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October 31, 2018

To: Assembly Members, City and Borough of Sitka

Re: Notification of Intent and Request for Action

BOARD OF DIRECTORS

Stan Crowder, PhD
*Offc. of Professional
Responsibility*

Mro. Aurelio Coronado
Dir. Forensic Psychology

Jodi Freeman, MCrim
Board Member

Michael McGrath, MD
Board Member

The purpose of this memo is to confirm that the FCI will be conducting a forensic examination and assessment of the evidence associated with the complaints made by Officer Mary Ferguson in her action against The City of Sitka, The Sitka Police Department, and Chief Jeff Ankerfelt. In her civil lawsuit, Off. Ferguson alleges Violations of Alaska's Human Rights Act; Violation of Title VII of the Federal Civil Right Act; Breach of The Implied Covenant of Good Faith and Fair Dealing; Violation of Alaska's Whistleblower Act; and both Intentional and Negligent Infliction of Harm. Our forensic examination will focus on the serious allegations and findings of sexual harassment, sexual coercion, and official misconduct made by Officer Ferguson against the individuals named in her complaint as bad actors: Lt. Walt Smith, Lt. Lance Ewers, Chief Jeff Ankerfelt, and Administrator Keith Brady.

Websites:

Forensic Criminology Institute
www.forensic-institute.com

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It will necessarily include an assessment of the known details of the Equal Employment Opportunity Commission (EEOC) investigation conducted by Attorney Kimberly Geariety on behalf of the City of Sitka, under the direction and supervision of Human Resources Director Mark Danielson, Municipal Attorney Brian Hanson, and Municipal Administrator Keith Brady.

Immediate Concerns

Based on a threshold review of Officer Mary Ferguson's complaint — and Municipal Administrator Keith Brady's memo to her regarding the EEOC investigation conducted by Attorney Kimberly Geariety — the following are serious concerns:

1. *Normalization and Impunity: A Culture of Sexual Coercion*
Officer Ferguson's complaint details a culture of gender discrimination and sexual coercion where such misconduct was not only tolerated with protection, but rewarded with promotions. It should not need to be explained that this is a form of gender

violence. As described in United Nations (2014)¹:

“Impunity for violence against women compounds the effects of such violence as a mechanism of male control over women. When the State fails to hold the perpetrators of violence accountable and society explicitly or tacitly condones such violence, impunity not only encourages further abuses, it also gives the message that male violence against women is acceptable or normal. The result of such impunity is not solely the denial of justice to the individual victims/survivors, but also the reinforcement of prevailing gender relations and replicate inequalities that affect other women...”

Because impunity and lack of corrective action / punishment compounds harm and encourages continued misconduct, such inaction must be avoided at every opportunity. In other words, bad acts require corrective and protective action.

2. The reality of this impunity at the SPD, and within the City Leadership, is demonstrated by the admissions and attitudes expressed in the Brady Memo (to Officer Ferguson). In this memo, the bad acts by Lt. Smith are admitted, and the lack of any serious consequence is detailed (memo attached). Smith was also promoted subsequent to his bad acts. The failure of SPD command to act, and their attempts to retaliate, resulted in Officer Ferguson going to the City Administrator for help. He provided none.

The reality of normalized attitudes towards gender discrimination and sexual coercion within the SPD, and the City leadership, is demonstrated by the following:

- Officer Ferguson was placed on leave as result of her complaints to the leadership and not the accused;
- Officer Ferguson was removed from her professional responsibilities and demoted without demonstrable cause or reason, while the

¹ United Nations (2014) "Latin American Model Protocol for the Investigation of Gender-Related Killings of Women" United Nations High Commissioner for Human Rights, United Nations Entity for Gender Equality and the Empowerment of Women (ISBN 978-9962-5559-0-2).

accused was promoted;

- Officer Ferguson was vilified publicly in the press by the SPD leadership, with respect to attacks on her abilities to the media.

- All of those accused in her complaint handled her complaint, maintain control of her professional circumstances, and remain in a position to mete out punitive measures, without sanction or restraint from the City Administrator. This throughout the complaint process and until this day.

3. *The Brady Memo*

The Brady Memo, written to Officer Ferguson, summarizes the Equal Employment Opportunity Commission (EEOC) investigation conducted by Attorney Kimberly Gearity on behalf of the City of Sitka. To be clear, this is a reduction and summary of that investigative report by someone named in the report as a bad actor (Municipal Administrator Keith Brady) to the victim (Officer Ferguson). In this memo, Brady makes multiple false and misleading statements, and then blames the victim for not coming forward until she felt safe to do so. This is highly inappropriate, and demonstrates a serious misunderstanding of the nature and context of victim reporting.

Finding no support within the leadership of the PD, Officer Ferguson reported the misconduct by Lt. Walt Smith, Lt. Lance Ewers, and Chief Jeff Ankerfelt - and her resulting fear of further harassment and retaliation - to Administrator Brady. She was in fact verbally reprimanded for this after the fact.

