
INVESTIGATION REPORT
CITY OF CLOQUET
COMPLAINT INVESTIGATION

Issue(s):

Alleged Improprieties Relative to the Handling of a Citizen Complaint

Respondent

Jeff Palmer, Police Chief

Finding(s):

The complaint allegations are not substantiated.

A. Discussion of Allegation 1: Alleged “Malfeasance/Incompetence of the Chief of Police”

1. Allegation 1: Chief Palmer prematurely and *improperly* determined, prior to investigating Lamirande’s 2017 complaint against a CPD Officer, there was no evidence to support criminal charges. Chief Palmer then *improperly* directed that [REDACTED] [REDACTED] investigate the complaint. See Exhibit 1: Wade Lamirande Complaint Letter Dated 01.30.19 at Complaint #1.

2. Finding - Allegation 1: Allegation 1 is not substantiated.

The record establishes that, Chief Palmer consulted with the County Attorney, who advised that Lamirande’s complaint did not allege a violation of the law. Thus, the complaint was not referred to an outside agency to investigate criminally. Consistent with CPD practice, Palmer directed [REDACTED] to fully investigate the complaint to determine if CPD Officers engaged in conduct violating CPD policy.

3. Factual Basis for Finding – Allegation 1:

- a. The facts as alleged by Lamirande in his November 1, 2017 citizen complaint do not constitute criminal stalking as defined by statute (Minn. Stat. §609.749). See FN10. The statute requires “repeated” conduct (not a single, isolated incident as alleged) that the alleged perpetrator (in this case, a CPD Officer) “knows or has reason to know would cause the alleged victim (Lamirande’s daughter) to feel frightened, threatened, oppressed, persecuted or intimidated” and the conduct (a single, isolated cell phone call) caused that reaction.¹

¹ The statute provides in relevant part:

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- b. The record establishes that Chief Palmer, in consultation with [REDACTED] Labor Counsel, and then (now retired) Carlton County Attorney Thom Pertler, determined the complaint alleging a single phone call constitutes criminal stalking and/or harassment, did not on its face allege a crime, and thus, a criminal investigation was not warranted. Not every complaint alleging a violation of the law is investigated criminally, and that is particularly true in cases as this when the facts alleged, even if presumed to be true, do not constitute a crime.²
- c. The Respondents did not, as Lamirande alleges, make an uninformed or erroneous decision to conduct an internal investigation. The record indicates that, in consultation with [REDACTED] Chief Palmer authorized an Internal Affairs investigation. Palmer assigned the investigation [REDACTED] Palmer credibly reported that his decision to assign the complaint investigation to [REDACTED] was based in part on [REDACTED], and also because [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

“Subd. 1. Stalking. Stalking means to engage in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.”

“Subd. 2. Stalking crimes. A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor: (1) directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act; (2) follows, monitors, or pursues another, whether in person or through any available technological or other means; (3) returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent; (4) repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues; (5) makes or causes the telephone of another repeatedly or continuously to ring; (6) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for the visually or hearing impaired, or any communication made through any available technologies or other objects; or (7) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.”

“Subd. 5. Pattern of stalking conduct. (a) A person who engages in a pattern of stalking conduct with respect to a single victim...which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both. (b) For purposes of this subdivision, a ‘pattern of stalking conduct’ means two or more acts within a five-year period that violate or attempt to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, tribe, or United States territories...”

See Minn. Stat. §609.749 at <https://www.revisor.mn.gov/statutes/cite/609.749>. (last visited April 1, 2019)

² The undisputed facts are that on October 10, 2017, a CPD Officer saw a missed call on [REDACTED] call log from an area code “218” number, returned the call believing [REDACTED] may have missed a case-related call, and discovered [REDACTED] called Lamirande’s daughter.

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- d. The investigation record includes data showing the CPD's practice of investigating internally, alleged misconduct on the part of CPD Officers, [REDACTED]. That evidence refutes Lamirande's claim that complaints against CPD Officers are always investigated externally due to inherent conflicts of interest and, therefore, his November 1, 2017 citizen complaint against a CPD Officer should not have been investigated internally. [REDACTED]
- e. During this investigation, Lamirande confirmed that another law enforcement agency at his request, investigated his November 1, 2017 complaint. Following that investigation, criminal charges were not filed. That fact, supports the County Attorney's early determination the facts alleged by Lamirande did allege a violation of the law.

