



Internal Investigations, Mediation, Policy Review

To: Anne Small, Director of General Services
From: Katherine Nuanes
Date: June 17, 2015
Subject: Report 2 – Allegations of Misconduct by Deb Hinsvark, City Manager

Report 2 is organized into the following manner:

Section 1 – Synopsis, Allegation of Employee Misconduct, and Complaints

- Synopsis
- Dave Kleiber’s Letter
- Officer Kristen Bantle’s Letter
- Nick Moore’s Letter
- Notice of Internal Investigation Service to City Manager Deb Hinsvark

Section 2 – Interviews

- Dave Kleiber (excerpts)
- Officer Kristen Bantle (excerpts)
 - Garrity advisement
 - Correspondence produced by Bantle
 - Email from Hinsvark April 14, 2015 (2 pages)
 - Bantle’s timeline and attached emails (9 pages)
- Nick Moore (excerpts)
- City Attorney Tony Lettunich
 - Investigation authorization to release information (2 pages)
 - Garrity advisement
 - Notes from meeting and email explanation of notes (4 pages)
- City Manager Deb Hinsvark
 - Garrity advisement
- Attorney Eric Ziporin

Section 3 - Summary and Conclusion

Section 4 – Transcriptions

- January 20, 2014 meeting with Hinsvark, Bantle, and Lettunich
- March 27, 2015 meeting with Hinsvark and Bantle.

Section 5 – Related Documents

- Nick Moore’s 2013 evaluation
- Memos from Captain Stabile
- PARM – 6.10 and 6.13 E 6

Section 1 – Synopsis

In March 2015, Dave Kleiber, former SSPD Detective, Officer Kristen Bantle, and Nick Moore, former SSPD Officer, wrote letters to the Steamboat Springs City Council and citizens of this community describing their concern with SSPD's leadership. (Letters are included in this section of the report.)

Dave Kleiber and Officer Kristen Bantle claimed City Manager Deb Hinsvark and City Attorney Tony Lettunich were aware of leadership problems inside SSPD since January 2014. Bantle related she met with Hinsvark and Lettunich on January 20, 2014, and described her SSPD concerns to them to include: lack of transparency, lack of technology, and the lack of metrics or a measurement for promotions. Bantle also insinuated she may have experienced sexual discrimination because she was not promoted to the rank of sergeant.

Kleiber's letter alleged the following:

In January 2014, Officer Kristen Bantle gave a sworn deposition in the civil suit of John Ferrugia who was suing the City of Steamboat Springs and the Steamboat Spring Police Department (SSPD). After the deposition, Bantle was called to meet with the City Manager, Deb Hinsvark and the City Attorney Tony Lettunich. They wanted to discuss the content of Bantle's deposition, which supported Ferrugia's claims against the city. During this meeting, Bantle, who is the only female police officer at SSPD, brought up the issues of sexism, sexual harassment, and the hostile work environment towards women at SSPD. Unfortunately, even after reporting this behavior to the city manager and city attorney, no corrective action was taken, and the entrenched sexism continued.

Nick Moore related that in 2013, he was told to meet Hinsvark in her office without any support from SSPD administration. Moore claimed Hinsvark spent the time belittling him, threatening his job, and acting completely unprofessional. Moore felt he was demoted from his position as a School Resource Officer (SRO) in large part because of that meeting. Moore thought the meeting was held around the time of his 2013 annual evaluation. (Moore signed his evaluation on September 25, 2013.)

Bantle and Moore voiced concern that Hinsvark's comments to the Steamboat Pilot after Kleiber's letter first came out were unprofessional; she sounded like she was "circling the wagons," and was biased toward Chief Rae and Deputy Chief DelValle. This concern is not within the scope of this investigation; it is more appropriately addressed through a performance evaluation by Hinsvark's hiring authority.

