

BEFORE THE VILLAGE OF HORTONVILLE POLICE COMMISSION

In the Matter of the Charges Filed By
Traci Martens,
Complainant,
against
Chief Michael J. Sullivan,
Respondent.

DECISION, RULES APPENDIX,
AND
ORDER

Synopsis

The Statement of Charges in this case, dated February 26, 2016, alleges violations of various pertinent standards of conduct, and asks the Commission to discharge the Respondent. Following extensive hearings, legal argument, briefing, and deliberations, the Commission has found the Respondent culpable on some but not all elements of the charges and imposes the discipline of a substantial suspension, with a portion of that suspension to be served immediately and a portion to be held in abeyance.

Procedural Background

This matter comes to us on a Statement of Charges by Traci Martens against Police Chief Michael J. Sullivan dated November 17, 2017. Traci Martens has been represented by Attorney William Macy. Chief Sullivan has been represented by Attorney Greg Gill, Sr. The Commission's legal counsel, Atty. Scott Herrick upon instruction of the Commission presided during the evidentiary sessions, with the four undersigned commissioners present to hear all witnesses and decide all substantive questions.

The statement of charges alleges violations of various standards of conduct including department rules, which we group in six sections or "counts," using the format of the Statement of Charges. Following completion of the evidentiary portion of our hearings on December 21 and 22, 2016, and with the agreement of the parties we established a calendar for final written arguments, completed on February 3, 2017. These arguments were distributed to commissioners for individual review, and we have also had individual reference access to the complete hearing transcript and to all exhibits. Commissioners reconvened for deliberations on February 6 and 14, 2016, and we have developed and reviewed multiple decision drafts. We have now reached the decision which we announce in this document. The Commission has found that the evidence sustains the charges on some but not all counts. Although commissioners have declined to terminate Chief Sullivan as proposed by Complainant, the several sustained allegations are sufficiently serious that we have imposed a substantial suspension penalty.

Our disciplinary decisions are subject to 62.13, Wisconsin Statutes, which defines our authority and sets forth standards which we must use in imposing discipline. In matters brought to us in the form of charges filed by a chief against a subordinate, the statute clearly and simply directs us to follow the standards summarized generally as "just cause" and known colloquially as the "Seven Standards:" The application of the Seven Standards is complicated in this instance by two statutory provisions. First, WS 62.13(5)(em) ends with the sentence "In making its determination, the board shall apply

the following standards, to the extent applicable.” Second, WS 62.13(5)(j) begins “The provisions of pars. (a) to (j) shall apply to disciplinary actions against the chiefs where applicable.”

Commissioners, being residents of Hortonville and being alert to civic life and affairs, are fully aware of the natural, broad community interest in our proceedings. We do not purport to be strangers in town. But we understand our duties as commissioners to derive the factual basis of our decision entirely from the record compiled in our case, and to act based exclusively on the record and on our careful, disinterested, and dispassionate analysis of the facts and the law. Each commissioner has done so.

The disciplinary decisions of this Commission are subject to unusually broad judicial review. Under standards established at WS 62.13(5)(i), our ultimate responsibility in practical effect is the compilation of a record available for thorough review in Circuit Court, which on statutory appeal does not merely affirm or overrule our decision based on its reasonableness but answers independently the same question which the statute instructs us to address: "Upon the evidence is there just cause...to sustain the charges against the accused?"

Post-Hearing Argument and Motion to Strike

In the course of the scheduled written closing argument Respondent submitted a substantive 9-page affidavit of fact (AFFIDAVIT OF CHIEF MICHAEL J. SULLIVAN.) Complainant promptly moved in writing to strike the affidavit, and the parties submitted written argument on the issue.

We grant the motion to strike the AFFIDAVIT OF CHIEF MICHAEL J. SULLIVAN submitted in conjunction with closing argument. We accord no weight whatsoever to it, just as we accord no weight to any other statement or representation of fact outside the testimony and admitted exhibits.

We note in this connection that we appreciate and benefitted from the citations to our record provided in the course of argument by Complainant’s counsel, and we regret and struggled as a result of the absence of similar citation by Respondent. In no instance have we taken statements or assertions by counsel as constituting evidentiary fact.

