

Discipline and the Portland Police Bureau

This is the third in a series of excerpts from the Arbitration hearings in the termination of police officers Craig Ward and James Galloway, resulting from the "possum incident."

Officers Ward and Galloway were terminated for violating Rule 310.10 which provides that every member of the Bureau of Police will constantly strive to attain the highest professional standard of conduct. Employees, whether on duty or off, shall be governed by the Ordinary and Reasonable Rules of Good Conduct and Behavior and shall not commit any act tending to bring reproach or discredit upon the Bureau or the City of Portland.

In challenging the termination of officers Ward and Galloway, the Portland Police Association gave as one of reasons the record of prior discipline by the Bureau. "You will find that many other officers—not just one—many other officers have committed acts that are at least as serious as that committed by Officers Ward and Galloway and some much, much more serious and have not been discharged. Some have not been disciplined whatsoever," Attorney Will Aitchison said.

Officer James Harding, who had been assigned to North Precinct for seven and one-half years at the time of the possum incident, said, "...in one instance, you have people breaking the law, causing property damage, hurting other people financially, physically fighting. And for all of that they were fined. They weren't fired, that [is why] it's so out of line in this situation."

And, "Discipline has to be fair for everybody. And if it vacillates from one extreme to the other and is not fair across the board to everyone, it is not consistent, then it's very difficult for an officer to decide on just what is expected, what is acceptable."

Harding explained: "Captain Taylor getting drunk in a city car, perpetrating a hit and run, then got three days vacation time taken away. ... It was the idea of a captain in a city car getting drunk and hitting another car and leaving and causing property damage, breaking a law and then getting three days vacation time taken off. That just didn't seem right at all."

"Giedl, a similar situation, high speed chase, fighting, getting drunk. He didn't... he is still with us."

"Sgt. Earl Johnson let a prisoner escape, let a... let a holdup man go into a house to get some clothes. He went out the back door. He was... he's still with us."

Chief Baker and Commissioner Jordan explained their opinions on the need for discipline in an organization that has great power over the lives of citizens.

"...a police officer I believe is given more power, delegated power, than any single individual, even more I would say and I do say this than the president of the United States. While the president has an awesome power, the power of a police officer to deprive a citizen of their freedom merely on their say-so because it is a one-on-one situation, is a power that isn't delegated to many other people in our society," Baker said.

"Perhaps one of the most significant powers that's delegated to a police officer is the power of life and death because police officers are armed."

Jordan adds: "A police officer can lose his job for doing things that an ordinary citizen could do and not even be punished for."

Following is a summary of those actions presented by the union to demonstrate uneven, unpredictable and allegedly discriminatory practices of discipline by the Police Bureau.

Mixing alcohol and crime fighting

Sgt. Garland Snowden testified that Officer Kenny Sanford had been drinking at Dad's in St. Johns. After a while he went to North Precinct, picked up a set of keys to a police car, and drove the car to the Alibi. He was found at the Alibi by another officer.

Another disturbance by Sanford was explained by Lt. Webber. In August of 1977 she was called to a restaurant in North Portland. Sanford, who was off-duty, had threatened a fight with the owner. When he left the police were called and while they looked for him, more calls were received about a person disturbing, threatening to fight.

Lt. Webber and three officers found Sanford. "Immediately he went into a defensive posture and said that he'd take us all on, that he could whip us all. They finally convinced him to walk to North Precinct and they would follow."

"As he was walking in front of us, he suddenly turned and went into a defensive posture and, as I took one step further toward him he went into sort of a football tackle and rammed his shoulders into my chest, at the same time swinging his arms and hitting one of the other officers. Then we had to physically subdue him and cuff him and take him to the precinct."

Sanford received fifteen days suspension.

The second incident happened approximately two years after Sanford shot and killed Black teenager Ricky Johnson. The first incident occurred prior to the shooting.