Section 3 – Summary and Conclusion

Summary:

Moore's Allegation of Disrespect

Moore signed his evaluation on September 25, 2013. In the employee comment section, Moore wrote, *"I appreciate the efforts of our administration to tackle the stagnant wages, compression issues and quality of life for its officers. I am however, disappointed with the lack of response from city management to create real solutions to this issue. What has been proposed is severely lacking in its efforts and substance, leaving employees financially strapped."*

After reviewing Moore's evaluation, Hinsvark called Moore into her office to talk about the police pay plan; she was planning to clarify the pay information. Hinsvark felt Moore came into her office with an "attitude," and was rude during the meeting. Hinsvark indicated the meeting was a mistake, and it ended up in a "shambles." Hinsvark heard Moore mention he could go anywhere in the world to get a job. At this point in the meeting, Hinsvark said she listened to Moore as long as she could. When she heard Moore threaten to leave SSPD for another job, she admitted saying, "So another police department will hire a police officer who wrecked three cars in one year?" Hinsvark said this comment made Moore go "ballistic."

Moore thought they were going to talk about pay for performance, and claimed Hinsvark was disrespectful when she brought up his traffic accidents with patrol cars, stressing it had nothing to do with the pay plan. Moore felt Hinsvark called him into a meeting not to talk about his comments in his evaluation, but to put him in his place.

Bantle's Allegation of Hostile Work Environment and Leadership Concerns within SSPD

In January of 2014, Bantle met with Eric Ziporin, an attorney representing officers in the Ferrugia lawsuit; this was a pre-deposition meeting to prep Bantle for the deposition. Per Bantle's timeline, she was upset when Sgt. Rich Brown asked to sit in on the pre-deposition meeting. Bantle felt Sgt. Brown's presence created a situation in which she could not voice her concerns about the Ferrugia case for fear of retaliation through a negative evaluation. Bantle was able to have a private conversation with Ziporin, and told him things that concerned her at SSPD to include feeling the workplace was hostile.

Eric Ziporin recalled Bantle telling him it was difficult being the only female officer working at SSPD and there was an environment of favoritism. Ziporin remembered Bantle saying, if you were not in line with the department's vision, you were not treated well. Ziporin did not think Bantle was making allegations of sexual harassment. To him, it sounded more like a hostile work environment. Ziporin could not recall if Bantle actually used the word hostile work environment, or if that was his assessment.

Within a week of meeting with Bantle, Ziporin relayed the information from the Bantle meeting to City Attorney Tony Lettunich. This resulted in a conference call with CIRSA representatives, Hinsvark, Ziporin, and Lettunich. Ziporin told the group about Bantle's concerns at SSPD. At the end of the conversation, it was decided Hinsvark would meet with Bantle to hear directly from her to determine if there needed to be an investigation.

On January 20, 2015, at approximately 1 p.m., Bantle met with Hinsvark and Lettunich in Hinsvark's office. Bantle secretly recorded the meeting; a transcription is included in this report. A summary of each person's impression of the meeting follows:

Bantle's Meeting Perspective

During Bantle's IA interview with me, Bantle said she informed Hinsvark and Lettunich in their January 20, 2014, meeting she did not get feedback from the sergeant's process, and administration failed to show her the metrics used for the selection process. Bantle talked about the lack of technology, and the need for cameras at SSPD. Bantle told Hinsvark and Lettunich there was a lack of transparency and a lack of supervision. Bantle said there wasn't a way to report on a supervisor, and when you did, it made your circumstance worse with that supervisor. Bantle did not directly say she felt discriminated against, but told Hinsvark and Lettunich she consulted with an attorney for discrimination based on gender concerns.

Lettunich's Meeting Perspective

Lettunich recalled Bantle talking about her past police experience where she was a sergeant. Bantle was disappointed she was not selected to be sergeant in the recent process. Lettunich said Bantle did not say she was discriminated against, but he inferred Bantle was upset she didn't get sergeant. Lettunich did not hear Bantle claim she was sexually harassed. The message Lettunich heard was that SSPD needed cameras and officers needed to be less aggressive. Lettunich indicated he was "puzzled" over Bantle's interview, because she basically wanted the department to use less force; he did not hear anything indicating there was a hostile work environment. Based on what Lettunich and Hinsvark heard from Bantle, and giving her every opportunity to share with them, the city manager did not hear anything to justify an investigation.

