



EMPLOYEE NOTICE OF DISCIPLINARY ACTION

Employee Diane Hobley-Burney
Employee # 8713 Position Chief of Police

Date of Notice 7/18/16
Department Police

VIOLATION

Date of Violation Various Type of Violation Code of Conduct Violation

SUPERVISOR/DEPARTMENT HEAD'S STATEMENT (Add additional page if necessary)

Upon review of an administrative investigation initiated by allegations of threatening and intimidating behavior, it has come to my attention that code of conduct violations have been committed by Diane Hobley-Burney necessitating disciplinary action. Subsequently, it has been found that documentation was erroneously forwarded to the Florida Department of Law Enforcement without appropriate authorization from the City Manager's Office regarding the employment status of a City of Fort Pierce employee.

Due to code of conduct violations identified in the attached investigative report and the aforementioned action resulting in the loss of productivity, a suspension is issued to Hobley-Burney for a period of five (5) days beginning July 18, 2016 and ending July 22, 2016.

EMPLOYEE'S STATEMENT (Add additional page if necessary)

I agree with Supervisor/Department Head's Statement

I disagree with Supervisor/Department Head's Statement

PROTECTING THE SAFETY OF MY FAMILY HAS BEEN A PRIORITY FOR ME BEING IN LAW ENFORCEMENT. AT NO POINT DID I THREATEN OR ATTEMPT TO INTIMIDATE ANYONE. I WAS JUST BEING A WORRIED MOM. I WANT TO RETURN TO MY GOD GIVEN POSITION SO THAT I CAN COMPLETE THE WORK THAT HE SENT ME HERE TO DO. ALTHOUGH I AM IN DISAGREEMENT OF THE DISCIPLINE, I AM IN AGREEMENT OF THE IMPROVEMENT PLAN AND LOOKING FORWARD TO WORKING WITH MR. MIMMS

PREVIOUS DISCIPLINARY ACTION

DATE	ORAL	WRITTEN	OTHER	SUPERVISOR/DEPARTMENT HEAD
6/17/16		✓		City Manager, Nicholas C. Mimms

DISCIPLINARY ACTION TAKEN

Action Suspension

PLAN FOR IMPROVEMENT (Add additional page if necessary)

See additional page. (Performance Improvement Plan)

TIMETABLE FOR IMPROVEMENT

Immediate 30 Days 60 Days Other Three (3) month period for plan implementation

CONSEQUENCES OF FURTHER INCIDENTS

Immediate 30 Days 60 Days Other Discipline up to and including termination

Your signature acknowledges the receipt of this Disciplinary Action Notice only. It does not mean that you agree the violation occurred. You have the right to appeal this disciplinary action as provided by Section 24 of the City of Fort Pierce Personnel Rules and Regulations or a collective bargaining agreement, if applicable.

I have read this Notice of Disciplinary Action

Employee declined to sign this form

7-18-16
Date

[Handwritten Signature]
Employee Acknowledgment of Notice

7-18-16
Date

[Handwritten Signature]
Supervisor/Department Head



EMPLOYEE PERFORMANCE IMPROVEMENT PLAN

Employee Diane Hobley-Burney
Employee # 8713 Position Chief of Police

Date of Plan 7/18/16
Department Police

The following performance improvement plan is designed to clarify performance expectations. It is a supplement to, not a replacement for, the Chief of Police job description. You are expected to immediately demonstrate the performance expectations that are listed below. To facilitate sustained improvement, your performance will be evaluated in writing on a weekly basis for the next three (3) months with an overall assessment after October 17, 2016. This plan may be modified as necessary during this period, depending on your progress.

Area of Improvement	Performance Objective	Comments & Current Status
Professional Development	Schedule education and/or training with emphasis on delegation, prioritization, effective communication, leadership and goal setting. Attend all City of Fort Pierce provided supervisory and management training.	
Communication	Meet with the City Manager on a weekly basis to provide information on activities and operations. Provide immediate updates to the City Manager on all Police Department complaints.	
Recruitment and Retention	Produce viable recruitment and retention plan that includes strategies for recruiting new police officers from a diverse field, and retaining existing police officers while identifying recommended solutions to improve financial compensation, working environment, and employee morale	
Employee Training	Schedule diversity, sensitivity, strategic, tactical, and operational training for all employees of the Police Department in order to enhance service delivery to the community.	

I acknowledge these performance issues and agree to participate in this Performance Improvement Plan.