Violations Alleged

We provide here a reference summary of the main headings of the charges, which are set forth more fully in the charging document, which also contains the various rules and standards alleged to have been violated. We present those rules for reference in the appendix which follows the text of this discussion and precedes our Order.

- Count 1: Inappropriate Discriminatory Conduct
- Count 2: Inappropriate Disclosure of Confidential Information
- Count 3: Violation of the State Transaction Information for Management of Enforcement (T.I.M.E.) System
- Count 4: Violation of Employee Rights to Grieve and Engage in Concerted Protected Activity

Count 5: Violating the Directive Not To Discuss the Investigation during the Course of the Investigation

Count 6: Not Being Truthful During an Internal Investigation

The Statutory Seven Standards of Just Cause

We cite here the pertinent statutory provision, annotated by our use of UPPERCASE LETTERS to indicate portions of the text which require our special attention in this case brought by an “aggrieved person” rather than by a Chief:

WS 62.13(5)(em) No subordinate may be suspended, reduced in rank, suspended and reduced in rank, or removed by the board under par. (e), based on charges filed by the board, members of the board, an aggrieved person or the chief under par. (b), unless the board determines whether there is just cause, as described in this paragraph, to sustain the charges. In making its determination, the board shall apply the following standards, to the extent applicable:

- 1. Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.*
- 2. Whether the rule or order that the subordinate allegedly violated is reasonable.*
- 3. WHETHER THE CHIEF, BEFORE FILING THE CHARGE against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate a rule or order.*
- 4. WHETHER THE EFFORT DESCRIBED UNDER SUBD. 3. was fair and objective.*
- 5. WHETHER THE CHIEF DISCOVERED SUBSTANTIAL EVIDENCE that the subordinate violated the rule or order as described in the charges filed against the subordinate.*
- 6. WHETHER THE CHIEF IS APPLYING THE RULE OR ORDER FAIRLY and without discrimination against the subordinate.*
- 7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the chief's department.*

When we deliberate within the framework of the seven standards we endeavor to conform our decision-making to the statutory instructions. On their face these standards may seem designed to guide a *review* of discipline previously imposed, as their historical origin from an arbitration context would suggest, even though it is our statutory task to consider the initial *imposition* of discipline. The statute directs us to follow the seven standards “to the extent applicable” [WS 62.13(5)(em)] and “where applicable” [WS 62.31(5)(j)]. In this decision we describe our application of each of the seven standards to each of the Counts of the Complaint.

Standard 1. Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.

The rules underlying the six counts are well established within the department and the Village and under pertinent law. We accept their authority. The respondent is experienced as an officer as well as Chief, and has relevant experience as a union official. The respondent is reasonably held to knowledge of the pertinent rules, although in our proceedings he defended his exercise of discretion in interpreting and applying the rules.

We do not construe this standard to require that a respondent have specific, detailed knowledge of the actual consequences which will occur in fact following a given rule violation, nor does the standard require that a respondent expect to be caught, prosecuted, and disciplined. Instead, we look for a more general understanding that a rule exists and that violation of the rule, if discovered and prosecuted before us, may result in imposition of discipline by us. We have no doubt that Chief Sullivan in fact understood that the pertinent rules were in place and that conduct contrary to these rules was improper and could be subject to serious discipline. He certainly should have had that understanding.

We hold that Standard 1. has been met with respect to all counts.

Standard 2. Whether the rule or order that the subordinate allegedly violated is reasonable.

Upon the evidence in this case, we now confirm the reasonableness of the standards underlying the six counts. We hold that Standard 2. has been met with respect to all counts.

Standard 3. Whether the chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate a rule or order.

This standard may pose serious difficulties if read narrowly or literally. In the more ordinary case, where charges are brought by a Chief against a subordinate, as we have noted, this Commission does not, of course, sit to review a disciplinary decision of the Chief. Rather, our evidentiary hearing is the primary vehicle by which to determine whether a respondent did in fact violate a rule or order. In those cases, it is this Commission, not the Chief, which imposes discipline. Yet this standard and the standards following it are phrased in terms of review of a Chief's pre-hearing conduct, that is, his charging decision. In those ordinary cases we must construe this statute as consistently as possible with our straightforward conventional duty to try a case against a respondent and not merely undertake a new responsibility of reviewing the charging procedures and decisions of complainants.

