse Fish calls Aaron Goodwin regarding neighbor no longer providing rides; Aaron Goodwin noted in medical record as contact person for Geraldine Webber (timeline p1)</p>

TIME LINE

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21	RR	Sometime in February	Chief [Ferland] briefs Police Commission in nonpublic session on Atty. Ritzo's complaint and opening <u>Internal Affairs Investigation</u> (timeline p2)
22	RR	2/1/11	<u>Department of Justice/ Bureau of Elderly and Adult Services</u> meeting with Geraldine Webber and Capt. Schwartz re her complaint about Atty Ritzo. <u>Atty. Ritzo complaint to Chief [Ferland] about Aaron Goodwin</u> (timeline p2)
23	RR	2/8/11	Geraldine Webber meets with Atty. Mulhern; CPA present (timeline p2)
24	RR	2/1/11	Internal Affairs #1 [special privileges complaint by Atty. Ritzo] (timeline p2)
25	PPD		IA #1 - Captain MacDonald submitted his investigation of the Ritzo complaint in memo format to Captain Schwartz to include the 1/10/11 summary by Detective Goodwin regarding his interactions with Mrs. Webber. Captain Schwartz stated the IA should be handled no differently than all department IA's, that memo's alone are insufficient. Captain Warchol was directed by Chief Ferland to put the documents in the IA format and to ask Detective Goodwin one additional question; Was there anything to add to the 1/10/11 memo provided to Chief Ferland the previous month? <u>This IA did not follow the customary procedures outlined in the IA SOP the department consistently followed.</u>
26	RR	Language from Report	[IA#1] "It appears that a perfunctory investigation was performed, and the complaint was deemed unfounded . The IA that was reviewed did not reflect a thorough and independent investigation of the complaint." (p15)
27	PPD		Correction: Internal Affairs # 1 was deemed Not Sustained (not, "unfounded" as stated in row 26)
28	PPD	From SOP-251 Citizen Complaint and IA	Definition of Portsmouth Police Internal Affairs findings: Unfounded - when investigation indicates the act complained of did not occur. Exonerated - when investigation indicates the act occurred, but the act was justified, lawful and proper. Not Sustained - when the investigation discloses insufficient evidence to prove or disprove clearly the allegations made. Sustained - when the investigation discloses that the act complained of did occur and constitutes misconduct. Policy Failure - when the investigation discloses the act complained of was within the rules and regulations or the standard operating procedure of the department, and that the procedure, rule or regulation was not consistent with current state or federal law.

TIME LINE

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29	RR	2/14/11	<u>Neighbor complaint to Bureau of Elderly and Adult Services</u> re Aaron Goodwin exploitation (timeline p2)
30	RR	2/15/11	"No contact letter" from Department of Justice/ Bureau of Elderly and Adult Services to Atty. Ritzo (timeline p2)
31	RR	2/16/11	Dispatch report deleted by Gil Emery from Capt. Schwartz [Atty. Ritzo investigation moved to Department of Justice is reason for redaction] (timeline p2)
32	RR	Language from Report	"At its February, 2011 meeting the Police Commission was briefed on a citizen complaint regarding Sgt. Goodwin that lead to the first of two Internal Affairs [IA] investigations..." (p7)
33	PPD		Date of Commission meeting is 2/20/11
34	RR	Language from Report	"The failure of the command staff to clearly inform the Police Commission in January-February 2011 of the full nature of the Goodwin-Webber relationship stalled the Commission's ability to recognize the controversy that would eventually follow." (p23)
35	PPD		The full command staff does not attend non-public or public meetings of the commission. Chief Ferland briefed the commission.
36	RR	2/22/11	Chief [Ferland] letter to Atty. Ritzo responding to 11/2010 and 2/1/2011 complaint unfounded (timeline p2)
37	PPD		Correction: Internal Affairs # 1 was deemed Not Sustained (not, "unfounded" as stated in row 26 & 36)
38	RR	2/24/11	Physician call to Portsmouth Police Department [re: Webber]; Aaron Goodwin response; admitted to Portsmouth Regional Hospital – psych consult recommended guardian; not followed up by ordering doctor (timeline p2)
39	RR	2/26/11	Portsmouth Regional Hospital discharge [Webber] with Visiting Nurse Association (timeline p2)
40	RR	April 2011 – June 2011	Atty. Mulhern attempting to determine competency; Atty. Mulhern informs G. Webber he cannot do will without competency testing; Geraldine Webber refuses competency testing (timeline p2)
41	RR	5/3/11	Geraldine Webber contacts Atty. Boesch (timeline p2)
42	RR	5/23/11	Geraldine Webber meets with Atty. Boesch; not retained (timeline p2)
43	RR	6/6/11	Living Innovations admission; notes Aaron Goodwin as emergency contact (timeline p2)
44	RR	8/11/11	Bureau of Elderly and Adult Services report of self-neglect from PCP (timeline p2)
45	RR	8/18/11	Geraldine Webber meets with Atty. McGee – possible conflict of interest - not retained (p2)

