



STATE OF NEW JERSEY

**DECISION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Brian Crimmins,
Hoboken, Department of Public
Safety

CSC Docket No. 2023-2228
OAL Docket No. CSV 03344-23

ISSUED: November 6, 2024

The appeal of Brian Crimmins, Fire Chief, Hoboken, Department of Public Safety, demotions to Fire Fighter, effective January 31, 2023 on charges, was heard by Administrative Law Judge Susana E. Guerrero (ALJ), who rendered her initial decision on October 3, 2024. Exceptions were filed on behalf of the appointing authority and a reply to exceptions was filed on behalf of the appellant.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, including a thorough review of the exceptions and reply, the Civil Service Commission (Commission), at its meeting on October 16, 2024 adopted the ALJ's Findings of Facts and Conclusions of Law and her recommendation to reverse the removal and impose a written warning.¹

As indicated above, the Commission has thoroughly reviewed the exceptions in this matter and finds them wholly unpersuasive. It makes the following comment. The burden of proof in a disciplinary matter is on the appointing authority to show by a preponderance of the credible evidence in the record that the proffered charges are sustainable. For all the reasons expressed by the ALJ in her initial decision, the Commission agrees that the appointing authority has fallen short of this burden in this matter for the majority of the charges.

In this regard, the Commission agrees with the ALJ's determinations regarding the charges, which were substantially based on her assessment of the credibility of the testimony of the witnesses. The Commission acknowledges that the

¹ The ALJ indicates the penalty as a "written warning" in the initial decision. However, the minimum penalty that is considered disciplinary in nature under Civil Service law and rules is a written reprimand. See *N.J.A.C. 4A:2-3.1(a)*.

ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 N.J. 108 (1997). “[T]rial courts’ credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record.” *See also, In re Taylor*, 158 N.J. 644 (1999) (quoting *State v. Locurto*, 157 N.J. 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ’s decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. *See N.J.S.A. 52:14B-10(c); Cavalieri u. Public Employees Retirement System*, 368 N.J. Super. 527 (App. Div. 2004).

In her decision, the ALJ stated that, although the Battalion Chiefs testified that they disliked the appellant’s leadership style and questioned his policies, none of the witnesses could give any example of any problems with the undertaking and the effectuation of the ability of the appellant to perform the duties of Fire Chief. In particular, the ALJ found that:

Despite the [Battalion Chief’s] opinions on Crimmins’ ability to serve as Chief, and their testimony that they feel he is not an effective or trustworthy leader, and that he should not return to his position, the City has failed to present the factual support needed to demonstrate, by a preponderance of the evidence, that Crimmins is unable, or unfit to lead the [Hoboken Fire Department] and perform the duties required of the Chief.

While the exceptions challenge these credibility determinations, the Commission finds no persuasive evidence in the record to demonstrate that the ALJ’s credibility determinations, or her findings and conclusions based on those determinations, were arbitrary, capricious, unreasonable or otherwise in error. Accordingly, the Commission finds nothing in the record to question those determinations or the findings and conclusions made therefrom.

With regard to the penalty, the exceptions argue that Crimmins’ behavior was so egregious, so there was no need to follow progressive discipline. However, the Commission rejects this assertion. The Commission’s review of the proper penalty in a disciplinary matter is *de novo*. In this matter, based on the reasoning presented by the ALJ and the mitigating factors presented, the Commission finds that a written reprimand is the proper penalty.

Since the demotion has been reversed, the appellant is entitled to be reinstated as Fire Chief, with differential back pay, benefits, and seniority pursuant to *N.J.A.C. 4A:2-2.10* from the first date of his demotion to Fire Fighter until the date of

reinstatement as Fire Chief. However, he is not entitled to counsel fees. *N.J.A.C. 4A:2-2.12(a)* provides for the award of counsel fees only where an employee has prevailed on all or substantially all of the primary issues in an appeal of a major disciplinary action. The primary issue in the disciplinary appeal is the merits of the charges. See *Johnny Walcott v. City of Plainfield*, 282 N.J. Super. 121,128 (App. Div. 1995); *In the Matter of Robert Dean* (MSB, decided January 12, 1993); *In the Matter of Ralph Cozzino* (MSB, decided September 21, 1989). In the case at hand, although the penalty was modified by the Commission, charges were sustained, and discipline was imposed. Consequently, as appellant has failed to meet the standard set forth at *N.J.A.C. 4A:2-2.12*, counsel fees must be denied.

This decision resolves the merits of the dispute between the parties concerning the disciplinary charges and the penalty imposed by the appointing authority. However, per the Appellate Division's decision, *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. Feb. 26, 2003), the Commission's decision will not become final until any outstanding issues concerning back pay or counsel fees are finally resolved. In the interim, as the court states in *Phillips, supra*, if it has not already done so, upon receipt of this decision, the appointing authority shall immediately reinstate the appellant to his position.