B. Discussion of Allegation 2: Alleged "Data Privacy Violations/Malfeasance Chief Palmer"

1. Allegation 2: Before CPD [REDACTED] began his investigation of Lamirande's 2017 complaint and could secure electronic and other evidence, Chief Palmer improperly informed CPD Officers of the details of the complaint.
2. Finding – Allegation 2: The allegation is not substantiated. The record indicates that Lamirande prematurely disclosed the nature and substance of his complaint prior to the start of an official investigation.
3. Factual Basis for Finding – Allegation 2:
 - a. The record establishes that on or about October 10 or October 11, 2017, Lamirande called Chief Palmer to report that a named CPD Officer made a single call to his daughter, behavior he characterized as a continuing pattern of harassment, on the part of CPD Officers against him and his family since his retirement in 2014. Lamirande believed he had been targeted by one or more CPD employees because, close in time, he publicly opposed Palmer's appointment as Chief. Lamirande told Palmer that he expected him to hold Officers accountable. Lamirande asked Palmer for the cell phone number for the Officer that called his daughter. Palmer gave the identified Officer Lamirande's number.
 - b. The record establishes that on October 11, 2017, the Officer called Lamirande, who asked him why [REDACTED] called his daughter. The Officer sent Lamirande screen shots of [REDACTED] call log depicting his daughter's phone number, and explained that [REDACTED] saw and returned the missed call. Lamirande then asserted that other CPD Officers were involved. Following that discussion, [REDACTED] Officer asked other CPD Officers if they had anything to do with Lamirande's daughter's phone number appearing on [REDACTED] call log. No one acknowledged having any involvement in or knowledge of the matter. These facts were confirmed [REDACTED] when he later investigated a citizen complaint filed by Lamirande on November 1, 2017.

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- c. If Palmer discussed the investigation with other CPD Officers, he did so after Lamirande self-disclosed the nature and substance of his claims to the CPD Officer he talked to on October 11.

C. Discussion of Allegation 3: Alleged Failure to Address “Brady/Giglio Issue”

1. Allegation 3: Chief Palmer had knowledge of and failed to take action to address a CPD Officer’s false statement made during a *Garrity*/Tennessee-compelled interview conducted by [REDACTED]. The Officer claimed [REDACTED] did not act with malice when, in 2014, [REDACTED] made two prank phone calls to then retired Chief Lamirande’s cell phone. See [REDACTED].
2. Finding – Allegation 3: The allegation is not substantiated. It is based on a he-said, he-said account, that cannot be independently verified. Chief Palmer credibly reported that, he did not view the factual dispute as a lie, and because the dispute cannot be independently verified by a witness, recording or other evidence, he did not view it as a matter that warranted an Internal Affairs investigation. The officer did not receive non-disciplinary coaching, an approach considered and agreed to by the CAB.
3. Factual Basis for Finding – Allegation 3:
 - a. When [REDACTED] interviewed CPD Officers regarding Lamirande’s complaint, he issued them a *Garrity* Advisory. The Advisory compels the Officer to cooperate fully and tell the truth. Pursuant to the requirements of the Minnesota Peace Officer Discipline Procedures Act, an Officer must be issued a *Garrity* notice when compelled to give an official statement. See Minn. Stat. §626.89, subd. 10.³
 - b. An Officer who, under *Garrity*, gives false information or makes a false statement, affirmatively or by omission, may be deemed *Brady/Giglio* impaired. The following is a summary of *Brady/Giglio* doctrine. However, based on the facts at hand, the *Brady/Giglio* issue does not apply because the allegation that the Officer made false statements during a *Garrity*-compelled interview is not substantiated.
 - Primary duties of Officers include writing reports documenting law enforcement activity and testifying under oath. If an Officer is determined to be dishonest in any matter, that can call into question that Officer’s credibility and impact their ability to credibly testify under oath.
 - Law enforcement officers are held to a high standard of honesty and credibility because of the need for public trust and confidence attendant to their job responsibilities, including testifying at criminal trials. See *Hernandez v. Department of Homeland Security*, 324 F. App’x 908, 911 (Fed. Cir. 2009). Therefore, Officers must be especially careful not to engage in any conduct that could even slightly damage

³ “Before an officer’s formal statement is taken, the officer shall be advised in writing or on the record that admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline.” See Minn. Stat. §626.89, subd. 10 at <https://www.revisor.mn.gov/statutes/cite/626.89>. (last visited April 8, 2019)

their credibility. If an Officer's credibility is compromised, their ability to testify at trial is damaged and their job is put at risk.

- When an Officer testifies at a criminal trial, their agency is required to turn over to the prosecution any information that reflects on the Officer's credibility. Under *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972), investigative agencies must turn over to prosecutors, as early as possible in a case, potential impeachment evidence with respect to the agents involved in the case. The prosecutor then exercises his or her discretion as to whether the impeachment evidence must be turned over to the defense. A *Giglio*-impaired Officer is one against whom there is potential impeachment evidence that would render the officer's testimony of marginal value in a case. In other words, a case that depends primarily on the testimony of a *Giglio*-impaired witness is at risk. See *Cameron v. Department of Justice*, 100 M.S.P.R. 477, 482 n. 1 (2005), review dismissed, 165 F. App'x 856 (Fed. Cir. 2006).
 - Potential impeachment evidence has been generally defined as impeaching information that is material to the defense, as well as information that either casts a substantial doubt upon the accuracy of any evidence the prosecutor intends to rely on to prove an element of any crime, or that may have a significant bearing on the admissibility of the prosecution's evidence. This includes, but is not limited to, specific instances of the Officer's conduct that may be used to attack her credibility or character for truthfulness; evidence in the form of opinion or reputation as to the officer's character for truthfulness; prior inconsistent statements; and information that may be used to suggest that an officer is biased. See United States Attorney's Manual, Chapter 9-5.100 ("*Giglio* Policy") (2008).
 - When an agency disciplines an Officer for any reason, the most important factor the agency considers in assessing the penalty is the nature and seriousness of the charge and its relation to the employee's duties, position, and responsibilities. See *Luciano v. Department of the Treasury*, 88 M.S.P.R. 335, 343 (2001), *aff'd* 30 F. App'x 973 (Fed. Cir. 2002). Any conduct or statement that affects an Officer's reputation for honesty and credibility has a direct relation to that Officer's ability to testify at trial, giving an agency substantial justification for imposing a heavy penalty, often removal.
- c. The record does not corroborate Lamirande's claim that the Officer gave a false statement under *Garrity* and Chief Palmer should have independently investigated the incident.
- d. [REDACTED] investigation of Lamirande's complaint included an interview with an Officer who revealed that in 2014, [REDACTED] which led the Deputy to unwittingly call Lamirande. The Officer said [REDACTED] harbored "no malice", later apologized to Lamirande for the prank Officer, and [REDACTED] felt the matter was settled ("things were good"). That Officer, [REDACTED] denied [REDACTED] any involvement relative to the call received by Lamirande's daughter on October 10, 2017.