Lettunich's Meeting Notes and Interpretation

After Lettunich found his notes from this meeting, he emailed me his notes, and an interpretation of them. Lettunich noted Bantle had taken her concerns about lack of training, lack of transparency, lack of diversity, and lack of technology to Captain Stabile; nothing was done with her suggestions. In Bantle's opinion, if her concerns were addressed by Stabile, the Ferrugia lawsuit would not have happened.

It was important to Bantle to have car and body cameras for officers. Cameras would resolve citizen complaint issues, and it was important for officer safety, training, and for court cases.

Lettunich recorded Bantle felt there was a transparency issue at SSPD. She was turned down five times for specialized positions within the department. She got mixed feedback on whether there was a matrix for the sergeant's process. Even with the feedback she got from administration, it did not resolve her concern over her lack of the promotion.

Lettunich wasn't sure who brought up the topic of a hostile work environment, but it led to Bantle talking about Kleiber leaving SSPD, and how difficult it was to replace him. Bantle expressed there was no avenue to make a complaint, and many officers were looking to leave SSPD because of administration. Bantle wanted more de-escalation training for officers, and indicated there was one problem sergeant who tended to escalate situations, and was rude to tourists.

Bantle suggested the city manager contact Deb Funston, a former SSPD Officer and Krista Amatuzio, SSPD Animal Control Officer (ACO), to see what they thought about SSPD. Bantle did not think SSPD should conduct its own internal investigations. She also thought SSPD's policing philosophy should be more community orientated, and less paramilitary.

Lettunich and Hinsvark consulted together after meeting with Bantle. Hinsvark advised Lettunich she was going to look into these matters further with Chief Rae. Hinsvark felt this appeared to be more a management issue at SSPD, rather than actionable workplace harassment. Hinsvark decided not to pursue the idea of an internal investigation, but rather deal with these issues from a management perspective with Chief Rae.

Hinsvark's Meeting Perspective

Hinsvark heard two things from Bantle in the meeting. One was Bantle is female, and she has been passed over for promotions; and two, Bantle was concerned that the young officers were being trained to be too aggressive. Bantle said she did not know why she was passed over in the promotional process, and was not able to see her test scores. Bantle related she was a sergeant at another department, and believed she had the qualification to be promoted. Hinsvark heard Bantle voice frustration at not getting promoted and not understanding why she wasn't getting the promotion. Hinsvark thought Bantle's concerns were legitimate, but Hinsvark did not think this constituted a hostile work environment. Hinsvark did not recall Bantle saying there was a hostile work environment, or that Bantle was being discriminated against. Hinsvark recalled Bantle saying how tough it was to be the only police woman in the organization. Hinsvark recalled Bantle talking about de-escalation training, and the benefits to having car and body cameras.

Additional Information

The transcript of the January 20, 2014, meeting shows Hinsvark started out the meeting indicating she had talked with attorneys who advised there might be issues at SSPD. Hinsvark asked Bantle to tell her what she was feeling, thinking, and hearing. Bantle informed Hinsvark

and Lettunich she has 15 years of police experience, and was a sergeant in a sheriff's department in rural Michigan. Bantle voiced when she first arrived at SSPD, she was surprised at the lack of transparency, the lack of diversity, and the lack of technology. She brought those concerns to Captain Stabile 1-1/2 years ago, and nothing was done to address her concerns.

Hinsvark asked Bantle to expand on what she meant by lack of technology. Bantle talked about police car and body cameras for officers, and the benefits of this technology. Bantle said cameras could provide some insight to how things escalate so quickly. Cameras could be used to support criminal cases, and can help with training officers.

Bantle voiced there was a lack of transparency at SSPD. She said she was turned down five times for promotions (promotions also include testing for detective or SRO). Bantle claimed she went to administration, and got conflicted feedback about whether there was a matrix (scoring system) or not. Bantle said during one of the promotional processes, she was told she wasn't at the department long enough. Bantle related during the last sergeant's process, the officer who was promoted had no prior supervisory experience and had been at SSPD less time than her; that's when she "blew a gasket."