Standards 3 through 7 seem to direct our attention to the internal procedures of the department and the pre-hearing decisions of the Chief, albeit "to the extent applicable" and "if applicable." These standards are even more anomalous when, as here, we hear charges brought by an aggrieved person rather than a by Chief, and *against* the Chief. These standards also imply a duty explicitly to examine our own proceedings.

The fact that these charges are brought not by the Chief but by an aggrieved person is even further complicated for us by the fact that this complainant is an official of the Village of Hortonville, and is acting in some way on behalf of the Village Board. Complainant's standing as an "aggrieved person" has not been challenged; apparently Respondent accepts the *ex officio* credential, and therefore we do as well. But assuming that Complainant is indeed aggrieved, she most certainly is not a Chief. What are we to do with statutory language that directs us to examine the conduct of the Chief as the charging party? In what ways is the statutory text "applicable?"

In resolving this conundrum we have given weight to the fact that this Complainant is to some degree or in some manner acting as an employer of the Chief. We do not expect a municipal employer to act in the pre-charging phase of such a matter as this precisely as a Chief would act, and we do not expect and certainly do not hold that a municipal employer has the authority to do so. But we can reasonably expect a municipal employer to follow in general the patterns of investigation, notice, and fairness that the statutory text defines with some precision for the Chief's conduct. We might not hold such burdensome expectations for an aggrieved person who was an ordinary citizen.¹

We conclude that Standard 3. requires us to make a two-fold determination, and we do so:

1. The evidence has demonstrated clearly and to our satisfaction that this Complainant conducted a reasonable investigation with proper authority and by proper delegation before filing these charges. We are fully satisfied that the investigation constituted at least a reasonable effort to discover whether Respondent did in fact violate a rule or order. The statute on its face does not require that a Chief go beyond the level of investigation that is reasonable, and we conclude that this Complainant has met the requirement as it would be imposed on a Chief.
2. We are fully satisfied that our own proceedings have constituted a reasonable effort to determine the merits of the charges.

We hold that Standard 3. has been met with respect to all counts.

Standard 4. Whether the effort described under subd. 3. was fair and objective.

We refer back to our discussion of the ambiguities of the seven standards in this case. We have determined that:

1. The Complainant's investigation was fair and objective. We were not able to draw any pertinent or useful inferences that the investigation was not fair and objective from the critique

¹Complainant in Footnote 3 on page 5 of her reply argument notes that WS 62.13(5) provides an option for a Commission to bring charges and notes the difficulty of prejudice related to that procedure. We reserve our view on this point as it relates to this case except to note more generally that a Commission concerned by allegations or appearances of misconduct by a chief might consider invoking a procedure similar to that used here by the Village Board: the engagement of independent special counsel with authority to investigate, make a charging decision, and if appropriate file charges formally in the Commission's name but without the substantive participation of commissioners.

of investigative procedures offered by Respondent. We are convinced that the investigation was a genuine pursuit of the evidence which evolved as the evidence evolved, rather than a predetermined formality designed to confirm preconceptions of culpability. The Complainant's investigation proceeded reasonably, fairly, and objectively.

2. We are fully satisfied that our own proceedings have been fair and objective.

We hold that Standard 4. has been met with respect to all counts.

Standard 5. Whether the chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.

We refer again to our discussion of the ambiguities of the seven standards in this case.

Standard 5. is the only one of the seven standards which goes directly to the issue of culpability, and in doing so it poses an additional interpretive challenge. *Substantial evidence* is a conventional formulation of an appellate review standard, and in this context reinforces a false view of our proceedings as an appellate process rather than an initial imposition of discipline. The burden of proof to be applied by Commissioners under WS 62.13(5) prior to 1993 Wisconsin Act 54 was well established as the "preponderance of the evidence," which is the usual minimum civil burden of proof but which is also significantly greater than "substantial evidence." Should we conclude that the seven standards lowered the burden of proof? We decline to do so. No officer should be subject to discipline without a showing of culpability by a preponderance of the evidence. To impose discipline on the basis of merely substantial evidence would probably be unconstitutional even if authorized on the face of the statute.