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- e. In his January 30, 2019 complaint, and during this investigation, Lamirande asserted that the Officer “never” apologized to him and he was not aware, until [REDACTED] told him, that the Officer was involved relative to the call he received in 2014. [REDACTED]
[REDACTED]
[REDACTED]
 - f. During this investigation, Lamirande acknowledged there is no independent (witness, recording or other) proof that his account is accurate and the Officer’s account is false. In other words, [REDACTED] cannot be conclusively established.
 - g. Chief Palmer reported that he did not view the Officer’s statement as a “false statement”. Moreover, because factual dispute cannot be independently verified and reconciled, he did deem that an Internal Affairs investigation was warranted.

D. Discussion of Allegation 4: Alleged “Data Privacy/Process” Violations

1. Allegation 4: While [REDACTED] was investigating Lamirande’s 2017 complaint, Chief Palmer improperly provided details of the complaint to Councilmember Steve Langley, information that was not public data.
2. Finding – Allegation 4: The allegation is not substantiated. It is based on speculation and conjecture that is not corroborated by the record.
3. Factual Basis for Finding – Allegation 4:
 - a. During this investigation, Lamirande explained that this allegation is based on remarks Langley made to him when he encountered him in public. Lamirande asserts that Langley recounted (blurted out) facts leading him to conclude that Langley knew details about the investigation of his complaint, non-public information to which he should not have been privy.⁴ Thus, Lamirande concluded, based on speculation and conjecture and not verified fact, that Chief Palmer must have discussed specifics of the investigation with Langley.
 - b. Palmer denied he discussed the investigation with Langley, who the record establishes had knowledge of the substance of the complaint when Lamirande sent it to the Council. Absent an admission or evidence not identified to date, the allegation is not substantiated.

E. Discussion of Allegation 5: Alleged “Data Privacy/Process” Violations

1. Allegation 5: Chief Palmer improperly gave Mayor Dave Hallback the ICR number for a police complaint Councilmember Steve Langley filed against Lamirande, which was then under investigation, so the ICR number was not public information.

⁴ Lamirande correctly states that while the investigation was underway, investigation-related data obtained [REDACTED] was non-public investigatory data which he, like Councilmember Langley, was not entitled to receive.

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2. Finding – Allegation 5: The allegation is not substantiated. It is based on speculation and conjecture that is not corroborated by the record. An ICR number is public information accessible to Halback and others, § [REDACTED]
[REDACTED]

3. Factual Basis for Finding – Allegation 5:

- a. In his complaint, and during this investigation, Lamirande asserted that Chief Palmer improperly gave Mayor Halback the ICR number for a complaint Councilmember Langley filed against him. Halback then shared that information with the local media. Lamirande explained that the allegation is based on his belief that ICR numbers are not public data, and that but for Palmer giving Halback the ICR number, Halback did not otherwise have access to it.
- b. Refuting Lamirande’s claim is the fact that ICR numbers are public data. Chief Palmer denied the claim that he gave Mayor Halback the ICR number. Palmer said that Halback, a [REDACTED]
[REDACTED] Halback could have also received the ICR number from Langley, the complainant in the matter. Even if it is presumed that Palmer gave Halback the ICR number, he gave him public information, which does not constitute the data privacy violation alleged by Lamirande.