Lettunich specifically asked Bantle to expand on her meaning of a hostile work environment. Bantle replied that Detective Kleiber leaving SSPD after 12 years, without an explanation for his departure, was disappointing; she didn't know why administration did not take measures to keep him. Bantle mentioned there is not a safe avenue to make a complaint, because if you say something, you could be the next to go.

Bantle reported 70% of SSPD officers are looking for other jobs. She thought it was caused by a host of reasons to include: low pay, Steamboat Springs is an expensive place to live, and administration makes officers feel like they are walking on eggshells.

Bantle is a firm believer of de-escalation, and she feels the younger officers want to go hands on. Because of Bantle's background in social work, and being a negotiator for the SSPD SWAT team, she claimed to see things different than SSPD officers, and administration. Bantle thought if SSPD had the capability to film officers on calls, it could be used in de-escalation training; officers could review their actions, and learn from them.

Bantle described a situation where Sgt. McCartin escalated a call involving Texans. Bantle said McCartin was rude to the tourists, who are "our bread and butter." Hinsvark stated, "There is trouble in paradise (SSPD), but not to the point where there is a hostile work environment where there needs to be an investigation and shake up the PD." Instead of answering Hinsvark's statement directly, Bantle said she has never worked in a place where you conduct your own investigations.

Hinsvark said she was trying to figure out if there was something to be gained by doing an investigation, or if there is something better to be gained by understanding we have issues over

there (SSPD) that can be resolved. Hinsvark asked, "Where do you think we are with this? Is this so disastrous, so unsavable?" Bantle replied, "I don't think it (SSPD) is so unsavable."

Lettunich asks Bantle, "Other than your concern about your testing and the matrixes, have you experienced any overt discrimination as a woman? Bantle answered, "I think some of that (promotional process) was being discriminating against. Because of Bantle's past police experience she couldn't believe she wasn't promoted. Bantle informed them she went to an attorney to discuss her concern. Bantle decided not to file a lawsuit because it could ruin her job and career.

Lettunich said he understood because Bantle was turned down five times, and she was indicating some sort of discrimination, which comes up sometimes in police departments during testing processes. Lettunich asked if there were concerns with other women working at SSPD. Bantle thought things were fine in Records. Bantle mentioned Krista Amatuzio had problems with McCartin in training. Bantle did not know if the conflicts were because Amatuzio was female, if they had different personalities, or if McCartin didn't like her. Bantle added Deb Funston used to be an officer with SSPD, and she might have a lot of insight. Bantle thought Funston was turned down for a promotion at SSPD, and is now captain in Palisade, Colorado. Hinsvark remarked Funston was a SRO while at SSPD, and ended up working for the fire department. Bantle commented, "I think she's (Funston) pretty verbal about how she felt she was being discriminated against."

Hinsvark told Bantle she seemed like a person who is thoughtful about what she is saying. Bantle replied she doesn't like to cause trouble. She likes to help people, and that is why she got into policing. Bantle emphasized she does not say things to "stir the pot." She said she would not have come forward except the whole thing boiled over with the attorneys at the pre-deposition meeting.

There was a conversation between the Hinsvark, Lettunich, and Bantle indicating Chief Rae may have heard some of Bantle's concerns through Eric Ziporin. Bantle thought this was because Rae enlisted Bantle's help to recruit more women to SSPD; Bantle was assigned to assist with organizing the 2014 Rocky Mountain Women in Law Enforcement convention at Steamboat Springs.

Hinsvark told Bantle to tell Rae he needs to have a department where women want to be there. Hinsvark added, "I really honestly feel that Joel (Rae) really wants to run a good ship." Bantle replied "I do, too." Lettunich commented, "It's tough to change the status when you are a scout sniper. I can understand the military presence in his mind, But, again, not an excuse, just an explanation."

Lettunich and Hinsvark said they would seek advice from others to figure out where they needed to go with the information. Hinsvark closed by stating, "I think we'll go somewhere. Thank you

for spending time with us.” Hinsvark also said she would keep their conversation confidential and not share it with Chief Rae.

After this meeting, Lettunich and Hinsvark spoke, and were in consensus they did not hear from Bantle there was sexual discrimination or a hostile work environment.