TIME LINE

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46	RR	8/19/11	<u>Bureau of Elderly and Adult Services visits Geraldine Webber; Representative from Amedysis present</u> , Aaron Goodwin also arrived during visit (timeline p2)
47	RR	8/22/11	<u>Bureau of Elderly and Adult Services "no concern" noting Aaron Goodwin support</u> (timeline p2)
48	RR	8/25/11	Atty. Nadeau calls Atty. Holmes about Geraldine Webber on behalf of Aaron Goodwin (timeline p2)
49	RR	9/5/11	Atty. Holmes telephone conversation with Geraldine Webber and subsequent meetings for estate planning (timeline p2)
50	RR	11/30/11	Letter to Geraldine Webber that <u>self-neglect complaint of 8/11/11 unfounded</u> (timeline p2)
51	RR	12/8/11	Aaron Goodwin becomes POA (timeline p2)
52	RR	1/27/12	Atty. Ritzo noted Geraldine Webber car at Ampet (timeline p2)
53	RR	2/3/12	<u>Atty. Ritzo complaint to Portsmouth Police Department</u> re: above [IA #2] (timeline p2)
54	RR	2/9/11	Geraldine Webber [call] to Department after fall (timeline p3)
55	RR	2/15/12	Chief [Ferland] meets with Aaron Goodwin regarding Atty. Ritzo complaint (timeline p3)
56	RR	2/16/12	<u>Portsmouth Bureau of Elderly and Adult Services</u> [Hopkins] visits Geraldine Webber (timeline p3)
57	RR	2/22/12	PCP calls Protective Services for Geraldine Webber "needs protection" (timeline p3)
58	RR	2/29/12	Bank representative notes Geraldine Webber cancels monthly check to grandson (timeline p3)
59	RR	Language from Report	<u>"There should be an assessment and re-evaluation of the relationship between the Police Commission, the City Attorney and the Police Command Staff in terms of how critical decisions regarding operations and personnel matters are currently being handled on a day-to-day basis. Those lines of responsibility appear to be blurred and would benefit from a formalized policy."</u> (p18)
60	RR	3/14/12	Bureau of Elderly and Adult Services [DHHS] meeting with Geraldine Webber re: PCP concerns (timeline p3)
61	RR	4/3/12	Chief [Ferland] letter to Atty. Ritzo that <u>2/3/12 complaint not sustained</u> (timeline p3)
62	PPD		Correction: Internal Affairs # 2 was deemed <u>Unfounded</u> (not, "sustained" as stated in row 61)
63	RR	4/6/12	Bureau of Elderly and Adult Services meets with Geraldine Webber; Amedysis nurse notes Geraldine Webber concerned that Bureau of Elderly and Adult Services wants to put her into nursing home (timeline p3)
64	RR	5/2/12	<u>New will and trust</u> (timeline p3)

