

**Report of Findings**  
**In the Matter Involving Allegations of a Hostile Work Environment**  
**Prepared for the City of Sedona Police Department**  
**May 22, 2024**



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## EXECUTIVE SUMMARY

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In March of 2024, three members of the City of Sedona Police Department met with Russ Martin, Director of Human Resources. Ryan Kwitkin, Deputy Chief, Laura Leon Sergeant, and Charlene (Sherri) O'Connor, Executive Assistant to the Chief of Police made allegations regarding what they described as a hostile work environment in the Police Department under the oversight of Stephanie Foley, Chief of Police. Shortly thereafter, in April of 2024, per Kwitkin, the work environment created by Foley was not only hostile and toxic, but she had also violated numerous sections of the City of Sedona Policy Department Manual.

In response to the allegations regarding the Chief of Police, the City commissioned an independent investigation (by external third-party, Revolutionary HR Consulting) into the working environment of the City of Sedona Police Department.

The investigation included the review of relevant documents including over 250 text messages, emails, videos, and voice recordings, and investigative interviews with a total of 23 current employees who were believed to have knowledge of specific events related to the issues. The investigator assessed the credibility of interviewees and applicable policy and legal requirements.

All employees of the Sedona Police Department were invited to speak with the investigator to ensure all concerns were being reported and properly investigated.

Eight allegations were investigated of which none were found to be substantiated.

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## RELATED POLICIES

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### **Federal Employment Law**

A hostile work environment occurs when an employee is subjected to discrimination, harassment, or retaliation on the basis of their membership or perceived membership in a protected group, such as race, religion, gender, national origin, disability, age, or genetics. As defined by the federal Equal Employment Opportunity Commission, for a place of employment to become a hostile work environment, there needs to be pervasive and continuing behavior and/or policies that impede a person's ability to perform their job because of the level of hostility and discomfort.

### **City of Sedona Employment Manual, dated November 2023**

#### Section 608 – POLICY AGAINST HARASSMENT AND BULLYING

The purpose of this policy is to reaffirm the City's policy against any form of harassment, including sexual harassment, harassment based upon race, gender, national origin, religion, age, sexual orientation, or disability. It also affirms the City's zero tolerance policy towards bullying.

#### A. INTRODUCTION

The City of Sedona prohibits and will not tolerate any form of harassment by any employee at any level.

#### C. BULLYING DEFINITION

Bullying is defined as a series of persistent, hostile interpersonal interactions that cause substantial distress to another person. It may take the form of deliberate, hurtful repeated behaviors or offenses over a period of time. In contrast, any criticism related to job performance that is given in a dispassionate respectful and non-hostile way is not bullying.

#### D. COMMITMENT OF THE CITY

The City is committed to creating a work environment free from all forms of harassment and bullying. The City respects and understands that all employees have the right to work in a secure environment in which dignity and civility are the norm.

#### F. OBLIGATION OF SUPERVISORS

All supervisors are obligated to support and foster a non-bullying, harassment-free environment, to report instances of such, and assist in the investigation of any reported instances of harassment or bullying in the workplace. Supervisors will promptly launch an investigation of any reported or suspected scenarios of harassment or bullying and notify the employee that these types of behaviors are unacceptable. Supervisors will also assist employees in reporting and/or following the appropriate process for investigating instances of harassment or bullying.

#### G. OBLIGATION OF EMPLOYEES

All employees are obligated to report any instances of sexual or any other form of harassment that they experience within the workplace or outside the workplace that has an effect on the work environment. Employees are also obligated to offer full cooperation in all investigations into sexual or any other form of harassment charges. This cooperation may include, but is not limited to:

1. Coming forward with evidence, whether it is favorable or unfavorable to the individual accused of the harassment; and
2. Being completely truthful in any written reports, or in any verbal responses, to the investigator's questions.

#### H. WITNESS INFORMATION

Witnesses to any instances of harassment are encouraged to come forward with information about the instance they see occurring within the workplace or any area that may have an effect on the work environment. This information may be in relation to instances that have been reported or instances that have not yet been reported. Witnesses are encouraged to provide this information in order to help the City enforce this policy and to help stop situations that can create a hostile working environment.

**Sedona Police Department Policy Manual, dated July 1, 2012, revised August 24, 2021**

Section 1.2 – LAW ENFORCEMENT CODE OF ETHICS

All sworn employees of the Police Department shall abide by the tenets of the Law Enforcement Code of Ethics:

“As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

“I will keep my private life unsullied as an example to all; maintain courageous calm in the face of dangers, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

“I will never act officiously or permit personal feelings, prejudice, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice, or ill will, never employing unnecessary force or violence, and never accepting gratuities.

“I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession ... law enforcement.”

Section 26.1.1 – UNTRUTHFULNESS

Honesty is the cornerstone to integrity expectation in policing, as such the standard of being untruthful is not negotiable. No employee shall knowingly make an untrue statement about a fact, either orally, in writing or by omission in connection with any investigation, assignment or inquiry. No employee shall knowingly sign any false official statement or report, commit perjury, or give false testimony before any court, grand jury,

board, commission, judicial or administrative hearing, or department hearing, whether or not under oath.

Employees are required to report completely, honestly, and accurately all facts and information pertaining to any investigation, whether criminal or administrative, or any other matter of concern to the Department.

- A. This rule does not apply to an officer's questioning or interrogation of a person involved in a criminal investigation, or where the officer is engaged in an approved undercover role, where such misrepresentation is consistent with the law and accepted professional practice.