ORDER

The Civil Service Commission finds that the action of the appointing authority in disciplining the appellant was justified. The Commission therefore modifies the demotion to a written reprimand. The Commission further orders that the appellant be granted differential back pay, benefits and seniority.

Counsel fees are denied pursuant to *N.J.A.C. 4A:2-2.12*.

The parties must inform the Commission, in writing, if there is any dispute as to back pay within 60 days of issuance of this decision. In the absence of such notice, the Commission will assume that all outstanding issues have been amicably resolved by the parties and this decision shall become a final administrative determination pursuant to R. 2:2-3(a)(2). After such time, any further review of this matter shall be pursued in the Superior Court of New Jersey, Appellate Division.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 6TH DAY OF NOVEMBER, 2024

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 03344-23

AGENCY DKT. NO. 2023-2228

**IN THE MATTER OF BRIAN CRIMMINS,
CITY OF HOBOKEN, DEPARTMENT
OF PUBLIC SAFETY.**

**Brent R. Pohlman, Esq., and Stacey E. Zyriek Enriquez, Esq., for appellant
Brian Crimmins (Mandelbaum Barrett, attorneys)**

**Stephen J. Edelstein, Esq., and Christopher Welgos, Esq., for respondent City
of Hoboken (Weiner Law Group, attorneys)¹**

Record Closed: July 3, 2024

Decided: October 3, 2024

BEFORE SUSANA E. GUERRERO, ALJ:

STATEMENT OF THE CASE

Appellant, Brian Crimmins (Crimmins or appellant), a Fire Chief with the City of Hoboken, Department of Public Safety (City or respondent) appeals the disciplinary action filed against him, and specifically his demotion to the position of Firefighter. Crimmins

¹ Mark A. Tabakin, Esq., and Stephen Edelstein, Esq., on the brief.

asserts that the charges filed against him are meritless, and that he should be restored to the position of Fire Chief.

PROCEDURAL HISTORY

The City served Crimmins with a Final Notice of Disciplinary Action (FNDA) dated March 28, 2023, that includes several charges demoting him to the position of Firefighter.

The New Jersey Civil Service Commission (the Commission) transmitted the matter to the Office of Administrative Law (OAL), where it was filed on April 18, 2023, for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. The hearing was initially scheduled for September 19, 20, 21 and 27, 2023. At the hearing on September 19, 2023, the parties requested an adjournment of the hearing dates to allow time to attempt to resolve the case. The hearing was rescheduled to January 9, 2024. Prior to the start of the hearing, the respondent filed an in limine motion to bar the appellant from using two audio recordings at the hearing. The motion was argued on January 9, 2024, and granted following the oral argument and an in camera review of the recordings. The hearing continued on January 11, February 16, February 23, March 5, March 19, and April 8, 2024. The parties were given an opportunity to request transcripts of the hearing and to file post-hearing briefs. The briefs were received on July 3, 2024, at which time the record closed.

FACTUAL DISCUSSION AND FINDINGS OF FACT

Background

Crimmins was hired by the Hoboken Fire Department (HFD) in August 2004. At the HFD, the chain of command is as follows: Firefighters report to Captains; Captains report to Battalion Chiefs (BCs); BCs report to the Chief; and the Chief reports to the public safety director or the business administrator in the absence of a public service director.

As a Firefighter, Crimmins took his first promotional exam in 2007, and was promoted to Captain in 2011. As Captain, Crimmins served under BCs Mario Fini (Fini) and Luis Moyeno (Moyeno). Crimmins took the BC promotion exam, and was promoted to the rank of BC in 2015. Some Captains, including BCs Jason Cassesa (Cassesa) and David Buoncoure (Buoncoure), contested Crimmins' eligibility for the promotion, but the Civil Service Commission determined that he was eligible to sit for the BC promotional exam. When Crimmins was promoted to BC, Anton Peskens (Peskens), who had been a BC, was the Provisional Fire Chief following the retirement of the prior Chief. As a BC, Crimmins first served as a Training Officer, and was then assigned to the role of Tour Commander. As Tour Commander, he commanded all emergencies that occurred during his shift. In addition, Peskens delegated to him several administrative roles, such as preparing the HFD's budget and drafting grant applications. He ultimately was successful in receiving grants for the HFD. Peskens testified that, as a BC, Crimmins was "just fine." He was never disciplined as a BC, nor did he ever refuse to follow a lawful order.

Crimmins received several awards and commendations throughout his employment with the HFD. Prior to this matter, he had never received any level of discipline.

In late 2016, the position for Fire Chief became available after Peskens turned the position down for economic reasons. Crimmins was offered the position of Provisional Chief, and in late 2018, he was sworn in as Fire Chief. Crimmins had the highest score on the Chief exam. The duties of the Fire Chief are identified in Chapter 1 of the HFD Rules and Regulations. (J-7.)