7-18-16
Date Diane Hobley-Burney

7-18-16
Date [Signature]
City Manager



THE SUNRISE CITY

FORT PIERCE *Florida*

PERSONNEL DEPARTMENT

100 N US Highway 1

Fort Pierce, FL 34950

Tel: 772.467.3000

Fax: 772.489.0872

www.cityoffortpierce.com

TO: Nick Mimms, City Manager

FROM: Kevin E. Browning, HR Manager *KEB*

SUBJECT: Complaint Against Police Chief Diane Hobley-Burney

DATE: June 29, 2016

Attached is the completed investigation into allegations of misconduct filed by citizen Rick Reed against the City of Fort Pierce Police Chief Diane Hobley-Burney. The investigation was conducted in accordance with City Rules and Regulations.

Attachment: City of Fort Pierce Human Resources Investigation (transcribed verbatim), and voice recorded interviews.

RECEIVED

TIME _____

JUL 06 2016

CITY OF FT. PIERCE
CITY MANAGER'S OFFICE

Complaint Allegations Summary:

On April 26, 2016, a complaint was emailed to City Manager Nick Mimms. The complaint was from citizen Rick Reed. In the complaint, Mr. Reed alleged:

First, on Monday night, April 18, 2016, after a regular City Commission meeting, he was standing outside with a group, and the Chief of Police Diane Hopley-Burney, while walking up, said to him “My son gonna get you.” He said he saw her hand coming down, and according to his group members, she had been pointing to him.

Secondly, Mr. Reed alleged that two weeks earlier, the Chief of Police and two of her command staff came to the Golden Bear Restaurant in an unannounced visit and asked to see him.

Lastly, Mr. Reed said that the Chief wrongfully “disseminated information concerning a viable Fort Pierce business.”

He alleged that “her actions are intended and are received clearly to intimidate and coerce me from speaking out concerning these issues.”

Investigation

Upon being given the complaint, the HR Manager conducted an investigation and the following individuals were interviewed:

- | | |
|--|---------------|
| 1. Mr. Rick Reed | May 8, 2016 |
| 2. Reverend John Lee | May 17, 2016 |
| 3. Reverend Robert Lee Cash | May 17, 2016 |
| 4. Mrs. Caroline Sessions | May 19, 2016 |
| 5. Special Investigator Borthland Murray | May 23, 2016 |
| 6. Deputy Chief Kenny Norris | May 24, 2016 |
| 7. Deputy Chief Frank Amandro | May 24, 2016 |
| 8. Police Chief Diane Hopley-Burney | June 21, 2016 |

FIVE MAJOR QUESTIONS / ISSUES TO BE ANSWERED:

1. Question: Did Chief Diane Hogley-Burney have advanced notice that citizen Rick Reed might be mentioning her son's arrest?

Answer: According to the witnesses and the Chief, she was advised/notified by a number of people of attempts to share information about her son's arrest before she made the visit to the Golden Bear on April 5 and before an alleged statement to Rick Reed regarding her son on April 18. Notifications came from Deputy Chief Norris, Officer Murray, and Deputy Chief Amandro.

The Chief's verbatim testimony follows:

"It was a number of people involved because he said it directly to my Deputy Chief Norris, Frank Amandro, Damien Spots and, not necessarily that night, and Don Christman." (from page 5 of Chief's testimony)

"Had to be before because as I, yeah it was before that because that was the whole thing I was trying, once I found out that he was showing my son's picture, I was trying to correct it immediately doing my best to correct it." (from page 7 of Chief's Testimony)

2. Question: Did the Chief Diane Hogley-Burney take her uniformed staff to the Golden Bear Restaurant to see Rick Reed?

Answer: The Chief did make a visit to the Golden Bear Restaurant on April 5, 2016. All three, Hogley-Burney, Norris and Amandro, were in uniform and on City time.

The Chief testified:

"The purpose of that meeting was just what I said, you know. I am a woman about things and I confront things head on. I met with, I wanted to meet with him and say look keep my family out of this. If you want to deal with me, don't bring my family, and I am very protective of my family and I think that's just the right and respectful thing to do. I think it's, it is low and just disrespectful to bring a family into situations such as this. And as I said because I might not agree with Rick Reed on a number of things, but I was hoping that that conversation would eliminate any further displays of my son or bring in my family into anything. I was hoping that I could reason with him to do that and my deputy chiefs that were there they had no idea. That was one of the spur of the moment things". (page 7 of Chief's Testimony)

"That's the whole thing, it didn't involve them. It was personal. It was about me having a conversation with Rick Reed.(45:26) It wasn't about any other business of Fort Pierce. It was the business and Diane Hogley- Burney and Rick Reed. That was personal. Just leave my family out of it. It was personal." (page 8 of Chief's Testimony)

"But I know there was some hesitation about them being there and I explain to them that it wasn't about Deputy Chief Norris. It wasn't about Frank Amandro. . It was about Diane Hogley-Burney and Rick Reed". (page 9 of Chief's Testimony)

Note: Three officers (Amandro, Norris and Murray) testified that Deputy Chief Norris told them that they should not be there at the restaurant.