#### Section 33.7 – TRAINING FOR SPECIALIZED DUTIES, SPECIAL ASSIGNMENTS AND PROMOTIONS

Specialized duties. Specific duties, such as accessing the state criminal history database or operating certain equipment, may require specialized training or certification. Necessary certification, training and retraining requirements should be identified, supervised, documented, and managed by the supervisors or commanders of the unit requiring the training.

Specialized assignments. Certain assignments require training specific to the unit (SWAT, motor officers, canine handlers). Necessary training and retraining requirements should be identified, supervised and managed by the supervisors or commanders of the unit requiring the training.

Promotion. Job-related training should be provided to all newly promoted personnel, either prior to promotion or within their first year on the job. Sergeants shall complete an FTO program for sergeants; all other training will be accomplished or arranged for by the employee's newly assigned supervisor.

- A. All supervisors promoted to mid-management level positions shall successfully complete or register for the AZPOST's Arizona Leadership Development (ALP) program or equivalent, within one year of promotion.

## Section 35.1 – PERFORMANCE EVALUATIONS

Employees in a new position may be issued three-month and a six-month evaluation. After this, all employee performance evaluations shall be completed annually, as required by the City policy.

Evaluations shall be completed at least one month before the due date. Performance evaluations are for a specific time period and are intended to provide an employee with useful information concerning the employee's performance, to enhance the relationship between supervisor and subordinate, to provide assistance to the employee in continuing professional development and to provide a record of an employee's performance. Performance evaluations shall be maintained in accordance the applicable Arizona retention schedule.

- A. The HR Department shall provide measurement definitions, procedures for use of the forms, rater responsibilities, and training for those who are to complete the evaluation forms.
- B. At the beginning of each annual evaluation period, employees being evaluated shall be made aware of the rating criteria and performance expectations as needed by the HR Department. This can be done at the same time as the annual review for employees after the first review period.

An employee's performance evaluation shall include mention of discipline occurring or administered during the evaluation period. Corrective action would not generally be referenced in a performance review, although behavior underlying the action may when it has performance implications. Any rating that is either unsatisfactory or outstanding shall include an explanatory comment.

During the process of drafting an evaluation, the employee's supervisor should review his/her performance notes regarding the employee, discipline and commendation records, and MVD record. (Any unreported criminal conduct or driver license validation issues shall be referred to the Professional Standards Unit.). The supervisor shall then meet with his/her own supervisor to review the draft. No evaluation may be provided to a subordinate without this review.



The supervisor shall then meet with the employee in a face-to-face meeting, to deliver and discuss the evaluation. The employee shall be provided with a copy of the completed evaluation and may, if desired. During this meeting, the supervisor shall also advise the employee of expectations for the upcoming year and may discuss the employee's career goals or recommended training.

If an employee's performance falls below standard, a supervisor shall issue a special evaluation in a timely manner that documents the unsatisfactory performance and defines actions that the employee must take to improve. Delivery of a special evaluation may be delayed to avoid compromising any on-going investigation.

Any employee who prepares an employee evaluation shall be evaluated by their supervisor regarding the quality of employee performance evaluations they have prepared.

Responses to or appeals of a contested evaluation, if permitted by City or Department policy, shall be in accordance with the City's personnel rules.

## Section 35.2 – PERSONNEL FILES

The Department shall maintain the following files related to an employee:

1. Applicant and background file  
Personnel file (e.g. Use of Force, Complaints, and IA Investigations)
2. Supervisor's desk file.

All files are to be maintained in compliance with the Arizona and Department records retention standards and purged and destroyed as required by Department policy and Arizona law.

- B. Public portions of any file may be subject to release in response to a proper public records request. See POLICY 82.3.

All medical information concerning the employee shall be forwarded to and maintained by the HR Department.



#### Section 35.2.4 – PERSONNEL FILES

This file should consist of notes made by the supervisor pertaining to an employee, commendations, memorandums of correction and/or counseling. Notes should be retained until incorporated into a periodic evaluation form and then destroyed/deleted. Access to this file shall be limited to the supervisor and supervisor's chain of command.

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## ALLEGATIONS AND FINDINGS

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The City of Sedona Police Department is managed by Chief of Police, Stephanie Foley. The Police Department currently employs 43 employees. The Chief of Police's direct reports include a Deputy Chief, a Support Services Manager, and an Executive Assistant.

**Allegation 1: Chief Foley has created a hostile work environment by behaving in ways that include making inappropriate, unprofessional, offensive, hostile, and/or harassing statements and related actions toward City of Sedona Police Department employees.**

A. In November 2023, Chief Foley began making inappropriate and unprofessional comments to Ryan Kwitkin, Deputy Chief.

B. Chief Foley engaged in non-consensual physical touching of Kwitkin on November 1, 2024, and March 12, 2024.

### **Allegation 1 Finding**

*A. In November 2023, Chief Foley began making inappropriate and unprofessional comments to Ryan Kwitkin, Deputy Chief.*

In November 2023, Kwitkin was stopped by a traffic officer in Flagstaff for running a red light. According to Kwitkin, he received a verbal warning because the traffic officer observed his police badge. Kwitkin reported this to Foley as per policy. Kwitkin alleged that upon doing so, Foley repeatedly asked him if he showed his badge. She questioned him so much Kwitkin stated that he was with an out-of-town guest and felt humiliated.

Foley recalled seeing Kwitkin and his guest but did not recall asking about Kwitkin's badge.