Then-chief Bruce Baker said about Sanford's second incident: "...he developed serious emotional problems, mental problems he developed which subsequently ended up in the family splitting up. He developed a terrific drinking problem alcohol problem. At the time that this occurred—when the incident of his striking this sergeant occurred—he was in a—very bad condition in my opinion." After that he was pushed to get a psychologically-based disability pension.

Regarding the shooting of Ricky Johnson, Baker said, "Kenny should not have been where he was in my opinion. He was sent in wearing a taxi driver's coat and hat. The young person had a gun. There was an attempt to shoot Kenny. The young person spun away and when Kenny shot, it caught him in the back of the head which made it appear—there were claims it was an assassination and that his life had not been threatened although we felt we proved our case, that it was just a circumstance."

Many of the Bureau's disciplinary actions involve drinking. Bureau policies do not differentiate between actions on duty and off duty.

Baker explained his policy: "Well, if you will look over the history of the discipline in the Bureau particularly when it involves problems with alcohol and drinking... the past history has been that previous to our current practices of trying to redeem employees with a drinking problem, usually it was let go the extent where they were fired. People would cover for them, hide their drinking problems and then it would get so bad they'd be fired. I recognize in my own mind, or at least I look upon it, I look upon alcoholism as a disease like cancer, like measles, chicken pox, whatever you want, but a very serious disease, an extremely serious disease."

"And the fact that we recognize that people have drinking problems and that we try to make the discipline—usually part of that discipline won't show in the order is that they'll undertake a course of treatment."

"But our practice has been to look upon people who are alcoholics and have serious drinking problems of that kind as a diseased person rather than someone who intentionally and deliberately goes out to commit an act."

The macing of Ginger's Sexy Sauna

Sgt. Dan Elfving testified he investigated the Cochever case which occurred on August 6, 1980. Officer Cochever had been drinking all day and had gone to Slims in St. Johns. He accused another man at the bar of being drunk and took his drink. The bartender asked Cochever to leave. At this point, Cochever said he was a police officer and that everyone in the bar was under arrest. When he started to go behind the bar the bartender told him to get out, and he told her she was under arrest and began pulling her hair. She struck him several times in the face, then other patrons dragged him out onto the sidewalk. He was taken to North Precinct and a crime report written.

Officer William P. Orton testified that in 1976 he, officer Christopher Monlux and a friend were out drinking when they passed Ginger's Sexy Sauna on 10th and Burnside. Monlux suggested that they go in and inquire about the "program"—offerings, prices, etc. They sat in the waiting room until a young lady came out. While she was explaining the program another woman came in and told them to get out.

They refused to leave and Monlux asked, "What are you going to do, call the police?" With that, she sprayed mace in Orton's face.

He crawled outside and they drove to Central Precinct to wash out his eyes. Then Orton went to the front desk and asked for a can of mace. They returned to Ginger's Sexy Sauna. Orton went inside and sprayed mace in the empty waiting room.

Orton was suspended for five days without pay; Monlux received three days suspension without pay.

Sgt. Lanny Bennett of North Precinct testified that he had been disciplined for an incident on an Amtrak train. He was riding to a Seattle Seahawk game, and drinking. He got into a "hassle" with some Amtrak employees and was asked not to ride the train back to Portland. When he got back to the Trailways Bus Depot he crossed to the Hilton Hotel bar where he ran into the person who had asked him not to ride back on the train and they had words. His discipline was three days off his vacation pay.

"No one holds as much potential for abusing the rights of another under the guise of representing the interests of the community as does a police officer. An officer can suspend, through his actions, almost all of our rights."

- Commissioner Charles Jordan

Running from the cops

Officer Peter Giedl had been drinking in a tavern outside the city and was driving a young woman home in her car. He was pursued by a Deputy Sheriff of an adjoining county and was attempting to elude the Deputy Sheriff when he struck another car head on. The woman was seriously injured.