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65	RR	Language from report	<u>"In our opinion</u> , upon notice that he was going to be a beneficiary, <u>Sgt. Goodwin should have immediately and affirmatively rejected any possible personal enrichment and communicated that in writing to Mrs. Webber and the Portsmouth Police Department... The command staff should have required this action; they did not."</u> (p14)
66	RR	5/25/12	<u>Aaron Goodwin cleared by Department of Justice/Bureau of Elderly and Adult Services</u> (timeline p3)
67	RR	6/12/12	<u>Bureau of Elderly and Adult Services letter to Aaron Goodwin that complaint unfounded</u> (timeline p3)
68	RR	6/26/12	Atty. Holmes records deed of home into Geraldine Webber trust (timeline p3)
69	PPD	On or about June 2012	It was learned that Mrs. Webber did in fact change her will. Unknown what the content change was because the contents of the will were confidential at this time.
70	RR	8/10/12	Atty. Ritzo bills Geraldine Webber for past services (timeline p3)
71	RR	8/13/12	Letter to probate court with concern (timeline p3)
8/15/12 CHIEF FERLAND RELINQUISHES COMMAND TO CHIEF DUBOIS			

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CHIEF DUBOIS TENURE

72	PPD	<p>As incoming Chief, Chief DuBois was provided a full briefing of the Goodwin/Webber case for the first time and sought legal counsel. Chief DuBois advised to “stay the course” by city legal due to the permission Sgt. Goodwin was given by Chief Ferland allowing an off-duty friendship with Mrs. Webber and the police department was a party in the prior 2009 Will.</p> <p>It should be noted that this case was only one item out of numerous significant responsibilities assumed as Chief.</p>
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In the period after assuming command, Chief DuBois had reviewed policies and made the following working notes:

Of the possible policies or rules and regulations, below is a regulation that could be mostly relevant to the issue:

50.00 PROHIBITED CONDUCT

50.01 Acceptance or Solicitation of Gifts, Rewards, and Other Gratuities:

A. Gifts, loans or fees from the public:

Employees shall not accept for either personal use or department use, either directly or indirectly, any gift, gratuity, service, object, loan, fee, or any other thing of value, arising from or offered because of police employment or any activity arising from or connected with said employment. They shall not accept any gift, gratuity, loan, fee or any other thing of value, the acceptance of which might tend to influence directly or indirectly the actions of said employees or any other employee in any matter of police business; or which may tend to cast an adverse reflection on the department or any other employee thereof. Persons or organizations offering anything of value for department use will be referred to the Office of the Chief of Police.

Two things strike me with this regulation.

First, in order for the violation to occur there needs to be an acceptance of the thing of value, which has yet to occur.

Section I of 50.01 states:

Disposition of Unauthorized Gifts, or Gratuities:

Any unauthorized gift, gratuity, loan, fee, reward or other thing of value coming into the possession of any employee shall be forwarded to the office of the Chief of Police together with a written report explaining the circumstances connected therewith.

Second, and more complicated, is the strength of the regulation as it relates to the control over the relationships of employees.

The following is a sampling of legal points addressed in the book "The Rights of Law Enforcement Officers" 6th addition (2009):

1 - P260 The United States Constitution contains no explicit right to privacy. In a series of cases primarily involving reproductive and abortion rights, the Supreme

Court has inferred a right to privacy into the provisions of a combination of the

First, Third, Fourth, Fifth, and Ninth Amendments. As it has been interpreted, the constitutional right to privacy provides protections in two areas:

- The individual's interest in avoiding disclosure of personal matters, and
- The individual's interest in being "let alone" – an interest in making certain decisions concerning personal matters such as marriage, procreation, contraception, family relationships, child rearing, and other off-duty activities free from any interference from government. (1)

1 See *Whalen v. Roe*, 429 U.S. 589 (1977); *Paul v. Davis*, 424 U.S. 693 (1976).

While there is no specific provision of the Constitution creating a right to privacy, courts have inferred a right to privacy within the "penumbra" of a number of the original Bill of Rights, including the First, Third, Fourth, and Ninth Amendments. In a number of states, state constitutional provisions directly create a right to privacy. E.g. Constitution, State of Alaska, Article I, Section 22 ("the right of the people to privacy is recognized and shall not be infringed"); Constitution, State of California, Article I, Section 1 (defines "pursuing and obtaining privacy" as an "inalienable right").