In December 2023 Kwitkin believed Foley to be overly critical of his handling of that year's holiday event. Prior to the event, Foley explained the purpose of it was to do something nice for employees by providing an end of the year holiday event and advised that she did not want members of the Department beyond the Deputy involved in setting it up (as an additional way to show appreciation for the staff). Kwitkin committed to bringing water, a podium, and a

retirement plaque for a retiring Lieutenant. On Sunday, December 17, 2023, the morning of the holiday event, Foley contacted Kwitkin via email asking about the plaque and Kwitkin responded *“totally forgot it”*. Upon his arrival at the event location, Kwitkin informed Foley that he asked an employee of the Department, for assistance with bringing supplies and the podium from the Police Station. According to Kwitkin, Foley asked to speak with him outside and *“dressed him down”*. Kwitkin stated that he told Foley, *“If I can’t do anything, right, maybe you need to find another Deputy Chief”*.

Foley admits to being frustrated because she had made her intentions regarding the event very clear that she wanted only for her and Kwitkin to arrange and set up the event. She confirmed Kwitkin’s recollection of speaking with him outside the event before it started; however, recalls their exchange quite differently. Foley described the interaction as *“very intense”* and stated that Kwitkin seemed angry and defensive and *“he just went off”*.

B. *Chief Foley engaged in non-consensual physical touching of Kwitkin on November 1, 2024, and March 12, 2024.*

Kwitkin alleged that while he and Foley were walking outside discussing the selection process for Lieutenant, Foley stopped and pointed two fingers to his chest and said, *“I have a gun pointed at you – who are your two picks for Lieutenant?”* Kwitkin first stated that the walk occurred on November 11, then he stated it was on November 8, and finally he stated it was on November 2.

Foley acknowledged that she and Kwitkin often went for walks to discuss issues within the Department; however, she had no recollection of pointing at Kwitkin in the manner described, and adamantly denied that she would make such a statement. Kwitkin sent a lengthy text message to Foley on the morning of November 8, where he expressed his preference for the external candidate and Leon. The objections that Kwitkin raised were more about the structure of hiring one sworn and one non-sworn rather than making an argument for, or presenting a case, that Leon was the top candidate. (Attachment A)

On March 12, 2024, Kwitkin alleged that Foley made a comment about his facial hair (that he had missed shaving a spot) and touched his face without permission. Foley does not recall touching Kwitkin. She went on to state that Kwitkin was always well groomed and that he was *“quick to tell the officers and sergeants when they’re not”*. She added that he even kept razors at work and

would tell officers to go shave, so could not recall a time where she had ever observed him having “missed a spot”.

During her interview, Foley shared that in April 2023, Kwitkin hugged her and kissed her cheek when she gave him his badge. Foley, four employees, and the sitting City Manager<sup>1</sup> affirmed that hugging was not uncommon in the workplace. Foley provided a picture of a group hug. (Attachment B)

**THE ALLEGATION THAT CHIEF FOLEY CREATED A HOSTILE WORK ENVIRONMENT BY BEHAVING IN WAYS THAT INCLUDED MAKING INAPPROPRIATE, UNPROFESSIONAL, OFFENSIVE, HOSTILE, AND/OR HARASSING STATEMENTS AND RELATED ACTIONS TOWARD CITY OF SEDONA POLICE DEPARTMENT EMPLOYEES IS NOT SUBSTANTIATED.**

**Allegation 2: Chief Foley has engaged in retaliation by applying increased scrutiny to staff, reprimanding employees, assigning low performance evaluation scores, and/or making employees’ work more difficult after employee(s) complained or otherwise expressed disagreement. Specifically,**

- A. In August 2022, Chief Foley began retaliating against Charlene (Sherri) O’Connor, Executive Assistant to the Chief, based on information O’Connor shared with Karen Osburn, City Manager, during the selection process for the Police Chief. The retaliation allegedly continued through April 11, 2024, when O’Connor was issued a *Memo of Written Counseling*.
- B. In October 2023, Chief Foley began being overly critical of Kwitkin’s performance. This behavior escalated in November 2023 after the promotional process for Lieutenant and continued through a December 2023 holiday event.
- C. In November 2023, Chief Foley acted in a retaliatory manner by relocating Kwitkin’s office following his disagreement regarding the selection process for the Lieutenant position.
- D. In February 2024, Chief Foley extended Kwitkin’s probationary period.

### **Allegation 2 Finding**

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<sup>1</sup> The prior City Manager retired effective April 8, 2024.

A. In August 2022, Chief Foley began retaliating against Charlene (Sherri) O'Connor, Executive Assistant to the Chief, based on information O'Connor shared with Karen Osburn, City Manager, during the selection process for the Police Chief. The retaliation continued through April 11, 2024, when O'Connor was issued a Memo of Written Counseling.

O'Connor has served as the Executive Assistant to the Chief of Police since 2014. During the selection process for Chief position in 2022, O'Connor met with Osburn and provided feedback on the two finalists. O'Connor admitted she was not supportive of Foley being promoted.

Osburn shared that she had *"a surprisingly large number of individuals come and talk with me"* during the selection process for the Chief of Police; and they were not all 100% in favor of promoting Foley. Osburn explained that when she offered the job to Foley, she told her that while she had some support within the department, she would need to focus on improving communications within it. Osburn denied providing detailed feedback to Foley or attributing any feedback to a specific person.