F. Discussion of Allegation 6: Alleged Unreasonable “Delay and Missing Information for Data Requests”

1. Allegation 6: Chief Palmer and a second Respondent were unreasonably slow to respond to public data requests Lamirande made, did not provide all of the pertinent information Lamirande requested, and only provided the missing information after Lamirande’s repeated requests.
2. Finding – Allegation 6: The allegation is not substantiated and is refuted by the record. Chief Palmer and a second Respondent, in consultation with the City’s Labor Attorney, responded to Lamirande’s data requests. When Lamirande inquired about information he did not receive, Palmer promptly addressed the inadvertent oversight and sent the information to him.
3. Factual Basis for Finding – Allegation 6:
 - a. The City of Cloquet has a Data Practices Policy and established procedures for responding to government data requests. The procedures comply with the requirements of the Minnesota Government Data Practices Act (MGDPA). See Minn. Stat. Ch. 13. The Policy and data request forms are published on the City’s website.⁵

⁵ See Data Requests, City of Cloquet at <https://www.cloquetmn.gov/departments/administration/data-requests>. (last visited April 1, 2019)

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- b. The Policy provides that the City Administrator, or his/her designee, is the City's designated "Responsible Authority" for the purposes of responding to requests for government data.
- c. Pursuant to the MGDPA and as discussed in the City's Data Practices Policy, "Government Data" means all data collected, created, received, maintained or disseminated by the City regardless of its physical form, storage media or conditions of use. Government data is generally public data and is generally accessible by the public according to the terms of the MGDPA, unless it is specifically classified differently by the MGDPA or other law, and may be subject to a fee. The MGDPA classifies categories of government data are not generally accessible to the public as follows:
- 1) "Confidential data on individuals" is information or data inaccessible to the public or to the individual subject of the data.
 - 2) "Private data on individuals" is private information or data which is inaccessible to the public, but is accessible to the individual subject of the data.
 - 3) "Protected nonpublic data" is data not on individuals, made by statute or federal law applicable to the data making it inaccessible to the public but accessible to the subject.
 - 4) "Not public data" is governmental data that is inaccessible to the public because it is so classified by statute, federal law or classification as confidential, private, non-public or protected nonpublic.
- d. City policy provides that "[p]rocedures for responding to requests for access to Government Data vary depending on the classification of the data requested and the person making the request. The Responsible Authority or a designee must determine:
- 1) whether the City maintains the data requested. The City is not required to provide data it does not maintain or to produce data in a new format.
 - 2) the statutory category of data requested in order to respond appropriately according to MGDPA requirements."

See Minn. Stat. §13.02, subds. 3,8a,12-13 and Exhibit 7: City of Cloquet Data Practices Policy, Adopted 09.15.15.

- e. City policy provides that the "request for public data may be verbal or written. The City will consult with its attorney in preparing a response to a request for data relating to litigation...Requests will be received and processed during normal business hours. If requests cannot be processed or copies cannot be made immediately at the time of the request, or if the City Attorney must be consulted prior to release, the information must be supplied **as soon as reasonably possible**. Standing requests will be valid for one year at which time the request must be renewed by the party making the request." See Exhibit 7: City of Cloquet Data Practices Policy, Adopted 09.15.15 at para. III(D).

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- f. The record establishes that, consistent with City policy, which sets forth the requirements of the MGDPA, Palmer, in consultation with [REDACTED] and the City's Labor Attorney, timely and appropriately responded to Lamirande's data practices request in the manner advised. A January 10, 2019 email exchange between [REDACTED] and Lamirande regarding data Lamirande requested and had not yet received, shows that [REDACTED] assured Lamirande he would follow up and, that same day, informed Lamirande the data had been emailed to him by Chief Palmer. See Exhibit 8: 01.10.19 Email Exchanges Between Wade Lamirande [REDACTED] [REDACTED] Regarding Lamirande Data Requests. While Lamirande may have preferred an immediate response, he was treated the same as other members of the public and received the data "as soon as reasonably possible" as provided for by the MGDPA and the City's Data Practices Policy.

G. Discussion of Allegation 7: "Selective" Submission of Information to the CAB

1. Allegation 7: Chief Palmer and a second Respondent improperly provided limited, controlled and sanitized information to CAB members regarding Lamirande's 2017 complaint, and withheld from the CAB incriminating information, including CPD Officer statements with admissions and information showing a CPD Officer gave a false statement to [REDACTED] during his investigation of the complaint.
2. Finding – Allegation 7: The allegation is not substantiated and is refuted by the record. The CAB appropriately received a complete copy of [REDACTED] investigation report. Consistent with the requirements of the MGDPA, and in consultation with the City's Labor Attorney, [REDACTED] redacted from the report document names and other personally identifying information the CAB did not need to make an independent determination that the comprehensive investigation did not substantiate the complaint.
3. Factual Basis for Finding – Allegation 7:
 - a. The record conclusively establishes that on May 6, 2018, the CAB convened to discuss Investigations [REDACTED] 133-page report detailing the findings and process of his investigation of Lamirande's November 1, 2017 citizen complaint. Prior to that meeting, CAB members received a 134-page document, including a memorandum from the [REDACTED] 1) indicating the investigation did not substantiate the complaint; and 2) recommending that, in light of the findings, no discipline was warranted.
 - b. The record conclusively refutes Lamirande's claim that at [REDACTED] [REDACTED] inappropriate redacted "key information" from the copy of the investigation report received by the CAB. The record establishes that, consistent with the requirements of the MGDPA and in consultation with the City's Labor Attorney, [REDACTED] redacted from the report document names and other personally identifying information the CAB did not need to make an independent determination.
 - c. A page-by-page review of the unredacted and redacted reports conducted during this investigation confirms that only personally identifying information was redacted from the report.