2 –P279 The second half of the right to privacy – the "right to be let alone" – applies to protecting the personal relationships of law enforcement officers. The right to privacy provides protections both in marital and non-marital relationships, and in cases where the conduct is protected simply because it is private. In the words of one court, such matters should be beyond the control of law enforcement employers because they do "not adversely affect persons beyond the actor, and hence are none of their business." 114

114 *Ravin v. State*, 537 P.2d 494 (Alaska 1975).

3- P280 In another case, the Court held that a nudist could not be denied employment as a law enforcement officer simply because he was a nudist, noting that "what a policeman does in his private life, as with other public employees, should not be his employer's concern unless it can be shown to affect in some degree his efficiency in the performance of his job." 121 Using similar rationale, a court

overturned the termination of a black officer who was fired after he and his wife permitted two white single women to board with them, holding that there was no showing that the officer's "conduct would materially and substantially impair his usefulness as a police officer."¹²²

- 121 *Bruns v. Pomerleau*, 319 F. Supp. 58 (D. Md. 1970).
- 122 *Battle v. Mulholland*, 439 F.2d 321 (5th Cir. 1971).

4 – P283 Courts have also repeatedly cautioned law enforcement employers that intrusions in an employee's off-duty life must be undertaken carefully and only with specific justification. Courts have reversed discipline for off-duty activities where the employer's justification was "nebulous and ill-defined,"¹⁴⁵ or was based solely upon a general disapproval in the community of the type of conduct forming the basis for the discipline.¹⁴⁶ As phrased by one court: "The government must tread lightly when it investigates and regulates the private activities of its employees. Public employers must be careful not to transform anachronistic notions of unacceptable social conduct into law."¹⁴⁷

- 145 *Dale v. City of Phillipsburg*, 50 FEP Cases 1737 (D. Kan. 1989).
- 146 *Briggs v. North Muskegon Police Dept.*, 563 F. Supp. 585 (W.D. Mich. 1983).
- 147 *Fabio v. Civil Service Commission of the City of Philadelphia*, 414 A.2d 82 (Pa. 1980).

5- P346 Freedom Of Intimate Association And Personal Relationships.

A law enforcement officer's right to freedom of association protects the officer's freedom to engage in personal relationships in much the same manner as the right to privacy. As the Supreme Court has noted, "choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion by the State because of the role of such relationships in safeguarding the individual freedom that is central to our constitutional scheme."²⁷ If a governmental employer intentionally interferes with a protected personal relationship, the officer may have a claim against the employer.²⁸

Not all associations with others are constitutionally protected. Instead, the Supreme Court has observed that protected associations "are distinguished by such attributes as relative smallness, a high degree of selectivity in decisions to begin and maintain affiliation, and seclusion from others in critical aspects of the relationship."²⁹ As such, there is a continuum of human relationships potentially protected by the freedom of intimate association. Extremely close relationships, such as family relationships and marriage, are generally afforded greater protection from government interference than are merely social ones.³⁰

The law is still evolving whether the freedom of intimate association applies to an unmarried couple living together. The emerging trend seems to be that freedom of association does protect such relationships. As one court commented, such relationships, "which for some are the natural precursor or alternative to marriage, deserve just as much protection. It would defeat the aim of protecting marital relations if protection was denied to serious intimate relations that often lead to marriage."³¹