O'Connor alleged that Foley has been overly critical of her performance. A review of her performance evaluations over the last seven years revealed that O'Connor received critical feedback on several aspects of her work prior to Foley's promotion, including:

- ⌘ 2015 – 2016 David McGill, former Chief of Police documented the need to improve her Excel skills and set a goal for her to take training in order to do so. (Attachment C)
- ⌘ 2017 – 2018 O'Connor indicated in writing that she had not completed the training on Excel and budget spreadsheets. (Attachment D)
- ⌘ 2020-2021 Charles Husted, the former Chief of Police, documented that OConnor had not completed the Excel class training. (Attachment E)
- ⌘ 2022-2023 Foley reiterated the goal of Excel had not been completed and added the need for O'Conner to improve her skills in PowerPoint. There was a deadline by December 31, 2023. (Attachment F)
- ⌘ 2023 – 2024 Foley referenced the outstanding Excel course on four separate occasions between June 19, 2023 and February 12, 2024. (Attachment G)
- ⌘ 2024 O'Connor's request for Microsoft training dated April 2, 2024 for the class on April 30, 2024. (Attachment H)

*B. In October 2023, Chief Foley began being overly critical of Kwitkin's performance. This behavior escalated in November 2023 after the promotional process for Lieutenant and continued through a December 2023 holiday event.*

Kwitkin was hired in March 2023. According to Kwitkin, Foley began making comments about his personal vehicle which had tinted windows because they were not in compliance with ARS 28-959.01. According to his recollection, Foley mentioned the tinted windows over 20 times. This was the first example of what Kwitkin alleged was a pattern of offensive and passive aggressive comments which resulted in his March 14, 2024 complaint.

Foley acknowledges discussing the window with Kwitkin and stated that he offered to remove the tinting or get a medical exemption. According to Foley, Kwitkin raised the issue of his tinted windows when they discussed the results of his 360 evaluation in January 2024. Kwitkin alluded that Foley's focus was more on his tinted windows and did not provide details about the narrative comments that were submitted on the 360. According to Foley Kwitkin said, *"they don't know if I have a medical condition or. . . Well, I don't, but I can easily get one from a doctor"*. Kwitkin informed the investigator that he did not qualify for a medical exemption.

In June 2023, Foley directed Kwitkin to coordinate with Finance to purchase a new mid-sized SUV from the approved list of contracted vendors. According to Kwitkin, Foley made the procurement process difficult because she changed her expectations and rejected his first choice of vehicles. Kwitkin provided emails about the purchase of the vehicle. These emails were the interactions between the dealer's and outfitting of the vehicle and did not support his statements that Foley interfered with the purchasing process.

Kwitkin alleged that Foley was overly critical about his work regarding employees' timecards. (Attachment I) Foley confirmed that she provided frequent feedback on errors that were found on timecards Kwitkin had approved. (Attachment K) Foley explained that Kwitkin was not retaining information they discussed nor was he taking notes during their one-on-one meetings about the timecards.

In August 2023, Kwitkin reported that Foley was critical of the way he had set up his office even though Foley said that he could set it up however he wanted. Kwitkin worked to change the office setup to Foley's satisfaction. Kwitkin felt Foley was micromanaging his workspace. Kwitkin

claimed that he wanted the back of his computer facing the door so people could not see what was displayed on the monitor.

Foley's recollection was that Kwitkin was unhappy about the location of his computer and didn't like looking over it. As a result, he worked with O'Connor to get different furniture.

In October 2023, Kwitkin approved an operational plan (Ops Plan) for the City of Sedona's Halloween Event. The Ops Plan had been developed by a Sergeant. Kwitkin alleged that Foley was overly critical of the plan. According to Foley, there were several problems with the Ops Plan including missing phone numbers. At one point Foley met with Kwitkin about the Ops Plan and Kwitkin told Foley, *"I think you may need to find another Deputy Chief. I don't think I'm what you are looking for"*. Foley was taken aback by Kwitkin's comment and *"talked him off the ledge"*, trying to reassure him that it was going to take some time to learn the processes and added *"let's just keep trying to move forward"*.

Kwitkin alleged that on several occasions he received verbal reprimands by Foley about which uniform he should wear. Foley concurred that she and Kwitkin would often discuss the attire they would wear when attending various functions. From her perspective it was Kwitkin that needed regular reassurance that he was fitting in.

*C. In November 2023, Chief Foley acted in a retaliatory manner by relocating Kwitkin's office following his disagreement regarding the selection process for the Lieutenant position.*

Kwitkin alleged Foley's decision to move his office to another area in the Police Station was directly related to his objections regarding the 2023 selection process for Lieutenants. Foley and two other employees stated that over the years, the office next to the Chief had been occupied by individuals with various roles including Deputy Chief, Lieutenant, and Sergeant. Foley contends that her decision to move Kwitkin was to enable him to be closer to the Sergeant's offices, Report Writing room, and the Garage. Foley added that she explained her thought process to Kwitkin, and he did not express any issues. Foley checked in one more time before the move was final stating *"because I wanted to be thoughtful. And he said he didn't have any issues"*.

*D. In February 2024, Chief Foley extended Kwitkin's probationary period.*



Kwitkin alleged that there was nothing negative in his six-month evaluation. He said he believed it was a fair evaluation and needed to learn the Arizona laws.

While Foley's ratings were "*meets expectations*", she made the following comments of concern in Section 3 - Future Goals and Expectations (Attachment K):

- ⌘ *I'd like Ryan to continue to work on attention to detail when reviewing or submitting work, leading fairly with all staff and direct reports, polish the rough edges and develop systems to be effective in project management.*
- ⌘ *Work on "high risk" policies to update and then continue to chip away on all other policies while still learning Sedona PD policies as a new employee.*
- ⌘ *Continue to look for opportunities to improve vehicle fleet and develop systems to easily track our vehicles & personnel assigned, maintenance, etc.*
- ⌘ *Get Peer Support up and running. Currently you have many things scheduled and have made successful additions.*
- ⌘ *Successfully train and lead the two new lieutenants in partnership with me, vision, and mission, etc.*
- ⌘ *Keep calendars/schedules up to date both Outlook and PD Schedule.*
- ⌘ *Look for a leadership class at the executive level.*

Foley provided her anecdotal meeting notes and text messages referring to his lack of understanding about discrepancies with Sergeants' timecards. Kwitkin also shared examples of emails where Foley was correcting errors that he did not identify when approving timecards.