In broad summary, our careful review of the case record has established to our satisfaction that Complainant discovered substantial evidence supporting the statement of charges, but we have not found that all allegations are supported by a preponderance of the evidence in our proceedings. We determine as follows with respect to each Count.

Count 1, Inappropriate Discriminatory Conduct

Most conduct alleged in this Count consisted of oral statements made in informal settings, referring to persons not present, and as such is inherently difficult to prove and to defend. We have concluded that the statements alleged were made more or less as alleged. We have weighed Respondent's explanations and interpretations, but we remain disappointed in the lack of professionalism, civic sensibility, carelessness, and simple rudeness that this conduct displayed. The fact that the subjects of offensive comments were not present when the comments were made does not excuse the comments. We expect more from our officers, and of course we expect our Chief to establish, demonstrate, and maintain a high standard on all phases of his work.

Count 1 at paragraph 7.J. alleges retaliation by the Respondent against participants in the complaint or investigation. We regard this allegation as very serious and potentially a grounds

for discharge, because such conduct would undermine our statutory authority and role. We have considered this allegation carefully. We do not find that a preponderance of the evidence in our record supports the allegation of paragraph 7.J.

Count 2, Inappropriate Disclosure of Confidential Information

As in Count 1, we have weighed Respondent's explanations and interpretations of his conduct, and we are again disappointed in the lack of professionalism and attention to detail and proper procedure reflected in this conduct. We believe that Respondent was careless in failing to recognize the applicability and importance of principles of confidentiality underlying this count. We do not find that a preponderance of the evidence in our record supports the imposition of discipline directly for this conduct but we reflect our concerns and expectations for the future within the framework of the discipline we impose.

Count 3, Violation of the State Transaction Information for Management of Enforcement (T.I.M.E.) System

The preponderance of the evidence in our record establishes clearly that these violations occurred, substantially as alleged. We are very concerned by this misconduct, which threatened the integrity of the T.I.M.E. system and risked the department's participation in it. In this instance we are not persuaded by the Respondent's explanations and interpretations of events; in short, he was wrong.

Count 4, Violation of Employee Rights to Grieve and Engage in Concerted Protected Activity

Respondent has persuaded us that he experienced considerable frustration in the course of workplace relations. He has not persuaded us that his responses alleged in this count were sound. We believe that he drew from materials used by other Village officials to develop his own communications to the department, but he was unwise to do so. His articulated positions regarding actual or potential union activity were poorly considered and expressed, as he seems now to acknowledge. The preponderance of our evidence supports the allegations of Count 4.

We note that our record does not show any actual grievance filings by affected individuals or unions, and we are very aware that we are not the appropriate body or tribunal to resolve labor-management issues. However, we expect our Chief to respect fully the established, statutory rights and procedures for dealing with the Village's employees generally and department employees specifically.

Count 4 at paragraph 10.C. alleges retaliation by the Respondent against participants in the complaint or investigation. As we noted with respect to Count 1 and paragraph 7.J, we regard such an allegation as very serious and potentially a grounds for discharge, because such conduct would undermine our statutory authority and role. We have considered this allegation carefully. We do not find that a preponderance of the evidence in our record supports the allegation of paragraph 10.C.

Count 5, Violating the Directive Not To Discuss the Investigation during the Course of the Investigation

We agree with the foundational principle of this Count. The integrity of any investigation, and ultimately its fairness, depends upon its security and confidentiality. The very existence of an investigation, as well as its content, are subject to this principle.

Respondent has defended or explained much of his conduct as resulting from frustration, confusion, and uncertainty. We accept the reality of this explanation, but not its validity. He should not have engaged in his inquiries and conversations about the investigation, just as he and we would expect a police officer to respect strictly an order not to reveal or discuss a professional standards investigation. He should have remained uncomfortable, frustrated, curious, and worried, without probing into and thereby at least potentially undermining the investigation.

We do not apply this strict but professionally conventional expectation to one component of the Count. We do not believe that inquiries by the Respondent directly to the individual who had issued the order not to discuss the investigation should be construed as inherent violations of the order.

We do not find that a preponderance of the our evidence supports the allegation at paragraph 11.D. regarding encouraging false information.

With those exceptions we find that a preponderance of our evidence supports the allegations of Count 5.