3. Question: Did the Chief Diane Hobley-Burney make a statement and gesture to Rick Reed after the Commission meeting of April 18th?

Answer: In her interview, Chief Hobley-Burney admitted to making a statement on April 18th after the Commission meeting. According to her testimony, she said “my son is looking forward to meeting you one day.”

Reasoning: The Chief provided a few reasons for her statement. Excerpts follows:

“I’m extremely protective of my family (34:48) and when I found out that he was showing my son’s picture around and things such as that, that was a pretty low blow to me. And when he did this in commission, it just further created just disrespect I felt. (page 7 Chief’s Testimony)

“It was a statement that, when you do the afterthought shouldn’t, it should not have been made. It was one of those that I wanted to just address the whole situation concerning my son, to just leave my son out of it. (page 11 Chief’s Testimony)

Gesture: Witnesses said Chief Hobley-Burney pointed at Mr. Reed when she made the statement, and video and still picture shots support the witnesses account regarding a pointing / motioning gesture to Mr. Reed.

4. Question: What was the intent of the message and visit to Mr. Reed?

Answer: In her interview, Chief Hobley-Burney stated that her intention was to give/send a message (see Chief’s quote below):

BROWNING: Was either the statement or the visitation to the Golden Bear with either one of those, did you intend to threaten, intimidate or send any message to Mr. Reed?

CHIEF: Not to threaten, intimidate, but there was a message, The message was to leave my family out of it. And that was a conversation that I wanted him to do and for him to respect. (page 10 Chief’s Testimony)

5. Question: Did Chief Hobley-Burney intentionally wrongfully disseminate information about a business?

Answer: After reading the full text message and the recipients, there is insufficient evidence to show that the Chief Hobley-Burney wrongfully sent information about a business. The evidence indicates that the intention was to notify the leaders that there was a community meeting scheduled to discuss concerns.

TESTIMONY FROM OTHER WITNESSES:

Question: Did Chief Diane Hobley-Burney have advanced notice that citizen Rick Reed might be mentioning her son’s arrest?

Answer: Special Investigator Borthland Murray said, “I got information that he was walking around with pictures of her son and pictures of me with my rifle and awards stuff that I had from the last department. I myself told her that you’ve got to be careful because he’s going to try to ambush you in reference to issues with your son.”

Question: Did the Chief Diane Hobley-Burney take her uniformed staff to the Golden Bear Restaurant to see Rick Reed?

Answers:

1. Chief Hobley-Burney, Deputy Chief Amandro, Deputy Chief Norris, Special Investigator Murray and Rick Reed all provided testimony that there was a visit to the Golden Bear Restaurant. Present in that visit was Chief Hobley-Burney, along with Deputy Chief Amandro and Deputy Chief Kenny Norris.
2. Deputy Chief Amandro, Deputy Chief Norris and Special Investigator Murray all provided testimony that Deputy Chief Norris questioned their reason for being there and or said they shouldn't be there.
3. There is consensus that Mr. Reed's presence was asked for at the restaurant.

Question: Did Chief Diane Hobley-Burney make a statement and gesture to Rick Reed after the Commission meeting of April 18th?

1. Mr. Reed, Mrs. Sessions, Reverend Lee all provided testimony that they heard the Chief of Police say to Mr. Reed, "my son's gon get you."
2. Reverend Lee said he heard: "he gon get you."
3. Deputy Chief Amandro said, "I don't recall exactly what she said but it was something to the effect that you would be, you would be interested or in speaking with my son."
4. Deputy Chief Norris said, "I'm pretty sure that's what she said, was my son would like to meet you."

Gesture: Mrs. Sessions, Reverend Lee, Reverend Cash said Chief Hobley-Burney pointed at Rick Reed during the alleged statement.

Findings: The investigation finds that Chief Hobley-Burney had been notified by a number of people that an individual was showing her son's picture and talking of his arrest, and instead of being ready to react professionally, Chief Hobley-Burney displayed a serious lack of judgement, took two uniformed high-ranking officer subordinates with her to the individual's place of business, during work hours to see him, and asked staff to call him, to (in her words) "send him a message." She said it was a "personal" issue.

The statement made on April 18, 2016 was perceived by some of the witnesses to be a threat by the Chief of Police, when professionalism and good judgement dictated that there should have been no statement at all.

This office finds that the conduct displayed by Fort Pierce Police Chief Diane Hobley-Burney was improper and a violation of the City of Fort Pierce Personnel Rules and Regulations, as well as the City of Fort Pierce Police Department's Policy and Procedure.