Giedl was charged with and convicted of a felony. When the judge learned that a felony conviction brings automatic termination, he changed the conviction to a misdemeanor. Baker recommended that he be terminated.

Commissioner Jordan concurred, terminating Giedl in December of 1977. He later rescinded the termination.

Jordan explained that decision: "Giedl had a drinking problem. They knew he had a drinking problem. His partner had reported that to his supervisor that Giedl had a drinking problem. And instead of trying to help him, they had set a trap for him..."

"And I was—I was really trying to send a message to that Police Bureau, that, you know, if you have a chance to prevent something like that, that you should."

Officer David Petry was off duty when he was stopped by Washington County sheriffs for driving while under the influence. He was driving a police car. He offered some resistance to arrest but was not charged with resistance. Petry received a suspension of five days and lost ten days of vacation time.

The incident in which Earl Johnson allowed a prisoner to escape was not part of his disciplinary proceeding. In July of 1977 he was charged with drinking on the job after he had been told not to. He indicated that he had to drink with an informant to obtain information. There was some question about whether there was an informant. Johnson had previously been charged with drinking on the job and warned not to repeat that behavior.

Johnson went before the disciplinary board, which recommended termination. Baker and Jordan concurred. Several months later Jordan reversed his decision. He rehired Johnson but demoted him from detective to officer. Last year he was promoted to sergeant.

Johnson had been drinking on the job but the termination was based primarily on incompetency. The evaluations did not support that charge. "I said that, you know, if the guy was incompetent, why didn't you document that some time ago and start taking corrective action," Jordan said.

"I did not receive a satisfactory response, and so I overturned that decision. And I was again—I was still trying to get a message to that Bureau."

Officer John Potter was driving under the influence of alcohol within the City of Milwaukie. He became engaged in a car chase with Milwaukie police; he tried to escape on foot, and had to be apprehended. He was suspended, but not terminated.

Other cases cited involved harassment of the public and law-breaking by police officers.

When the City pays

The George Jacobus case involved a person who reported that large numbers of officers were spending long periods together in restaurants. Later, Jacobus was harassed by police officers. Although the City was unable to document the harassment, \$10,000 was paid to Jacobus as a settlement. Although some of the officers admitted acts of harassment to the City Attorney, they claimed attorney-client privilege and Baker was unable to obtain their identity. No officers were disciplined.

Officers James Leep and Richard Rademacher took two derelict alcoholics, against their will, to a rural area and left them there. Initially the officers lied about their act to the Internal Affairs Division. They later changed their story and admitted their action. The case was submitted to D.A. Earl Haas, who didn't consider it to be kidnapping although Baker felt it was very close. The two officers each received 10 days off without pay.

"I made a very bad mistake in conjunction with the Union president. They had also lied to him and I discussed the case with him, pointed out that they had lied to him and asked that he participate in this so we could get to the bottom of it," Baker said.

"In a way, it was an—I guess could be likened in some respects to the incident where we had with the narcotics investigation where we granted some immunity to try to get to the bottom of the matter. In retrospect now looking back on it, I'm ashamed of that."

"I did not stick to my own principles in that case and I'm living with that on my conscience."

Bruce Raybourne, a criminalist, provided parking tags to a friend who owned a music store so the friend could tag cars parked in a no-parking zone in front of his shop. When a ticket was given to another officer's wife, Raybourne tried to void the ticket. He was given a five-day suspension.

Sgt. Michael Callaghan stole some presto-logs from a store while intoxicated. He was charged with Theft 2, a class C misdemeanor. Callaghan also had a prior record of misconduct. He was terminated and his termination sustained.

Officer Robert Tilly testified that in approximately 1970 he and his partner, Officer Emmerson, were at 42nd and Burnside at about 3:00 am when Tilly rode on the hood of their police car wearing a pig mask while Emerson drove. They were both in uniform and on duty. Tilly was given 30-days suspension without pay and was transferred. A controlled substance was found in the car. Emerson, who had planned to resign in 30 days, resigned early.