H. Discussion of Allegation 8: Alleged Improper Confidentiality Directive

1. Allegation 8: Chief Palmer and a second Respondent met with and improperly directed ██████████ to: 1) abstain from contact with Lamirande regarding his investigation of his November 1, 2017 citizen complaint; and 2) not share any investigation-related information regarding Officer admissions of guilt with Lamirande.
2. Finding – Allegation 8: The allegation is substantiated in part. The allegation is substantiated with respect to the direction given, and is not substantiated with respect to the claim the direction was inappropriate.
3. Factual Basis for Finding – Allegation 8:
 - a. It is undisputed that at the start of ██████████ four-month investigation and throughout, ██████████ ██████████ with Lamirande. By all accounts, Lamirande frequently called ██████████ sent ██████████ emails and text messages, met privately ██████████ and initiated discussions during social events seeking and expecting an update on the status and details of the investigation of his complaint.
 - b. During this investigation, ██████████ earnestly reported and Lamirande independently confirmed ██████████ discussed with him the evidence he gathered, who he interviewed and the substance of what they said. Lamirande offered his assessment of the information ██████████ gathered and told ██████████ what more he thought he should do to substantiate his complaint. By any objective measure, Lamirande was too involved and had too much access and influence. That fact alone speaks to the strength of ██████████ findings that after a comprehensive, four-month investigation in which Lamirande had significant input, his complaint could not be substantiated.
 - c. Details ██████████ discussed with Lamirande relative to his ongoing investigation of his complaint is investigatory data, which the MGDPA classifies as private or confidential data that was not accessible to Lamirande. See Report at para. IV(G)(2)(c).
 - d. This investigation revealed that ██████████ ex parte discussions with Lamirande became evident when Lamirande then complained about investigation-related facts he learned from his communications ██████████ ██████████ During this investigation, ██████████ independently confirmed, that ██████████, ██████████ and Chief Palmer met with and asked ██████████ if he was discussing the investigation with Lamirande. ██████████ honestly disclosed the frequency and nature of his contact with Lamirande. ██████████ then appropriately advised ██████████ to refrain from discussing details of the investigation with Lamirande, ██████████ informed Lamirande about when he continued to seek information ██████████ understood he could not continue to provide. That exchange forms the factual basis for this allegation.

e. During this investigation, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Report drafted and issued by:

04.10.19

Michelle M. Soldo

Date

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INVESTIGATION REPORT
CITY OF CLOQUET
COMPLAINT INVESTIGATION

Issue(s):

Alleged Improprieties Relative to the Handling of a Citizen Complaint

Finding(s):

The complaint allegations are not substantiated.

A. PROCEDURAL BACKGROUND

1. This report documents an external and independent complaint investigation authorized on February 19, 2019¹ by the Cloquet City Council. The investigation addressed complaint allegations made by retired City of Cloquet Police Chief Wade Lamirande (“Lamirande”) against three City employees, in a five-page letter (with fifteen pages of attachments) to the City Council dated January 30, 2019. See Exhibit 1: Wade Lamirande Complaint Letter Dated 01.30.19.
2. Lamirande’s complaint allegations arise out of events preceding, during and following the City’s investigation of a complaint Lamirande filed on November 1, 2017. The complaint was investigated internally by [REDACTED] Following an extensive and thoroughly documented investigation, [REDACTED] found that Lamirande’s complaint could not be substantiated. More than seven (7) months after the fact, Lamirande objects to the investigation process and finding and alleges investigation-related improprieties on the part of the three City employees (“Respondents”) named in his complaint. The reports attached hereto as Attachments A-C address Lamirande’s allegations against each Respondent.
3. The investigation was conducted by undersigned Attorney and Investigator Michelle Soldo of Soldo Consulting, P.C.² During the period February 25 to April 5, 2019, records were received and reviewed, and Respondent investigatory interview was conducted. On April 5, the investigation record was closed. See Report: Section II – Investigation Record.

¹ See 02.19.19 City Council Meeting Minutes at <https://www.cloquetmn.gov/Home/ShowDocument?id=2769>. (last visited April 8, 2019)

² Investigator Soldo has been conducting independent fact-finding investigations for approximately 25 years. In 2017, Investigator Soldo conducted a complex complaint investigation for the City of Cloquet. Beyond that, Investigator Soldo does not have any professional or personal association with Complainant Lamirande, City Administrator Reeves, or the other named subjects of his complaint.