Foley reportedly observed an emerging pattern of Kwitkin not working on high priority tasks, such as developing policies. Additionally, he struggled with retaining details about the status of vehicles out of repair. Foley conveyed that Kwitkin told her he was a procrastinator and that he "*only likes the fun things at first or in his verbiage, the sexy things. . . it's really hard to do the other stuff, he's not interested in it*".

After the incident regarding the Ops Plan where Kwitkin told Foley that she "*may need to find another Deputy Chief*" and after the incident in December, Foley became increasingly concerned that Kwitkin was not a good fit for the Deputy position. As a result, Foley began to work with Brenda Tammarine, former Director of Human Resources and agreed that a 360 evaluation for Kwitkin would be appropriate.

**THE ALLEGATION THAT CHIEF FOLEY HAS ENGAGED IN RETALIATION BY APPLYING INCREASED SCRUTINITY TO STAFF, REPRIMANDING EMPLOYEES, ASSIGNING LOW PERFORMING EVALUATION SCORES, AND/OR MAKING EMPLOYEES' WORK MORE DIFFICULT AFTER AN EMPLOYEE(S) COMPLAINED OR OTHERWISE EXPRESSED DISAGREEMENT IS NOT SUBSTANTIATED.**

**Allegation 3: Chief Foley has engaged in discriminatory behavior by making repeated references to an employee's age or ethnicity.**

### **Allegation 3 Finding**

When Foley was promoted to Chief in 2022, O'Connor claimed that Foley would routinely refer to her in meetings as "*Mama Sherri*" and at least one time referred to her as "*Grandma Sherri*". When asked who gave her that nickname, she initially stated it came from Foley. However, later contradicted that statement when she relayed that a former Patrol Officer, "*would always say, 'Good morning, Mama Sherri,' because he felt I was taking care of him*".

In O'Connor's 2019-2020 annual evaluation that was completed by Charles Husted, the former Chief of Police, Husted used the term "*PD Mom*" when referring to O'Connor in the document. (Attachment E)

Foley indicated that O'Connor refers to herself as "*Mama Sherri*". Foley added that O'Connor considers herself to be the "*PD mom*" and she calls the School Resource Officer , her son.

Although Kwitkin reported hearing Foley refer to O'Connor as "*Mama Sherri*", seven employees who frequently interacted with O'Connor and Foley reported they had never heard Foley call O'Connor "*Mama Sherri*".

**THE ALLEGATION THAT CHIEF FOLEY HAS ENGAGED IN DISCRIMINATORY BEHAVIOR BY MAKING REPEATED REFERENCES TO AN EMPLOYEE'S AGE OR ETHNICITY IS NOT SUBSTANTIATED.**

**Allegation 4: Chief Foley has failed to uphold the Police Department Code of Ethics by engaging in a pattern of unprofessional and retaliatory behavior, and by permitting personal feelings, prejudice, animosities, or friendships to influence her decisions.**

- A. During the November 2023 selection process for Lieutenant, Chief Foley allowed her personal feelings, animosities, and friendship to influence her decision making.
- B. In November 2023, Chief Foley allowed her friendship to influence her decision-making regarding relocating Kwitkin’s office in favor of Erin Loeffler, Manager of Support Services.
- C. In August 2023, Chief Foley directed Kwitkin to record two employees without their consent.

#### **Allegation 4 Finding**

- A. *During the November 2023 selection process for Lieutenant, Chief Foley allowed her personal feelings, animosities, and friendship to influence her decision making.*

Kwitkin alleged that Foley allowed her personal feelings regarding her past experiences with Leon to taint her decision in the 2023 selection process for Lieutenants. Kwitkin contended that *“it was unanimous in there that Sergeant Leon did the best on overall the interview”*. Furthermore, Kwitkin alleged that Foley directed him to review Leon’s personnel file and the Internal Affairs files in order to pressure him to change his mind about Leon’s candidacy. Kwitkin defended his assertion that Foley was biased because she made her decision not to promote Leon based on the four disciplinary matters allegedly involving Leon and Foley prior to Kwitkin’s arrival in March 2023.

Foley disputed Kwitkin’s allegations and provided detailed records regarding the selection process. Foley explained that an external candidate from Chicago was the top candidate. However, that candidate withdrew. As the process concluded, there were four highly qualified candidates: an external candidate, Leon, Loeffler, and an internal candidate. Foley wanted to decide *“who makes the best team out of them, taking into account how they performed, their history within the department”*.

Since Foley had consulted with the City Manager and Human Resources about her desire to create a senior role that was non-sworn, the final decision was to offer the positions to the external candidate and Loeffler. Since Loeffler was a civilian employee and could not serve as a Lieutenant, her title was changed to Manager of Support Services.

Leon came to believe that she was the top candidate only after Kwitkin “*blurted it out*” on March 14, 2024 when they met with Human Resources to initiate the complaint against Foley. During her investigative interview, Leon said that she “*felt really good about the whole thing*” but was disappointed that “*we’ve taken away one of our patrol Lieutenant positions, and given it to the civilian staff, which means that again, nobody in our department can move up anywhere*”. Bergstad, another internal candidate, was deeply disappointed about the outcome as well.

*B. In November 2023, Chief Foley allowed her friendship to influence her decision-making regarding relocating Kwitkin’s office in favor of Erin Loeffler, Manager of Support Services.*

Earlier in the summer, and shortly after Kwitkin alleged that Foley required him to rearrange the furniture and computer in his office, the decision was made to place the newly promoted Manager of Support Services in his office. Kwitkin alleges this was retaliatory and because of Foley’s close friendship with Loeffler. Foley reiterated at the time they were deciding on office furniture for Kwitkin, the Department did not have plans for the Manager of Support Services. Once that decision was made, logistically it made more sense to create proximity of the functions with the supervisors.