Taking a more conservative viewpoint on a related issue, a court has held that the freedom of intimate relationships does not protect an officer's adulterous relationship.³² There is a good deal of conceptual overlap between the freedom of intimate association and the right to privacy. The right to privacy extends to personal decisions about marriage, procreation, contraception, family relationships, child rearing and education, and abortion.³³ As discussed in Chapter 6, in some circumstances, the right to privacy in connection with relationships has been extended to matters implicating individual autonomy, whether or not the individuals in the relationship are married.³⁴ As with the freedom of intimate association, a continuum of protection exists with the right to privacy, in that the more traditionally familial in nature the relationship is, the more likely it is that the relationship will be protected. These principles were well illustrated in a case involving a lieutenant who was threatened with discipline for maintaining an off-duty relationship with a woman on probation for the felony of receiving stolen property. A court stated that it was "uncomfortable announcing a new, general rule that all dating relationships are constitutionally protected, especially when that rule is advocated by a government employee who works in the sensitive area of law enforcement." The Court acknowledged that a "sanctioned marital relationship" between the lieutenant and the probationer would be protected, but "doubted that the amorphous social relationship between the two, although apparently intimate to some degree, is entitled to the full scope of constitutional protection." Finding that the relationship had the potential for disruption in the workplace, the Court found the relationship unprotected by the Constitution.³⁵

Occasionally, law enforcement officers will raise freedom of association claims based upon their relationships with individuals with whom they are unrelated and with whom they are not involved in a romantic relationship. Such relationships are generally not protected by the freedom of intimate association.³⁶

- 27 *Roberts v. United States Jaycees*, 468 U.S. 609 (1984). See generally Karst, "The Freedom of Intimate Association," 89 Yale L.J. 624 (1980).
- 28 *Ashcraft v. Beicker*, 2008 WL 538919 (D. Colo. 2008).
- 29 *Roberts v. United States Jaycees*, 468 U.S. 609 (1984); see *Martin v. City of Dothan*, 2008 WL 541289 (M.D. Ala. 2008).
- 30 *Driggers v. City of Owensboro, Kentucky*, 110 Fed.Appx. 499 (6th Cir. 2004); *Swanson v. City of Bruce, Miss.*, 105 Fed.Appx. 540 (5th Cir. 2004); *Cameron v. Grainger County, Tennessee*, 2007 WL 1306522 (E.D. Tenn. 2007); *Wieland v. City of Arnold*, 100 F. Supp. 2d 984 (E.D. Mo. 2000).
- 31 *Poleo-Keefe v. Bergeron*, 2008 WL 3992636 (D. Vt. 2008); *Anderson v. City of LaVergne*, 371 F.3d 879 (6th Cir. 2004)(for summary judgment purposes, a dating relationship between a police officer and an administrative assistant for the police department qualified as an intimate association because the two were monogamous, had lived together, and were romantically and sexually involved); *Akers v. McGinnis*, 352 F.3d 1030 (6th Cir. 2003)(personal friendship is protected as an intimate association).
- 32 *Beecham v. Henderson County, Tennessee*, 422 F.3d 372 (6th Cir. 2005).
- 33 See *Carey v. Population Servs. Int'l*, 431 U.S. 678 (1977).
- 34 See, e.g., *Eisenstadt v. Baird*, 405 U.S. 438 (1972).
- 35 *Wieland v. City of Arnold*, 100 F. Supp. 2d 984 (E.D. Mo. 2000).
- 36 *Miller v. Maddox*, 51 F. Supp. 2d 1176 (D. Kan. 1999); see *Weinberger v. Navarro*, 957 F. Supp. 220 (S.D. Fla. 1997)(no constitutional right to associate with Muhammed Ali).

TIME LINE — This is not an exhaustive accounting of the entire matter. It is an enhanced timeline along with waypoint decisions & rationale

6- P349 How Freedom Of Association Cases Are Handled By The Courts.