After this meeting Hinsvark took the following actions:

- During a small management team meeting, Hinsvark told Rae he needed to hire more women police officers.
- Hinsvark told Rae he needed to sit down with Bantle, and tell her why she didn’t get the sergeant’s position.
- A week after the team meeting, Hinsvark told Rae she wanted all the officers to have cameras, and instructed him to purchase them now.
- Hinsvark did a follow up to make sure Rae gave Bantle her feedback from the sergeant’s process. Rae reported Captain Stabile went over the process with Bantle. Hinsvark asked Rae if he saw Stabile actually sitting with Bantle to go over the process. Rae indicated he observed Stabile at a desk with the process spread out on it for Bantle.
- After Bantle got the SRO position, Hinsvark asked Rae if this meant he was never going to promote Bantle. Rae said, “No, when she has the highest scores,” she would get promoted.

Additional Information

The promotional process Bantle referred to occurred around January 31, 2013. The investigation into the fairness of the promotional process is found in a separate report. There were three candidates competing for the vacant sergeant position; Bantle came in second.

A memo from Stabile indicated he met with Bantle on March 12, 2013 (approximately seven weeks after the sergeant’s process and months before Bantle’s meeting with Hinsvark and Lettunich). He showed Bantle the scoring system for the promotional process she participated in. The memo said Stabile encouraged Bantle to keep working toward her goal. He pointed out there was improvement in Bantle’s written score compared to her last process; her written score was not the top score for the 2013 sergeant’s process. Stabile mentioned Bantle talked about transparency within the department. When Stabile asked her what she meant, Bantle thought SSPD needed cameras in patrol cars. Stabile said with the current budget situation, it would be difficult to purchase cameras. Stabile assessed Bantle was frustrated and was questioning her relocation to Steamboat Springs from Michigan.

Toward the end of Lettunich’s interview, he said, Officer Bantle did make an impact. Eight months after their meeting, Bantle got the SRO position, there were cameras in the cars, and officers had body cameras. (Lettunich knew Rae was reluctant to go with cameras because he said they can work for you or against you.)

Conclusion:

- 1. Not Sustained** – Meaning the evidence is insufficient to clearly prove or disprove the allegation - **Violation of City of Steamboat Springs Personnel and Administration Regulations Section 6.13 E.6:**

E. Indifference toward work is exemplified, but is not limited to the following violation:

6. Discourteous or irresponsible treatment of other employees.

The not sustained violation relating to Hinsvark’s meeting with Moore is supported by the following:

- Moore felt his comments in his final evaluation got him a visit with the city manager; he thought the meeting was designed to put him in his place. The comment in his evaluation was how to fix the police pay plan.
- Hinsvark said it is routine for her to call employees into her office to give them an opportunity to express, in more detail, comment(s) in their evaluation. Hinsvark’s genuine concern to hear directly from employees is a practice she has done for years.
- Hinsvark called Moore to her office to find out if there was something going on that she could influence and help him resolve regarding police pay; police had just got a pay raise.
- At one point, during their meeting, Moore threatened to go anywhere and get a job other than at SSPD. This comment prompted Hinsvark to respond, “So another police department is going to hire a police officer who wrecked three cars in one year?” (Moore had crashed three patrol cars.)
- Moore thought Hinsvark was extremely unprofessional and disrespectful when she made the comment “So another police department will hire a police officer who wrecked three cars in one year?”
- Hinsvark thought Moore was rude and came to the meeting with an attitude.
- Moore indicated he recorded the meeting; no recording was delivered to this investigator.
- Both Hinsvark and Moore said each other were rude or disrespectful.
- Miscommunication, regarding each other’s perspective to the purpose of the meeting, contributed to an unproductive meeting.
- There was no independent information giving more creditability to Hinsvark’s or Moore’s perspectives and that one person was ruder than the other.

2. Not Sustained – Meaning the evidence is insufficient to clearly prove or disprove the allegation – **Violation of City of Steamboat Springs Personnel and Administration Regulations Section 6.10 Harassment**

A prompt investigation of all claims and complaints of prohibited harassment will be undertaken, and effective and appropriate corrective action, up to and including termination, will be undertaken when warranted, based on the investigation.