The first problem is that Kimberly Gearity gave assurances to Officer Ferguson that Administrator Brady would in no way be involved in her EEOC investigation, or in determining its outcomes, because he was named in the complaint. This was done at the outset to encourage Officer Ferguson's involvement and trust in the investigative process. Ultimately, these assurances were false, as the investigation and its conclusions became the province of Administrator Brady.

The second problem is that Administrator Brady is involved at all, in any fashion, with an investigation into Officer Ferguson's ultimate EEOC allegations. This is a clear conflict of interest. It also prevents those under his supervision (e.g., all city employees) from being free to assist without the fear of reprisal.

The third problem is that this is an adventitious summary, and not the true report. The actual Gearity report must naturally detail not only the "Vote of No Confidence" against Lt. Ewers by those in the department, which occurred in 2016 (suppressed with confidentiality agreements from the SPD Membership promising no retaliation from command); but also must include the other known victims of Lt. Walt Smith inside of the department. This information and much more was provided to Kim Gearity. It was not mentioned in Keith Brady's summary memo.

The fourth problem is that Administrator Brady's memo regarding Officer Ferguson's EEOC allegations is in conflict with itself, with respect to its conclusions. *Administrator Brady concludes that Officer Ferguson was the victim of sexual harassment by Lt. Walt Smith. He further concludes that her internal complaint at the SPD was handled improperly by Ankerfelt and Ewers.* In an immediate and inexplicable turn, Administrator Brady concludes in the very next sentence that there is "no just cause" for disciplining those involved, and that there is no evidence of gender discrimination.

This conclusion defies credibility, and begs the question as to whether Administrator Brady understands the basic concepts of sexual harassment and gender discrimination, let alone their cultural relationship to each other. It also demonstrates why he was not the one to be responding to this complaint. The Gearity report should have been reviewed by someone not named as a bad actor in Officer Ferguson's complaint, and also provided to the assembly for review.

To be clear, the sexual harassment and cultural misconduct reported by Officer Ferguson are clear and identifiable. They are also apparently

confirmed in the Gearity report, and subsequently acknowledged without consequence by the City Administrator. A further concern is that these findings are being kept from the view of the assembly. This can only be to the detriment of both the assembly and the community in general.

Recommendations to the Assembly

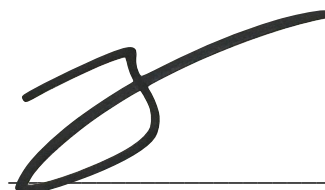
Based on even the most cursory reading of Officer Mary Ferguson's complaint, the following recommendations to the Assembly are warranted, with the specific goal of protecting and serving the community:

1. The Assembly should immediately request a *criminal investigation* by the Alaska State Troopers in Officer Ferguson's allegations, which include serious criminal acts. This includes AS § 11.56.850 - *Official Misconduct*; AS § 11.56.510. *Interference With Official Proceedings*; and violations of the *Alaska Whistleblower Act*, AS § 39.90.100. There is also concern regarding the potential destruction of documents that must be preserved for litigation, such as emails and text messages. This refers to potential spoliation of evidence.
2. Initiate an independent *administrative investigation* of the behavior of Lt. Walt Smith, Lt. Lance Ewers, Chief Jeff Ankerfelt, and Administrator Keith Brady by someone that is not former law enforcement, and not affiliated with or controlled by those named in the complaint. This to determine the precise nature and extent of Lt. Smith's sexual misconduct, and the extent to which it has been tolerated and even encouraged by the current leadership in violation of City Employee Guidelines, and the SPD Policies and Procedures Manual. And to report these findings directly to the assembly. The Institute would be willing to serve this function upon request.
3. Refrain from forcing Officer Ferguson back to work at the SPD in the current leadership culture. Specifically to avoid placing her back under the direct supervision of those admittedly responsible for nurturing and ignoring the bad acts of Lt. Smith, and potentially

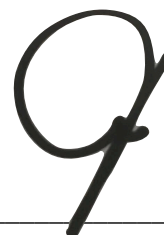
retaliating for her institutional disloyalty, at least until an external investigation has been conducted. This will prevent further harm to Officer Ferguson, and further liability on the part of the city.

4. Immediately request a complete copy of the Gearity report, which details the Equal Employment Opportunity Commission (EEOC) investigation, conducted by Attorney Kimberly Gearity on behalf of the City of Sitka. Read it and compare it with statements made to the Assembly by Chief Ankerfelt and Administrator Keith Brady.
5. Immediately provide a complete copy of the Gearity report to Officer Ferguson. She will get it in her lawsuit eventually anyway. There is no legitimate reason to put that off.

Respectfully,



Brent Turvey, PhD
Director - FCI



Aurelio Coronado, MS
Director - Forensic Psychology