POLICIES VIOLATED:

City of Fort Pierce – Personnel Rules And Regulations

3.12 GENERAL PROHIBITIONS

A. Employees are expected to conduct themselves in a manner which will in no way discredit the City, public officials, fellow employees, or themselves.

10.05 CODE OF CONDUCT

Group I Offenses:

5. Discourtesy to persons with whom the employee comes in contact while in the performance of his/her duties.
13. Conducting personal business during work period.

Group III Offenses:

3. Threatening, intimidating, coercing or interfering with fellow employees, supervisors, or the public at any time, including the use of abusive, foul or obscene language.
28. Unlawful or improper conduct either on or off the job, which would tend to affect the employee's relationship to his/her job, his/her fellow workers, his/her reputation or goodwill in the community.

City of Fort Pierce Police Department – Policy And Procedure

CODE OF CONDUCT

5. Conduct Unbecoming

- a. Employees will conduct themselves at all times, both on and off duty, in a manner which is in keeping with the highest standards of the law enforcement profession.
- b. Employees of the FPPD are prohibited from engaging in any conduct which brings the FPPD into disrepute, reflects unfavorably upon the employee as a member of the FPPD, damages or negatively affects the reputation of any member of the FPPD, or impairs the operation or efficiency of the FPPD or any of its personnel.

23. Discourtesy

- a. Employees will be courteous and tactful in the performance of their duties or while representing themselves as members of the FPPD.

39. City Rules and Regulations Violation

Employees shall adhere to the City of Fort Pierce Rules and Regulation and not violate and provision established in City Rules and Regulations 10.05 Code of Conduct.



PERSONNEL DEPARTMENT
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RECOMMENDATION:

The conduct of Police Chief Diane Hobbey-Burney, with the admitted restaurant visit and the statement to the citizen after the Commission Meeting on April 18, 2016, is a violation of the City of Fort Pierce Rules and Regulations and the City of Fort Pierce Police Department Policy and Procedure noted earlier.

The City retains the sole right to discipline, suspend, and discharge employees for just cause.

Chief's Contract:

Hobbey-Burney is an employee-at-will, and shall be under the supervision of the City Manager and she will perform such services as will be required of her by the City Manager and the laws of the City of Fort Pierce and State of Florida in the administration of the Police Department.

The suggested discipline for the actions and violations found in this investigation is suspension up to, and including termination.



Bruce H. Colton
State Attorney

OFFICE OF THE
State Attorney
NINETEENTH JUDICIAL CIRCUIT OF FLORIDA
SERVING
INDIAN RIVER, MARTIN, OKEECHOBEE
AND ST. LUCIE COUNTIES

July 14, 2016

411 South Second Street
Fort Pierce, Florida 34950
(772) 465-3000
Fax: (772) 462-1214

Nicholas C. Mimms
City Manager
100 N. US Highway 1
Ft. Pierce, Fl. 34950

Dear Mr. Mimms:

At our meeting on July 6, you provided me with a packet containing documents which alleged wrongdoing and mismanagement by Police Chief Diane Hopley-Burney, and requested that the State Attorney's Office review the information to determine what if any criminal laws have been violated. My office has completed its review, and based upon the materials provided, we find no criminal violations by Chief Hopley-Burney.

The bulk of the materials provided are statements regarding an alleged threat made by the Chief to Rick Reed. The only crime which would possibly apply is Assault. Florida Statute 784.011 defines Assault as follows:

"An assault is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent."

The incident in question took place in a courtyard outside the City Commission chambers as people were leaving a meeting on April 18, 2016. The allegation is that the Chief directed a threat at Mr. Reed. However, there are conflicts between the witnesses as to what was said by the Chief, there was not an apparent ability to carry out the threat at that time, and Mr. Reed stated that he was not placed in fear that violence was imminent. Therefore an assault did not take place.

The remaining allegations are contained in a letter to the City Commission and you from Borthland Murray, dated July 1, 2016. One of those is that a police officer had filed a false Worker's Compensation claim. This is a matter that could and should be investigated by the Police Department and/or the City's Human Resources Department. If it is determined that a false claim was knowingly filed, appropriate action can be taken, including a request for prosecution.

Mr. Murray alleges that a police officer violated a citizen's civil rights. This allegation should be investigated by the police department, and if sustained, appropriate action can be taken including referral to the US Department of Justice.

Nicholas C. Mimms
July 14, 2016
Page 2

Allegations by Mr. Murray that the Chief ordered criminal investigations of a City Councilman and Mr. Reed, and that she knew of a corruption charge against the City Manager are internal issues which, based upon the information provided, do not rise to the level of criminal wrongdoing.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,



BRUCE H. COLTON
State Attorney

BHC/cp