Bantle's allegation and Kleiber's complaint, based on what he heard from Bantle, is that Hinsvark and Lettunich failed to investigate and act on Bantle's claim of a discriminatory and hostile work environment.

The not sustained violation relating to Hinsvark and Lettunich's meeting with Bantle is supported by the following:

- In the January 20, 2014, meeting, Bantle insinuated there might be discrimination. She spent much of the meeting time talking about leadership type issues such as de-escalation training, purchase of cameras, and concerns with attrition, which she interpreted as causing a hostile work environment.* The following is a summation of Bantle's claims and actions:

During the meeting on January 20, 2014, Bantle told Hinsvark and Lettunich she thought she was discriminated against because she has prior experience as a sergeant, and could not understand why she was not promoted.

Because she wasn't promoted, Bantle talked with an attorney about it. Bantle decided she didn't want to ruin her career by filing a lawsuit. (Bantle visited with David Lane, a civil rights attorney, in the summer of 2013. She was given homework to journal her experiences into a timeline. Nothing further happened with this consultation. Bantle started keeping a timeline, which is included with this investigation. Bantle retained Attorney Elizabeth Wittemyer in March 2015.)

Bantle said she would not have come forward except the whole thing boiled over with the attorneys at the pre-deposition meeting (around January 17, 2014).

Bantle said she was not given feedback regarding her participation in the sergeant's process. A memo from Captain Stabile indicated he went over the sergeant's process in person with Bantle on March 12, 2013. Bantle was not content with the feedback, and continued to question the process and the results.

Bantle suggested Hinsvark talk with Deb Funston and Krista Amatuzio to get their take on the working conditions at SSPD; Hinsvark did not follow up on the suggestion.

Bantle voiced concerns about SSPD not having cameras, young officers being too aggressive, and attrition. This led Hinsvark to believe Bantle's concerns were with SSPD leadership.

Prior to this allegation, Bantle did not report her concerns of discrimination through the procedures set forth in the Personnel and Administrative Regulations Manual (PARM) for prohibited harassment.

Bantle failed to grieve the promotional process, an available avenue to appeal a process, outlined in PARM Chapter 8, Grievance Procedures.

- Hinsvark did not authorize a formal internal investigation into Bantle's concerns. Hinsvark took the following steps:

When the allegation of a hostile work environment was reported to Hinsvark, she immediately held a meeting with CIRSA, Ziporin, and Lettunich to hear the information directly from Ziporin. Hinsvark decided to meet with Bantle to get her take on things.

In less than a week, a meeting was held on January 20, 2014, where Hinsvark and Lettunich listened to Bantle's concerns; this could be construed as an informal investigation.

Lettunich and Hinsvark were in a consensus they did not hear Bantle describe a hostile work environment.

Hinsvark took the following actions after conducting her own informal investigation:

- Cameras were purchased for the police department.
- Hinsvark pressed Rae to hire more women, and make the department a place where women want to work.
- Hinsvark asked Rae to ensure Bantle receive feedback on her participation in the sergeant's process; even though a memo from Captain Stabile indicated Bantle got the feedback a couple months after the sergeant's process.
- A matrix (scoring method) was used on the next police special assignment process. This process took place approximately eight months after the January 20, 2014, meeting. The scoring method was shared with the participants. There were female evaluators in this process. This process happened to be the SRO position, which Bantle obtained.

***Harassment (PARM) 6.10** It is the City's policy that all employees are entitled to work in an environment free of prohibited harassment as defined below:

“Prohibited harassment “Means unwelcome conduct, including physical, verbal, or written conduct, that constitutes race/color harassment, national origin harassment, gender harassment, sexual harassment, sexual orientation harassment, religious harassment, disability harassment, age harassment, or marital/family status harassment, or that constitutes harassment based on other status under the equal employment opportunity laws, including but not limited to protection against retaliation for activities such as opposing a practice made unlawful by an equal employment opportunity law or participation in an investigation or other proceeding under the equal employment opportunity laws, or association with a protected individual.