B. INVESTIGATION RECORD

The investigation record includes the following information upon which the findings are based:

1. The investigation record includes Lamirande's five-page complaint dated January 30, 2019, and fifteen pages of attachments. The record is marked, attached hereto and referenced herein as Exhibit 1. See Exhibit 1: Wade Lamirande Complaint Letter Dated 01.30.19 and Attachments.
2. The investigation record includes an unredacted copy of CPD [REDACTED] 133-page investigation report detailing his extensive and comprehensive five-month investigation of Lamirande's November 1, 2017 citizen complaint. The investigation did not substantiate the complaint allegations and, thus, did not lead to discipline. Consequently, the investigation report is classified as non-public data. The report was reviewed for fact-finding purposes and is generally discussed herein, but is not attached as an exhibit.
3. The investigation record includes a redacted copy of [REDACTED] 133-page investigation report, which is classified as non-public data. The report was reviewed and considered and is generally discussed herein, but is not attached as an exhibit. A line-by-line comparison of the redacted report to the unredacted report confirmed that only non-public data was redacted from it, in accordance with the requirements of the Minnesota Government Data Practices Act ("MGDPA"), Minn. Stat. Ch. 13.
4. The investigation record includes a copy of the CPD CAB Policy. The record is marked, attached hereto and referenced herein as Exhibit 2. See Exhibit 2: City of Cloquet Police Department Citizen Advisory Board Policy.
5. The investigation record includes a copy of a May 1, 2018 email [REDACTED] sent CAB members, in which he notified them of a CAB meeting to be convened on May 7, 2018 to discuss the findings of [REDACTED] investigation of Lamirande's November 1 complaint. The email included a copy of the meeting agenda, and a link to a redacted copy of [REDACTED] 133-page investigation report. On the face of the email is notice to CAB members that most of the information attached is "non-public" information that cannot be shared. See Exhibit 2: 05.01.18 Email [REDACTED] to CAB Members Re: "05.07.18 CAB Agenda Packet."
6. The investigation record includes the audio recording of the May 7, 2018 CAB meeting during which the Board discussed the findings of [REDACTED] investigation of Lamirande's 2017 citizen's complaint. The recording is classified as non-public data. Accordingly, it was reviewed and is generally discussed herein, but is not attached as an exhibit.
7. The investigation record includes a copy of a May 9, 2018 letter CPD Chief Jeff Palmer sent to Lamirande notifying him of the disposition of his complaint. The document is marked as, referred to herein and attached hereto as Exhibit 4. See Exhibit 4: 05.09.18 Letter from Chief Jeff Palmer to Wade Lamirande Re: "Complaint Disposition."

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8. The investigation record includes a memorandum dated February 6, 2019, that [REDACTED] sent to the City Council in which he responded to Lamirande's January 30 complaint allegations. The document is marked as, referred to herein and attached hereto as Exhibit 5. See Exhibit 5: [REDACTED] 02.06.19 Memorandum to the City Council Responding to Wade Lamirande Complaint Letter Dated 01.30.19.
 9. The investigation record includes information provided by Complainant Wade Lamirande during an approximately 90-minute telephone interview conducted on April 5, 2019. The information Lamirande provided, which was consistent with his complaint, is discussed herein.
 10. The investigation record includes information provided by key witnesses, including: 1) [REDACTED] 2) [REDACTED] and 3) [REDACTED]. The information they provided is discussed herein.
 11. The investigation record includes information Chief Palmer provided during an investigatory interview conducted on April 5, 2019. The interview was conducted pursuant to the requirements of the Minnesota Peace Officer Discipline Procedures Act, Minn. Stat. § 626.89. Palmer is a member of the Teamsters Local 320 Union and invoked his right to union representation. Palmer was represented by Teamsters Business Agent Eric Skoog ("Skoog"). The information Palmer provided is discussed herein.
 1. The investigation record includes a copy of the City of Cloquet Data Practices Policy. See Exhibit 8: City of Cloquet Data Practices Policy, Adopted 09.15.15.

C. FACTUAL BACKGROUND

The following factual background is relevant to the complaint allegations and findings:

1. Complainant Wade Lamirande served as CPD Chief from January 2004 to May 2014. Lamirande retired in 2014. The Council then appointed Steven Stracek to serve as Police Chief. In March 2017, following a complaint investigation that did not substantiate allegations against him, Chief Stracek retired. While Chief Stracek was under investigation, the Council appointed then Sergeant Jeff Palmer to serve as interim Chief. Lamirande publicly supported Stracek and opposed Palmer's interim appointment.³
2. In May and September 2017, Lamirande was the subject of two criminal complaints filed against him by a City Council member. [REDACTED] received the complaints and, consistent with CPD Policy and procedure, documented the complaints in Incident Complaint Forms ("ICRs"). Interim Chief Palmer referred the complaints to an outside law

³ See e.g., Cloquet Interim Chief Jeff Palmer Made Permanent Police Chief, WDIO-ABC, Oct. 19, 2017 at <https://www.wdio.com/news/cloquet-chief-jeff-palmer-steve-stracek/4639641/> and Malcomb, Jamey, Former Cloquet Police Chief Files Complaints Against City Officials, Duluth News Tribune, Feb. 7, 2019 at <https://www.duluthnewstribune.com/news/government-and-politics/4567496-former-cloquet-police-chief-files-complaints-against-city>. (last visited April 6, 2019)

enforcement agency for investigation. The existence of the complaints, including complaint ICR numbers, is a matter of public record.