Count 6, Not Being Truthful During an Internal Investigation

The predominantly oral character of the componets of Count 6, like those of Count 1, challenges our fact-finding. Respondent has spoken assertively in explaining and defending his conduct and his statements; he has disagreed with other individuals regardng various points at issue and continues to do so. However, in our judgment a preponderance of our evidence does not support the core allegation of untruthfulness in Count 6.

In summary, and subject to reservation expressed in our discussion above, we hold that Standard 5. has been met with respect to Counts 1, 3, 4, and 5.

Standard 6. Whether the chief is applying the rule or order fairly and without discrimination against the subordinate.

We refer again to our discussion of the interpretive difficulties posed for us by the seven standards. We have determined that:

1. We do not believe that Complainant considered for our analysis as an employer must treat the Police Chief identically with all other Village employees or even other department heads. The “comparable discipline” model sometimes used to review discipline of police subordinates

simply does not fit the case; no one is “comparable” to a Chief for these purposes. Furthermore, we ourselves expect to hold our Chief to a demanding standard of good conduct and professionalism which is not our responsibility to apply to any other Village employees.

2. We do believe that Complainant considered for our analysis as an employer must treat the Police Chief fairly, without bias or discrimination. We have concluded from this record that Complainant has treated the Polic Chief without discrimination, but we also conclude that the fairness of this treatment has been undermined by the absence of prior supervisory admonishment in the course of performance reviews and evaluations appearing in our record. As recently as the evaluation for 2014, included in Ex. 52, Chief Sullivan received highly favorable ratings, including ratings on areas closely related to the content of the Statement of Charges, and we do not see any indication in our record of any earlier admonishment or program of correction. Such evaluations do not license subsequent misconduct but do suggest that an avenue was available to address much of the misconduct which is alleged here.

3. In acting under and applying these rules we are acting fairly and without discrimination.

We hold that Standard 6. has been met with respect to all counts, with the reservations expressed above.

Standard 7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the chief's department.

We are not here to punish Respondent, but to act for the good of the service and to uphold the public interest in the integrity and efficiency of police authority. Our ultimate disciplinary decision considers each sustained count of the Statement of Charges individually but must be based also on the sustained counts taken altogether.

Wisconsin law authorizes us to impose as discipline only suspension, reduction in rank, or discharge. We do not have authority, for example, to reprimand a respondent, or to impose a requirement of special training or consultation, although these and other management tools and resources may often be useful to a body such as ours. In the course of our decision we have indicated our expectations for this Respondent's future conduct, and we would of course be gratified to see efforts to improve and progress professionally. But ultimately our authority is restricted to our statutory options.

We are not obliged to impose the same discipline as proposed by a complainant, whether a Chief or a citizen. In cases where we disagree with the proposed discipline, or where no specific discipline is proposed, it might be clearer that this seventh standard guides our own decision rather than a hypothetical review of the complainant's proposal. In this case we received a clear recommendation of termination from the Complainant, but our consideration of the Chief's admirable record of service, our confident anticipation of his renewed and improved leadership, and our judgment of the best interests of the department and our community cause us to temper the penalty we impose to that of a very significant suspension of eight weeks, holding six of those weeks in abeyance for a period of two years contingent upon non-recurrence of the elements of these charges and on non-

retaliation against any person for any connection with the instant case. We have confidence moving forward that the Chief can now lead and our officers can follow.

We hold that this discipline as we impose it with respect to counts 1, 3, 4, and 5 conforms to Standard 7.

This DECISION, RULES APPENDIX, AND ORDER is our disposition of the matter brought to us and should not be construed as a concurrence in, dissent from, or comment on any underlying decisions and actions of the Village Board of the Village of Hortonville or on any other issue not presented to us on the record in this matter.

RULES APPENDIX
drawn verbatim from the STATEMENT OF CHARGES

Village Personnel Policies

A. Harassment- It is the policy of the Village to strictly prohibit any conduct that constitutes harassment in the workplace based on race, color, religion, gender, national origin, age, disability, sexual orientation, marital status, or other protected category, and to discipline any employee guilty of committing such conduct. Discipline can include termination of employment. Harassment of an employee's relative, friend or associates on these bases is also prohibited.