Deputy Chief James T. Brouillette was reported to have shot wildly into Van's Olympic Club during an incident that ended in the death of LeRoy Clark. Clark (who was Black) was in the club, which he managed, with a white woman. "There were people outside who told me the bartender had gone crazy and had fired a gun, as I recall," Sergeant Jeff Barker said. "Had fired a few shots inside, but had not shot anybody at that time."

Chief Brouillette was night commander. "He came up and was—kind of took charge. Several people were then trying to take charge," Barker, who had heard a shot and saw the woman fall off a stool, told Brouillette about it. The decision was made to go in and try to get the woman out; Brouillette conferred with them; they entered the building; an officer was shot.

"And about that time Deputy Chief Brouillette began shooting into the building with a 12-gauge shotgun. There was still a member of the SERT team in the building, although at that time that wasn't known to me, and I don't believe that Chief Brouillette knew it either."

Q. "How many rounds, shotgun rounds, did Deputy Chief Brouillette fire?"

A. "I didn't count them. I would have to estimate it, 20, as a conservative figure. I had to go get more ammunition for him a couple of times."

Barker testified that the firing was not in accordance with police training, that officers are taught to shoot at a target with the possible exception of trying to suppress fire. "But just to fire random shots into a building, we would not do." Barker heard that Clark was killed later in the morning by a machine gun or automatic weapon. "They shot up close and shot down into them on the ground as I understood. They were in the building with him."

Brouillette also came in for criticism by Lt. Roberta Ledyard Webber. She was present at a meeting in March of 1980 with Brouillette, Captain Hughlett and Officers Deppe, Dugan, Canzio, Moose, McLoughlin, McDonald and Gerhardt. The meeting was called by Brouillette following the trial of Robert Christopher, who was found guilty of manslaughter rather than murder, for the shooting of Officer David Crowther during a police raid on the Outsiders' club house.

Will Aitchison, attorney for the Portland Police Association, submitted the testimony to demonstrate that "the commission of a felony has been encouraged within the Bureau."

Lt. Webber said, "He was talking about a past contact with the Outsiders motorcycle gang, back several years prior, whereby an Outsider had stolen a police officer's motorcycle and he said that at that time he was in the Outsiders' club house and placed listening devices in there and then they were—they weren't working so they broke in again and went back and replaced them... he went on to say this was not meant to mean we were supposed to do anything illegal, but that he wanted the Outsiders to be done real well, to be gotten good, to be—have good cases against them and get them put away and not make chippie cases against them."

Because she did not want the officers to think Brouillette had asked them to break the law, she told them to ignore his statements.

Q. "Why did you think that warning was necessary from yourself?"

A. "Just because of the statements he had made."

The other eight

The other eight officers involved in the possum incident were not disciplined in any way. Jordan testified that he was very concerned and asked Chief Baker what he could do to them. "There's no reason why they should not have tried to prevent Ward and Galloway from carrying through the act." Baker said they didn't have much to go on. Jordan was disappointed. "But yes, I was very disappointed. I think they have a responsibility to prevent an act like that." The first reports indicated that the officers had left before the act was completed, or that some of the cars were pinned in."

Jordan was not satisfied with these officers' explanations or their inability to remember the conversation during the investigation. "But I couldn't prove that they did, so there was no basis for me to move against them."

After he became Police Commissioner in 1977, Commissioner Jordan wrote: "The police have a new role to play in society because Society has changed in its expectations and goals. Citizens are more aware of their rights and more concerned that these be safeguarded. The police must preserve and protect these rights both in their work against crime and in their everyday professional behavior."

"Citizens also want to be more involved with the agencies which serve them and demand more accountability from those agencies. Policing a community is a sensitive task. No one holds as much potential for abusing the rights of another under the guise of representing the interests of the community as does a police officer. An officer can suspend, through his actions, almost all of our rights."

Continued next week

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