3. On October 2, 2017, the City appointed Aaron Reeves to serve as City Administrator.⁴
4. During an October 17, 2017, City Council meeting,⁵ the City Council discussed and voted in favor of the appointment of interim Chief Palmer to serve as Chief. Prior to, during and after the Council meeting, Lamirande publicly and privately opposed Palmer's appointment without a search.⁶ According to Palmer, after he was appointed Chief, Lamirande repeatedly called him and during extended conversations offered him advice and guidance regarding how to run the CPD.
5. On or about October 10 or October 11, 2017, Lamirande called Chief Palmer to report that a named CPD Officer made a single call to his daughter, behavior he characterized as a continuing pattern of harassment on the part of CPD Officers against him and his family since his retirement in 2014. Lamirande believed he had been targeted by one or more CPD employees because he publicly opposed Palmer's appointment as Chief. Lamirande told Palmer that he expected him to hold Officers accountable. Lamirande asked Palmer for the cell phone number for the named Officer who he said he intended to contact to discuss the call to his daughter. Palmer gave the identified Officer Lamirande's number.
6. On October 11, the Officer called Lamirande, who asked him why he called his daughter. The Officer sent Lamirande screen shots of his missed call log showing that his daughter's phone number appeared there, and explained that he saw and returned the missed call. Lamirande then asserted that other CPD Officers were involved. Following that discussion, the Officer asked other CPD officers if they had anything to do with Lamirande's daughter's phone number appearing on his call log. No one acknowledged having any involvement in or knowledge of the matter. These facts were confirmed by [REDACTED] when he later investigated a citizen complaint filed by Lamirande on November 1, 2017.
7. Between October 10 and November 1, 2017, Lamirande repeatedly contacted [REDACTED] and complained to him regarding the undisputed phone call his daughter received on October 10 from a CPD Officer. Lamirande demanded that the City investigate the matter and address other concerns he raised.⁷ [REDACTED] listened to

⁴ See City Council 10.02.17 Meeting Packet at <https://www.cloquetmn.gov/Home/ShowDocument?id=582>. (last visited April 6, 2019)

⁵ See City Council 10.17.17 Meeting Packet at <https://www.cloquetmn.gov/Home/ShowDocument?id=584>. (last visited April 6, 2019)

⁶ See Lamirande Statement to Brainerd Dispatch at <https://www.brainerddispatch.com/news/4349288-police-chief-appointment-violated-citys-policy-not-minnesota-law>. (last visited April 6, 2019)

Lamirande and did not offer an uninformed opinion or the assurances Lamirande sought. After multiple discussions, [REDACTED] advised that Lamirande file a complaint, which the City would then address.

8. On November 1, 2017, Lamirande filed a citizen complaint. The complaint alleged that on October 10, 2017, a CPD Officer called his daughter's cell phone, a single and isolated call Lamirande characterized as potential criminal stalking and harassment, in violation of state and federal criminal statutes. Lamirande further asserted that the single phone call was a continuation of a pattern of harassing phone calls he received from CPD Officers after his retirement in 2014.
9. According to Chief Palmer, Lamirande continued to call him and offer to help him run the CPD. In December 2017, Lamirande told Palmer they could be secret friends and he could help him run the Department. Palmer confided in a Council member about that discussion. On December 31, 2017, the Council member sent Lamirande a text message asking if they could be secret friends, an event that antagonized Lamirande and led him to confront Palmer and accuse him of improperly disclosing their private discussion. Palmer believes that from that point forward, Lamirande has targeted him and has and will continue to target and file frivolous complaints against him.
10. Lamirande's January 30, 2019 complaint allegations resulting in the instant investigation arise out of events preceding, during and following the City's investigation of Lamirande's November 1, 2017 citizen complaint. Chief Palmer, in consultation with [REDACTED] [REDACTED] Labor Counsel and then (now retired) Carlton County Attorney Thom Pertler, determined the complaint alleging a single phone call constitutes criminal stalking and/or harassment, did not on its face allege a crime, and thus, a criminal investigation was not warranted. In further consultation with [REDACTED] [REDACTED] and Labor Counsel, Chief Palmer did authorize an Internal Affairs ("IA") investigation to determine if the named CPD Officers or others engaged in conduct violating CPD policy. Thereafter, Pertler drafted two administrative subpoenas used to obtain cell phone records for the internal IA investigation.
11. At Chief Palmer's direction, Lamirande's November 1, 2017 complaint was investigated internally by [REDACTED] [REDACTED] [REDACTED] Palmer's decision to assign the complaint investigation to [REDACTED] was based in part on [REDACTED] [REDACTED] [REDACTED]

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2. Did [REDACTED] instruct the IA investigator to redact information from his report?
 3. Will I receive a copy of the investigation once it is complete?
 4. Are complaints about the Chief routed to the Mayor or the City Administrator?
 5. What step in the city pay plan is Jeff currently?
 6. Does Jeff have a probationary period? If so, how long?
 7. Was there a background check to verify Jeff's credentials before his appointment?
 8. In the City of Cloquet, the Chief is also the emergency management director. Does Jeff have the required training?"

See Exhibit 1: Wade Lamirande Complaint Letter Dated 01.30.19.