*C. In August 2023, Chief Foley directed Kwitkin to record two employees without their consent.*

Kwitkin alleged that Foley directed him to record his meetings with two employees without their consent while meeting with their direct supervisor. While Kwitkin is aware that Arizona law permits recording providing at least one-party consents to (or is aware of) the recording taking place, he expressed his concerns to Foley that he didn’t think it was right; however, stated “*she told me to do so*”. Kwitkin further stated he was on probation and because of this, was afraid to stand up to Foley.

Foley explained that one of the Police Officers had been very volatile in a previous meeting. She and Kwitkin discussed and agreed to record the meetings. Per policy, Kwitkin sent Foley a request asking for permission to record the officers. (Attachment L)

**THE ALLEGATION THAT CHIEF FOLEY HAS FAILED TO UPHOLD THE POLICE DEPARTMENT CODE OF ETHICS BY ENGAGING IN A PATTERN OF UNPROFESSIONAL AND RETALIATORY BEHAVIOR, AND BY PERMITTING PERSONAL FEELINGS, PREJUDICES, ANIMOSITIES, OR FRIENDSHIP TO INFLUENCE HER DECISION (POLICE POLICY MANUAL SECTION 1.2) IS NOT SUBSTANTIATED.**

**Allegation 5: Chief Foley has failed to provide sufficient training and orientation to new employees, as well as training for specialized duties, specialized assignments, and promotions in accordance with Police Manual Section 33.7.**

A. *In March 2023 and January 2024, Chief Foley failed to provide appropriate training for two new employees: Kwitkin and a Lieutenant.*

### **Allegation 5 Finding**

Kwitkin reported that Foley failed to define the scope of his duties and provide him with adequate training, especially regarding timecards. He stated, *“there was never any formalized training program”*. He added that *“I had to sit and do timecards, I sat with the Chief, and went through each and every timecard. And it wasn't really instruction, it was more of like being told, this is how you do it, pull it up on the screen”* and *“there was really no explanation”*. Although Kwitkin reported that he had deleted many of his emails about timecards prior to January 2024, he shared several text messages. (Attachment I)

Foley reported that she discussed the importance of ensuring the timecards were correct with Kwitkin during several of their one-on-one meetings. She provided her anecdotal meeting notes referring to his lack of understanding about discrepancies with Sergeants' timecards.

Kwitkin alleged that there was not a clear understanding of the distribution of duties after his predecessor had retired and when the Lieutenant started with the Department. Foley provided two examples outlining the various roles and duties for the leadership team. Loeffler provided an additional list of duties and assignments as a supplement for further clarification.

The newly hired Lieutenant shared that they spent a great deal of time with Kwitkin trying to learn about the Department. They further stated they were disappointed that the City did not have a Field Training Manual for Lieutenants but added that it was *“just like most departments”* and believed that even Sergeants did not have one.

**THE ALLEGATION THAT CHIEF FOLEY HAS FAILED TO PROVIDE SUFFICIENT TRAINING AND ORIENTATION TO NEW EMPLOYEES, AS WELL AS SPECIALIZED DUTIES, SPECIALIZED ASSIGNMENTS, AND PROMOTIONS (POLICE POLICY MANUAL SECTION 33.7) IS NOT SUBSTANTIATED.**

**Allegation 6: Chief Foley has failed to provide timely, specific feedback and related documentation regarding employees’ unsatisfactory performance while on probationary status or performance improvement plans in accordance with Police Manual Section 35.1.**

- A. Between October 2023 and January 2024, Chief Foley failed to provide specific performance expectations while Kwitkin was on probation resulting in Foley extending his probationary period.
- B. Between January 24, 2024 and February 12, 2024, Chief Foley failed to provide Kwitkin specific examples of the shortcomings in his performance that resulted in extension of his probation. Additionally, Foley did not outline the results she expected from Kwitkin’s coaching engagement with the Lancaster Leadership Group.
- C. Chief Foley has failed to provide guidance and feedback regarding O’Connor’s 2022-2023 performance evaluation.
- D. On January 24, 2024, Chief Foley extended Kwitkin’s probationary period and failed to provide the documentation to Human Resources.

**Allegation 6 Finding**

- A. *Between October 2023 and January 2024, Chief Foley failed to provide specific performance expectations while Kwitkin was on probation resulting in Foley extending his probationary period.*

Kwitkin began retaining notes on his personal phone about incidents where he felt Foley was passive aggressive when she provided verbal feedback. While Kwitkin did not share those notes with the investigator, he did provide snapshots from his phone of one hundred twelve text messages between himself and Foley.

Foley shared one hundred thirteen text messages exchanged with Kwitkin and provided her anecdotal notes from her one-on-one meetings with Kwitkin where she outlined twenty-eight concerns regarding his performance and behavior and four notes acknowledging things he did well. (Attachment M) These issues were reiterated in the six-month probationary performance evaluation.

- B. *Between January 24, 2024 and February 12, 2024, Chief Foley failed to provide Kwitkin specific examples of the shortcomings in his performance that resulted in extension of Foley’s*

*probation. Additionally, Foley did not outline the results she expected from Kwitkin's coaching engagement with the Lancaster Leadership Group.*

Kwitkin alleged that Foley intentionally delayed arranging his meeting with the Lancaster Leadership Group and failed to provide details of his shortcomings.

Prior to the meeting on January 24, Foley worked with Tammarine to frame her feedback about the written comments on the 360 since there were some that were very negative.