The courts handle freedom of association cases in much the same way they do free speech lawsuits. First, an officer must prove that he was engaging in associative activity not in the course of his employment, but rather “as a citizen.”⁴⁷ Once an officer has met his burden on this threshold legal issue, a court must determine (1) whether the officer’s interest in engaging in associative activity outweighs the employer’s interest in discouraging the activity in order to ensure the efficient operation of government services, and (2) whether the officer’s conduct played a substantial part in the decision to demote or discharge the employee.⁴⁸ If the employer meets this burden, the burden shifts back to the employee to show that the employer’s actions were a pretext for illegal retaliation.⁴⁹

47 *Douglas v. DeKalb County, Georgia*, 2007 WL 4373970 (N.D. Ga. 2007).

48 *Olson v. State of New York*, 2007 WL 1029021 (E.D. N.Y. 2007); *Day v.*

Borough of Carlisle, 180 L.R.R.M. 2022 (M.D. Pa. 2006).

49 *Morris v. City of Chillicothe*, 512 F.3d 1013 (8th Cir. 2008).

Chief DuBois had also reached out to other Law Enforcement leaders and Chiefs for advice-working notes:

The posture was to allow the case to work its way through the process. This conclusion was considered a prudent approach in the city.

As the case began to heat up during settlement talks I was increasingly trying to get a sense of what “could have been done” differently. I queried my FBI National Academy group, over 250 professional law enforcement leaders. Of those, eight got back to me. Most were supportive of an outside investigation. All recognized the complexity. Only two offered similar cases. One was from California. That case involved a female sergeant who befriended an elderly woman. A year later the woman died and left an 800k house to her. An internal was done and no wrongdoing found and as the current chief recalled, it was hard to prove. (It happened 6 years ago.) Regardless of the outcome of the IA, people felt it was not morally or ethically correct. The other case was from Ohio where a Deputy Sherriff and his wife received a house as a gift. There was a passage of time between the gift and the time the Sherriff found out. When the Sherriff found out, he put the Deputy on leave pending an investigation. The Deputy left the job before any action was taken. For only two out of 250 professionals queried experiencing a case like this, it validated how rare an occurrence this is and how little reference material is available to assist with the decision making process.

With the City legal counsel, case law research, and input from my FBI National Academy Group*, “staying the course” was sound advice.

(Note: only 1% of law enforcement across the country are selected/accepted into this program – Chief DuBois is a 2009 graduate of the Academy.)

73	RR	8/15/12	<u>Neighbor complaint to Bureau of Elderly and Adult Services re: Aaron Goodwin exploitation</u> following rumor that Aaron Goodwin putting addition on Geraldine Webber home (timeline p3)
74	RR	8/16/12	Department of Justice notified of Atty. Ritzo bill to Geraldine Webber (timeline p3)