General harassment is defined as any verbal or physical conduct that:

- a. Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- b. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- c. Otherwise adversely affects an individual's employment opportunity.

Examples of conduct prohibited under this policy include but are not limited to, the following:

- a. Unprofessional comments in any work environment respecting an individual's protected characteristics, e.g. gender, race, etc.;
- b. Insults, name-calling based on an individual's protected characteristics, e.g. gender, race, etc.;
- c. "Jokes" or other remarks that are sexual in nature or demeaning to individual's protected characteristics, e.g. gender, race, etc.;

B. Confidentiality - Because of your responsibilities at the Village, you may have access to confidential Village and customer information. This may include information concerning the Village's financial status, business practices, employee records and customer's records and data. All employees are responsible for protecting the confidentiality of this information. A violation of this policy can subject an employee to discipline, including discharge.

Police Department Policies

A. General Orders Policies

3. It shall be the duty of every member of the Department to thoroughly familiarize themselves with such provisions of the Employee Job Descriptions/Responsibilities of the Department. Specifically and generally with the duties of their rank, grade, or position, within 30 days from the date of issuance of the Employee Job Description/Responsibility to them.

Failure on the part of any member of the police department or civilian employee to acquaint themselves with, and abide by the provisions of the Rules and Regulations, the Employee Job Description/Responsibilities, and Standard Operating Procedures, as hereby directed, may subject such member to disciplinary action.

5. Members shall promptly obey any lawful order emanating from any officer of higher rank.

11. Any member who speaks with reckless disregard for the truth or with intentional untruthfulness, whether under oath or otherwise shall be subject to charges inasmuch as untruthfulness is a grave disqualification from the Department.

13. Members of the Department shall treat their supervisory officers with respect and their demeanor toward their associates in the Department shall be courteous and considerate, guarding themselves against envy, jealousy, or other unfriendly feeling; and they shall refrain from all communications to their discredit, except to their supervisors whom it is their duty to inform of every neglect or disobedience of orders that may come to their knowledge.

14. Authority in the Department shall be exercised with firmness, kindness, and justice. Supervisory officers shall sustain their subordinates when they can do so consistently, and avoid, as far as circumstance warrant, censuring them in the presence of others. Supervisory officers are forbidden to injure or discredit those under their authority by tyrannical or capricious conduct or by abusive language.

B. Communications Policy

II. Policy

Members of the Department shall treat as confidential the official business of the Department. They shall not impart it to anyone except those for whom it is intended, or as directed by the Chief of Police, or under due process of law; and they shall not make known to any person, whether or not a member of the Department, any special order which they may receive, unless by the nature of the order.

III. Procedure

G. Teletype and Automated Data Communications

2. Communications Center, Service Desk personnel, and all officers have access to the Transaction Information for Management of Enforcement (T.I.M.E.) teletype and automated data system hardware.

8. Security

Each TIME System agency is responsible for allowing only authorized personnel to operate the TIME terminal and enforce system and data security. As part of this responsibility, each terminal agency is responsible for ensuring that the terminal is used to send authorized and official messages only. Any violation of this TIME System policy or misuse of information obtained from the TIME System will subject personnel to any and/or all departmental disciplinary procedures. Any department member who witnesses or has knowledge of a violation of TIME System access or other section of this policy is required to report this violation to a supervisor.

The TIME System has various built-in security measures, but final responsibility for security rests with this user agency.

9. Personnel Security

b. User identification/authentication

Each individual who is authorized to access the TIME System shall be uniquely identified. This will be by use of a unique log on name and password, or by whatever means specified by CIB/NCIC. Individual passwords must be guarded against unauthorized use, and changed regularly. If an individual leaves employment with this agency, their password will be removed from the system.

A FBI authorized originating agency identifier (ORI) assigned to this agency shall be used in each transaction.

Each individual will be issued a token card from Outagamie MIS. The individual is responsible for that token card. The token card will have unique PIN numbers and a password to each individual to assist in user identification/authentication.

10. Data Security

Data stored in central repositories such as CIB and NCIC files must be protected from unauthorized access and access is restricted to authorized agencies. Data stored in the databases of participating data service agencies are documented justice records or administrative records containing sensitive personal information. These records must be protected to ensure correct, legal and efficient dissemination and use. Each data service has its own rules for secondary dissemination of records.