After Foley met with Kwitkin on January 24, Foley was out of the office for a week. Upon her return, the department was in training for evacuation and reentry the following week. The following Monday, February 12, was the date that Foley contacted the Lancaster Group to arrange for the coaching sessions for Kwitkin.

*C. Chief Foley has failed to provide guidance and feedback regarding O'Connor's 2022-2023 performance evaluation.*

O'Connor alleged that Foley failed to follow-up and provide her with support finding and enrolling in a course for Excel. O'Connor explained that she helps with managing the Department's vehicle fleet and provides oversight for the volunteers. She expressed frustration that Foley did not want her to assist Kwitkin or perform the other duties because they were not listed in her job description dated July 2017.

During Foley's one-on-one meetings with O'Connor, Foley documented that O'Connor's pattern of performance was consistent with O'Connor's 2017 – 2018 evaluation by McGill. He wrote that O'Connor *"often overextends herself and takes on too many tasks, putting her behind in her primary duties. This is not a negative trait but must be done thoughtfully so that her primary mission is completed on time and correctly"*.

In 2024 Foley documented missed deadlines which were consistent with McGill's observations. (Attachment C)

Loeffler echoed Foley's performance concerns regarding O'Connor and provided supporting documentation regarding a registration that was submitted late. (Attachment N)

Foley provided balanced feedback regarding O'Connor's proficiency with proofreading documents, conducting research, and negotiating cost saving opportunities in her 2022 – 2023 evaluation.

Also, in that 2022–2023 evaluation, Foley expressed concerns that O'Connor was being curt and defensive to several department members. This culminated when O'Connor engaged in unprofessional behavior during an encounter with Loeffler on April 2, 2024 which resulted Foley issuing a Memo of Written Counseling<sup>2</sup> to O'Connor on April 11, 2024. O'Connor contacted Human Resources thereafter alleging the memo was in retaliation for her filing a complaint.

To date, Foley has not issued a Performance Improvement Plan to O'Connor despite her ongoing concerns.

*D. On January 24, 2024, Chief Foley extended Kwitkin's probationary period and failed to provide the documentation to Human Resources.*

In January 2024, Foley met with Kwitkin to extend his probationary period with the Department. (Attachment O) Kwitkin alleged that Foley failed to place the extension of his probation in his personnel folder and failed to inform the City Manager about the extension. He stated *"the City Manager, the one who left, was unaware that there was an extension of the second in command of the police department. Nobody was aware of that"*.

Foley explained that Tammarine *"knew I was issuing one (extension)"*. Foley added that she advised Tammarine and the City Manager on Kwitkin's performance and the plan. Tammarine help put together the 360-review and advised her on releasing the findings. Foley held a meeting with Kwitkin to discuss the findings of the 360-review on January 24, 2024.

During Osburn's April 10, 2024 interview, she corroborated that Foley *"did extend she did extend for three more months. So that's what's in place. Now his probation is extended"*.

**THE ALLEGATION THAT CHIEF FOLEY HAS FAILED TO PROVIDE TIMELY, SPECIFIC FEEDBACK AND RELATED DOCUMENTATION REGARDING EMPLOYEE'S UNSATISFACTORY PERFORMANCE WHILE ON PROBATIONARY STATUS OR PERFORMANCE IMPROVEMENT PLANS (POLICE POLICY MANUAL SECTION 35.1) IS NOT SUBSTANTIATED.**

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<sup>2</sup> A Letter of Written Counseling is not considered discipline in the City of Sedona Police Department Policy Manual.



**Allegation 7: Chief Foley failed to maintain records of an internal investigation by failing to place the extension of Kwitkin’s probation into his personnel file.**

**Allegation 7 Finding**

Each supervisor maintains confidential information regarding their direct reports within the Department on SharePoint until they complete documenting issues. Therefore, Foley placed a copy of Kwitkin’s extension in his Departmental work folder on SharePoint. According to Foley, while annual performance evaluations are completed through the City’s system (ADP), memos and other performance documents are housed in SharePoint. These documents are stored locally and sent to Human Resources upon request.

While the process of internal investigations requires the employee to be served notice under the AZPOST guidelines, performance evaluations do not require this notice process. Likewise, the extension of an employee's probationary period is not considered an internal investigation.

**THE ALLEGATION THAT CHIEF FOLEY FAILED TO MAINTAIN RECORDS OF AN INTERNAL INVESTIGATION BY FAILING TO PLACE THE EXTENSION OF KWITKIN’S PROBATION INTO HIS PERSONNEL FILE (POLICE MANUAL SECTION 35.2.4) IS NOT SUBSTANTIATED.**

**Allegation 8: Chief Foley made false statements regarding employees’ execution of their duties or responsibilities.**

**Allegation 8 Finding**

In March 2024 and shortly a new Lieutenant started with the Department, they sustained an injury while practicing for an element of the testing process for officers who are transferring from out of state. Kwitkin alleged that he told Foley the injury qualified under Workers’ Compensation. According to Kwitkin, Foley disagreed that the injury was work related. Kwitkin alleged that Foley lied to the City Manager, telling her that Kwitkin did disclose the totality of the circumstances around the Lieutenant’s injury.

Foley explained that her understanding was that Kwitkin had arranged for the Lieutenant to practice at “*the wall*” in Gilbert. The Department’s policy is that, to complete the testing process, a member must accompany the candidate or probationary officer. Additionally, if you are testing

in Arizona, you have two attempts at climbing the wall. The Lieutenant sent Foley a text message the day after she got injured while she was practicing scaling the wall. Neither Kwitkin nor any other officer accompanied the Lieutenant to Gilbert. Therefore, under the Departments policy, this would constitute practicing and not a test, as according to policy, when one tests, s/he is allowed only two attempts and there are no practice attempts.