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14. The week of March 19, 2018, [REDACTED] to review the content of his investigation report to confirm whether, from [REDACTED] perspective [REDACTED] the report and findings made sense. [REDACTED] asked [REDACTED] to explain his rationale for including certain information in his report, which he thought might be beyond the scope of the complaint or not relevant, factual detail that did not influence or otherwise impact the substantive findings. [REDACTED] consider omitting some information. According to [REDACTED] he had valid reasons for including the information and did not change his report based on [REDACTED] feedback. Following [REDACTED] meeting with [REDACTED] he did not make any substantive changes to the report. He finalized the report, correcting only typographical errors identified.
15. On March 23, 2018, [REDACTED] sent his completed, 133-page investigation report to Chief Palmer. Between March 23 and April 30, 2018, Chief Palmer sent the investigation report to [REDACTED]. Individually, they reviewed the 133-page report and then discussed it. [REDACTED] was then tasked with the time-consuming job of carefully reviewing and redacting non-public data from the report, consistent with the requirements of the MGDPA. The redaction was completed for presentation to and review by the CAB. After [REDACTED] redacted the report, the City's Labor Attorney reviewed it to ensure that all non-public information was redacted. That detailed and multi-level review and redaction of non-public information from the report for submissions to the CAB took several weeks to complete.
16. On May 1, 2018, [REDACTED] scheduled, via email, a CAB meeting to convene on May 7, 2018. [REDACTED] emailed all CAB members a copy of the May 7, 2018 CAB meeting agenda and a link to a redacted copy of [REDACTED] 133-page investigation report. [REDACTED] noted in his email that most of the information sent to CAB members was confidential and they should not discuss or distribute it. CAB members had six calendar days to review the entirety of [REDACTED] investigation report. Based on allegations in Lamirande's January 30, 2019 complaint regarding the CAB review of his complaint, it appears that a CAB member who, against the advice [REDACTED] met with Lamirande and discussed CAB deliberations regarding his complaint and may have shared the non-public report with Lamirande. Lamirande confirmed he met with the CAB member and discussed CAB deliberations, but denied that he received a copy of [REDACTED] report. See Exhibit 8: 05.01.18 Email [REDACTED]
17. On May 7, 2018, at 7:30 a.m., the CAB convened and reviewed the investigation report and concurred with Chief Palmer's recommendation that, based on the finding of the investigation, no disciplinary action was warranted. By letter dated May 9, 2018, Chief Palmer notified Lamirande of the disposition of the complaint. See Exhibit 9: 05.09.18 Letter from Chief Jeff Palmer to Wade Lamirande Re: "Complaint Disposition."
18. In December 2018, Lamirande submitted public data requests to the City, requesting copies of any CPD ICRs and other reports naming him. Chief Palmer, in consultation [REDACTED] responded to the data requests in accordance with the requirements of the MGDPA. According to Chief Palmer, in December 2018, Lamirande called and asked Palmer why he did not receive the data related

to the second of two ICR's reflecting a Council member's complaints against him. During that call, Lamirande is alleged to have repeatedly called Chief Palmer a "phony" and said or implied that he is not competent. Chief Palmer told Lamirande that if he wants to file a complaint against him, he knows how to do so. Lamirande reportedly responded that he intended to file a complaint, but is waiting until the new Council is seated.

19. On January 30, 2019, less than one month after the new Council was seated, and more than seven (7) months after the fact, Lamirande filed a complaint objecting to the CPD investigation of his November 1, 2017 complaint and its final disposition. Lamirande also alleges investigation-related improprieties on the part of the three City employees named in his complaint. See Exhibit 1: Wade Lamirande Complaint Letter Dated 01.30.19.
20. During this investigation, Lamirande reported that he filed the January 30 complaint because he believes that any CPD employee involved in the October 10, 2017 call to his daughter needs to be held accountable, and Chief Palmer should be held accountable for not taking affirmative action to address the alleged Officer misconduct. Moving forward, he wants CPD employees to leave him alone.

D. FINDINGS

For the reasons discussed in Attachments A-C, the complaint allegations are not substantiated.

E. ATTACHMENTS

1. Attachment A: Findings – Complaint Allegations Against Respondent #1
2. Attachment B: Findings – Complaint Allegations Against Respondent #2
3. Attachment C: Findings – Complaint Allegations Against Respondent #3

F. EXHIBITS

2. Exhibit 1: Wade Lamirande Complaint Letter Dated 01.30.19 and Attachments
3. Exhibit 2: City of Cloquet Police Department Citizen Advisory Board Policy
4. Exhibit 3: 05.01.18 Email [REDACTED]
5. Exhibit 4: 05.09.18 Letter from Chief Jeff Palmer to Wade Lamirande Re: "Complaint Disposition"
6. Exhibit 5: 01.10.19 Email Exchanges Between Wade Lamirande and [REDACTED] Data Requests

8. [REDACTED] 02.15.19 Email to the
City Council Responding to Wade Lamirande Complaint Letter Dated 01.30.19

9. Exhibit 8: City of Cloquet Data Practices Policy, Adopted 09.15.15

Report drafted by:

04.10.19

Michelle M. Soldo

Date

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