TIME LINE

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75	RR	8/20/12	Atty. Ritzo letter to Department of Justice re: Aaron Goodwin exploitation (timeline p3)
76	RR	8/23/12	Department of Justice letter finding no Atty. Ritzo violation for sending bill; Geraldine Webber can contact county attorney for stalking complaint; Department of Justice letter to Atty. Ritzo no basis to investigate Aaron Goodwin ; Dinan letter to Aaron Goodwin for comment (timeline p3)
77	RR	8/29/12	Bureau of Elderly and Adult Services [Sabina] interviews Geraldine Webber following neighbor report; Atty. Ritzo petitions probate court re: Geraldine Webber trust; Capt. Schwartz emails Chief Dubois summarizing Geraldine Webber events (timeline p3)
78	RR	8/31/12	Atty. Ritzo letter to Department of Justice disappointed no investigation (timeline p3)
79	RR	9/7/12	Zill interview by Bureau of Elderly and Adult Services; Aaron Goodwin relinquishes Geraldine Webber DPHCA (timeline p3)
80	RR	9/13/12	Aaron Goodwin interview by Bureau of Elderly and Adult Services (timeline p3)
81	RR	9/19/12	Bureau of Elderly and Adult Services report of neighbor complaint unfounded ; Portsmouth Police Department letter to Dinan – no violation of law or Portsmouth Police Department regulations; also letter to Dinan from Police Commission (timeline p4)
82	RR	10/30/12	Department of Justice responds to Atty. Ritzo 9/25 complaint regarding 2/2011 incident as not rising to level of investigation (timeline p4)
83	RR	11/4/12	Herald article on probate/superior court case of exploitation by Aaron Goodwin (timeline p4)
84	RR	11/5/12	Geraldine Webber admitted to Portsmouth Regional Hospital (timeline p4)
85	RR	11/8/12	Probate court denies Ritzo 9/24 petition for reconsideration; opines that if competency an issue that someone should assess; no one does (timeline p4)
86	RR	11/13/12	Admitted to Clipper from Portsmouth Regional Hospital (timeline p4)
87	RR	11/15/12	Aaron Goodwin promoted to Sergeant (timeline p4)
88	PPD		Police Commission promoted Goodwin after discussions with the Chief and Deputy. These discussions included: <ol style="list-style-type: none"> 1. He was given permission to have the friendship with Mrs. Webber by former Chief Ferland 2. He had been cleared both internally and by external agencies of all complaints. No pending matters. 3. He was the most qualified candidate 4. Concern he could take legal action against the city for not promoting him and stopping his growth in the agency because he was having a relationship he was “cleared” to have and probably constitutionally unavoidable to be controlled by the agency.

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89	RR	11/27/12	Neighbors begin application for process to initiate guardianship (timeline p4)
90	RR	12/4/12	Bureau of Elderly and Adult Services reports to Office of Public Guardian that Geraldine Webber "on radar" (timeline p4)
91	RR	12/7/12	Discharged to home for hospice care (timeline p4)
92	RR	12/11/12	Geraldine Webber's death (timeline p4)
93	RR	Language from Report	"At this late point, there was another opportunity for the command staff and the Police Commission to recognize that a problem existed and action should have been taken. It appears that the existing culture at the time was responsible for the failure to act." (p16)
94	PPD	February 2013	2012 Will becomes public
95	PPD	Spring 2013	Challenges to the Will filed.
96	RR	Language from report	"We were unable to pinpoint through our investigation exactly when the Police Commission became aware of the Webber bequest intended for Sgt. Goodwin. When the Commission was informed, the decision to wait for the probate case to play itself out in court did not serve the Police Department or the community. In hindsight...Allowing a past command decision that condoned the off-duty relationship between Sgt. Goodwin and Mrs. Webber to continue to reflect the position of the department and the commission was not in the best interests of the PPD or the citizens of Portsmouth" (p18)
97	PPD	Spring 2013	Discussions with city legal counsel. Chief to again, "stay the course" and take no action on Sgt. Goodwin until the probate case decision is rendered due to: The court system would have the ability to get much more information such as, discovery materials from attorneys, medical information protected by HIPA, and depositions and court testimony provided under oath; all items which the PPD is unable to acquire during internal investigations.
98	PPD	March 2013	In addition to city legal, Chief discusses with city labor attorney the possible outcomes after the probate case is decided: If Court rules undue influence; that would probably result in another IA to capture relevant information and possible discipline, possibly termination. If Court rules in his favor; will have to deal with General Order issue, but probably not a capital crime because of relationship approval by the chief [Ferland].
99	PPD	4/1/13	City Council briefed in Non-public meeting