Additionally, and according to Foley, if an employee is injured on their own time, it does not qualify under Workers' Compensation.

Per the Sedona Police Department Manual, Section 23.1, once a supervisor is informed of an employee's injury, the supervisor must call TriageNow. Since this did not happen and the Lieutenant made her own doctor's appointment on the Monday after the injury occurred, Foley believed that the injury occurred while she was practicing on her own time and did not qualify under Workers' Compensation. Due to this confusion, Foley sought clarification from AZPOST.

During the dialogue regarding this matter, Foley found out that Kwitkin completed his testing for the wall in Gilbert, without having a member of the Department in attendance. Foley found out that a former Sergeant, had simply given Kwitkin the form and did not attend Kwitkin's test with him. As such and given Kwitkin's lack of in-depth knowledge of Arizona law, he did not realize the significance of not attending alongside Oliver.

Human Resources and Legal ultimately decided to cover the injury under worker's compensation.

**THE ALLEGATION THAT CHIEF FOLEY MADE FALSE STATEMENTS REGARDING AN EMPLOYEE'S EXECUTIONS OF THEIR DUTIES OR RESPONSIBILITIES (POLICE POLICY MANUAL SECTION 26.1.1) IS NOT SUBSTANTIATED.**

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## SUMMARY AND CONCLUSION

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Investigative findings conclude that none of the eight allegations made against Chief Foley were substantiated. Findings do not support Kwitkin's assertion that Foley engaged in micromanaging and passive aggressive behaviors. To the contrary, Foley's actions are indicative of a supervisor seeking to correct a subordinate staff's performance. Specifically, by utilizing the tools and City resources available, including consulting with HR, extending Kwitkin's probation and providing him with coaching through the Lancaster group. These actions were not arbitrary as they were taken in response to a record of poor performance, and receipt of negative 360-Degree Survey feedback.

Throughout the investigative process Kwitkin attempted to minimize the performance feedback that Foley provided during their one-on-ones as well as what was documented in his six-month probationary review. For example, Kwitkin relayed to the investigator that there were no issues in his six-month probationary review other than identifying the need for him to learn Arizona laws. However, upon review, it was evident that Foley had identified several other areas that needed to be addressed.

Kwitkin and O'Connor alleged that Foley is passive aggressive. Foley's communication style is direct and to the point. However, it appears that both Kwitkin and O'Connor were interpreting the messages based on their own projections and feelings of discontent.

Investigative findings also determined that there was no correlation between O'Connor's feedback (given to the City Manager regarding the selection of Foley for the Chief position) and Foley's actions to hold O'Connor accountable for her unsatisfactory performance. Likewise, O'Connor's allegation regarding Foley making discriminatory comments based on her age (using the term "*PD Mom*" or "*Mama Sherri*") were unfounded as they were used by others within the Department and were neither introduced by nor attributed to Foley.

Out of 23 interviewees, six stated they believed that Foley was directly responsible for creating a hostile work environment. The six (which include the three complaining parties) reported that Foley micromanages and treats them in a disrespectful, condescending, and demeaning manner and that the environment was impacting their physical, mental, and emotional health. Sixteen

interviewed stated that tensions were currently very high in the department, but believed the elevated tensions were due to the complaint that was filed by Kwitkin, Leon, and O'Connor. Eleven interviewed attribute the toxic environment to Kwitkin.

#### Additional Items of Note

- ⌘ Four of the employees interviewed shared information based on past incidents or their frustration with disciplinary actions. They attributed their grievances to Foley before her serving as Chief of Police. Historical grievances and chronically high turnover in small departments can often lead to the proliferation of anecdotes, rumors, and gossip and “*urban legends*” that have a negative impact the departmental culture.
- ⌘ One of the elements in Allegation 3, Leon felt that Foley, while she was a Lieutenant, made fun of her Spanish accent. This incident was alleged to have occurred in 2020, which falls outside the time limit of 300 days for filing a discrimination complaint under the Equal Employment Opportunity Commission.
- ⌘ Management by email and text messages contributed to misunderstandings and miscommunications due to the reliance on short and brief messages.
- ⌘ The use of personal cell phones for business purposes; especially via text messages, creates open record risk for the City and the Police Department.
- ⌘ The decision to switch one of the Lieutenant positions to a non-sworn position after the two positions were advertised and after recruitment of the candidate pool was not well timed. This decision created a perception of favoritism. Foley admitted that there could have been better communication about this decision to the Department.
- ⌘ It is best practice to have the interviewers and assessors who participate in selection processes complete advanced training by Human Resources and sign a confidentiality statement in order to protect the integrity of the process. Neither of these occurred, which likely contributed to the issues around the Lieutenant selection process.

## ATTACHMENTS

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- Attachment A: 20231108\_Kwitkin to Foley - Selection Process
- Attachment B: Hugging Within the City of Sedona Police Department
- Attachment C: 15-16 O'Connor Manager Eval - McGill
- Attachment D: 17-18 O'Connor, Charlene - McGill
- Attachment E: 20-21 O'Connor, Sherri - Husted
- Attachment F: 23-24 O'Connor, Sherri Annual Evaluation - Foley
- Attachment G: Sherri Work Product Notes - With Follow Up for Excel
- Attachment H: O'Connor - Excel Class
- Attachment I: Timecards – From Kwitkin
- Attachment J: Kwitkin Work Product Notes - Time Cards from Foley
- Attachment K: Kwitkin, Ryan\_Sixmonthevaluationform\_03262024
- Attachment L: Emails Regarding Recording Employees
- Attachment M: Ryan Work Product Notes from Foley
- Attachment N: Late Website Registration
- Attachment O: Singed Copy of Extension