Information accessed via the TIME System shall be used only for the purpose for which the request was made. Access is subject to cancellation if information is improperly disseminated. The TIME System will not be used to obtain data for personal reasons. The selling of information obtained from the TIME System is strictly prohibited, and illegal.

This agency accesses TIME System files, but is not the custodian of the records of those files. Any public access request for release of those records should be made to the custodian of those records, i.e., the Department of Transportation (DOT), CIB, etc. This department will release data obtained via the TIME System only to those law enforcement/criminal justice agencies with which this department has a signed agreement detailing dissemination of that information and immediate notification of updated information.

14. Juvenile record information

Wisconsin statutes state DOT shall not disclose juvenile records concerning or related to certain violations to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, the minor who committed the violation or their parent/guardian. This information is present on driver record checks made by law enforcement/criminal justice agencies via the TIME System. It is necessary that it not be divulged to anyone other than those listed above, and is for the internal use of such agencies only. These entries will be listed as 'confidential.' These entries include but are not limited to juvenile alcohol violations and failure to pay juvenile forfeiture violations. Confidential entries should not be released or broadcast on an open radio frequency, unless, for some reason, there is an entry that involves officer safety.

C. Harassment Policy

I. Purpose

This section will establish the guidelines for providing employees of the Village of Hortonville the right to a work environment free of unwelcome verbal or physical conduct, which harasses, disrupts, or interferes with the individual's work performance or which creates an intimidating, offensive, or hostile environment.

II. Policy

The Hortonville Police Department will not tolerate its employees engaging in comments, gestures, or conduct which degrades, intimidates, isolates or discriminates against individuals or creates an unreasonable interference with an individual's work performance. Any employee participating in such negative conduct will be subject to appropriate corrective action which may include termination.

D. Records Policy

VI. Records Inspection

B. Juvenile Records

1. Apart from certain statutory exceptions, it is the policy of the Hortonville Police Department not to allow inspection, or release copies, of juvenile records. Copies of reports requested by the parent, guardian or legal custodian of a juvenile who is the subject of law enforcement reports, or the juvenile him or herself, will not be released without an order from the court of jurisdiction.

Police Department Code of Ethics

I vow to be fully truthful and honest in my dealing with others. I deplore lies and half-truths that mislead or do not fully inform those who must depend upon my honesty. I will obey the very laws that I am sworn to uphold. I will seek affirmative ways to comply with the standards of my department and the lawful directions of my supervisors.

I vow to treat others with courtesy at all times. I consider it to be a professional weakness to allow another's behavior to dictate my response. I will not allow others' actions or failings to be my excuse for not performing my duties in a responsible and professional and expected manner.

Order

On the entire record of these proceedings including the foregoing, and pursuant to 62.13(5)(e), Wisconsin Statutes, the Commission orders as follows:

As penalty for misconduct alleged in Counts 1, 3, 4 and 5 of the Complaint, Respondent Police Chief Michael J. Sullivan is suspended from duty without pay for a period of eight weeks, to be imposed as follows:

1. suspension of two consecutive weeks shall be beginning the first business day following the date of this order; and
2. further suspension of six consecutive weeks shall be held in abeyance through the second anniversary of the date of this order, to be imposed by the Commission independently of any other penalty then imposed, if the Commission sustains any statement of charges alleging misconduct substantially similar to or related to the allegations sustained by this DECISION AND ORDER or if the Commission sustains any statement of charges alleging that Respondent has retaliated against any subordinate or other person because of that person's actual or perceived activity in connection with the instant case; and
3. the portion of this suspension held in abeyance shall expire without further action by this Commission at 11:59 p.m. on the second anniversary of the date of this order if it has not been imposed pursuant to this Order.

*Approved following deliberations,
and
filed with the Secretary this 15 day of February, 2017:*

VILLAGE OF HORTONVILLE POLICE COMMISSION

/s/ Jamie Mullock
Commissioner Jamie Mullock

/s/ Martin Baker
Commissioner Martin Baker, President

/s/ Emery Rynders
Commissioner Emery Rynders

/s/ Al Habeck
Commissioner Al Habeck, Secretary

Note: Commissioner Terry Dufrane did not participate in this matter.