TIME LINE

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100	PPD	11/15/13	Request for a June 2014 trial date
101	PPD	11/21/13	<u>Attorney Holmes informs he's taking a year-long sabbatical and attorneys agree to a Jan 2015 trial date</u>
102	PPD	7/2014	Tentative Will settlement agreement reached
103	PPD	8/13/14	<u>Police Commission votes to reject agreement</u>
104	PPD	9/2014	The Police Commission initiated own investigation and hires Judge Roberts who starts to put taskforce together for independent review of police department handling of Goodwin/Weber.
105	PPD		<u>Legal counsel is to continue to wait until the Roberts' Report and the probate case is decided before taking any action on Sgt. Goodwin.</u>
106	PPD	End of 2014	Trial date delayed to April 2015
107	PPD	6/1/15	Roberts Report Released
108	PPD	6/24/15	<u>Sgt. Goodwin fired</u>
109	PPD	8/1/15	Commissioner Howe resigns
110	C	8/20/15	<u>Judge Cassavecchia issues decision of "Undue Influence"</u>
111	C/PPD		Although the judge makes global statements about the testimony from police witnesses, a close analysis recently completed of the decision reveals that he applies each of the words like "evasive" (Goodwin p58), "contradictory" or "conflicting" (Goodwin/Ferland/MacDonald p32-33), "self-serving" (MacDonald p34-35), "dubious" (Goodwin p58), and "credibility" (MacDonald p33) to very specific witnesses. <u>Never once does the judge use the word "corrupt" in referring to the police department.</u> <u>Due to then Deputy Chief DuBois' lack of involvement in the case prior to August 15, 2012, he was never asked to provide a sworn deposition or asked to testify in the Goodwin/Weber civil case.</u>
112	C		Regarding the testimony the judge states what constitutes valid testimony from police witnesses: "As such, it [the Court] has accorded weight only in those instances when independently corroborated by credible testimony of others or documentary evidence" (p 17). For example: Detective" [Captain] Warchol's testimony in the judge's decision was supported by documentary evidence and corroborated testimony. (p34)

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General Notes:

- The enhanced timeline above provides pertinent information into the way-points and decisions during the course of the Goodwin/Weber case.
- The Timeline also shows the far reaching effect of Chief Ferland's original decision to allow the friendship off-duty, as well as the results of a command style that tolerated looser lines of communication that at times bypassed the chain of command. Chief Ferland believed in a more relaxed command management style. However, in practice and in hindsight, it eroded the paramilitary framework that safeguards good order and discipline/compliance.
- **Neither the task force nor the judge found any *criminal* wrong doing, corruption, or conspiracy/collusion by the police department. These are words that have been speculative "conclusions" by some in the public.**
- Lastly, as shown within the timeline, based on the original "friendship" decision, although the path taken above may have been different from what the "public wanted" at the time, the information known at each way point (vs. looking in the rearview mirror with ALL the information at hand), potential litigation from the employee, and legal counsel, the course taken by the department and city was still on course to resolve the issue of Sgt. Goodwin's status, enforcement of Rules/Regs/SOP's, and meet contractual obligations of due process.

From Chief DuBois working notes:

Though the scenario presents a complex fact pattern, and with the benefit of hindsight, ...there were actions that could have been taken earlier on. This is in NO WAY a rebuke of the previous chief [Ferland], as I'm painfully aware, second guessing previous decisions without being in his shoes, would be inappropriate. However, now with the benefit of hindsight, I can see a different way of navigating the problem:

- Proverbs 11:14 "Where no counsel is, the people fall: but in the multitude of counselors there is safety"

When the first hint of an allegation presented itself, the overarching question revolved around the position of the agency with respect to the control over an off duty relationship whose genesis was the beginning of a call for service. At the time, as indicated above, there was a delineation of Aaron being her "friend" and Mike being her "cop". It is unknown to me if the previous chief [Ferland] sought counsel on that decision. Again, knowing the implications of what I know now, [if I had been Chief]...I would have done many of those steps [sooner]...; speak to the labor attorney, the city attorney, query the [FBI] N[ational] A[cademy] grads (the previous chief did not have that type of access).

As suggested by another labor attorney I spoke with from another state, he made the point that sometimes he gives advice to chiefs where the advice is a loser for the employer if fought by the employee, whether it be in front of an arbitrator or by lawsuit, but that the advice has to be taken due to the win in the court of public opinion. Note: see Roberts' Report recommendation: row #59 re: legal