On January 31, 2023, Crimmins was served with a Preliminary Notice of Disciplinary Action (PNDA), which sought his removal from his position as Chief. On March 28, 2023, Crimmins was issued a Final Notice of Disciplinary Action (FNDA) which sought his demotion from the position of Chief to Firefighter.

Specifically, Crimmins was charged with violating several provisions of the administrative code and department rules following allegations of misconduct that are outlined in a four-page document attached to the FNDA. The specifications note that a

complaint of harassment was made against Crimmins by a BC, and approximately seven allegations were included in the FNDA. The BC who filed this complaint of harassment was Fini. The FNDA reflects that Fini alleged that Crimmins:

- falsely told an administrative assistant that the BC wanted her dead;
- attempted to sow division amongst the employees or otherwise cause disruption and/or distractions to divert attention from his own shortcomings as a leader;
- falsely told the unions that the BC was responsible for preventing staff promotions throughout the department;
- falsely alleged that he received a complaint from a Firefighter that the BC was conducting unsafe training;
- attempted to insert himself into the BC's private business affairs and ordered the BC to submit a written report detailing his private conversations with a City official;
- harassed the BC about his whereabouts while the BC was quarantined due to COVID exposure; and
- attempted to insert himself into the BC's private business affairs when he ordered the BC to abandon his duties and report to his office to submit a written report containing the names of HFD employees that the BC employs in his private business.

The FNDA notes that on or around the same day that Fini submitted his complaint against Crimmins, the HFD's BCs and a Captain signed and submitted a letter to the City documenting a Vote of No Confidence regarding Crimmins to the City of Hoboken. The FNDA includes in its specifications six specific allegations of misconduct which the City asserts were also investigated and found to be true. The FNDA's specifications note that Crimmins "violated the trust that is required between and among command staff and rank and file staff in a safety sensitive paramilitary organization, to perform the critical duties of the HFD adequately and satisfactorily." Regarding the Vote of No Confidence, the specifications allege that Crimmins:

- issued an ill-advised order to hinder Hoboken's Office of Emergency Management (OEM) communications, strictly forbidding any conversation between agencies and mandating that all communications from OEM had to be directed to Crimmins only;
- made disparaging remarks toward the OEM Coordinator with full knowledge that the Coordinator's significant other, an HFD Fire Captain, was present during that active shooter training session, and these disrespectful statements made the Captain extremely uncomfortable and undermined her authority;
- methodically established a pattern of hostility and animosity directed at the OEM Coordinator;
- recklessly excluded the riding Tour Commander from all pre-incident planning for a Black Lives Matter protest, and failed to issue any coherent, coordinated response guidelines to address potential civil unrest, thereby placing the membership at a tactical disadvantage;
- failed to establish HFD protocol or implement critical systems and procedures to address the COVID-19 pandemic, including the management and monitoring of HFD response, internal data collection and personnel tracking, while a "scatter-shot" management approach resulted in inadequate testing of HFD members and "potentially" caused preventable COVID-19 exposure that put members and their families at risk;
- provided no communication or direction about preparations, reporting and managing the February 1, 2021 winter storm; he was "nowhere to be found for most of the afternoon" and improperly denied the Tour Commander's request for additional overtime.

The FNDA also charges Crimmins with the following:

- a failure to hold frequent command staff meetings;
- lack of candor in the investigation interview and making "a litany" of false statements to his subordinates and superiors;
- engaging in a campaign of targeting the BC for discipline and issuing General Order 2021-01 retaliating against administrative BCs;

- altering General Order 2021-01 after receiving direction from City Administration;
- creating a work environment of deceit, hostility and retribution;
- leaving a brand-new fire truck exposed to the elements until it was rendered inoperable. (J-3.)

Crimmins denies the allegations.

Witnesses

At the hearing, the City presented nine witnesses: Anton Peskens (Peskens), who has been the Provisional, or Acting, Chief since Crimmins was removed from the Chief position, and was previously a BC under Crimmins; BC Audra Carter (Carter), who was promoted to BC in May 2020 when Crimmins was Chief, and is the HFD's Training Officer; Cheryl Noble (Noble), secretary to the Chief, including then-Chief Crimmins; William Montanez (Montanez), who was the Coordinator/Director of the Hoboken Office of Emergency Management (OEM); BC Luis Moyeno (Moyeno), who became a BC in 2011; BC Mario Fini; Matthew Velez (Velez), a Firefighter who serves under BC Fini, and is president of a Firefighters' local union; BC John Cassesa (Cassesa); and BC David Buoncoure (Buoncoure), who serves as Chief of Operations, working side-by-side with the Chief and is in charge of day-to-day operations at the HFD. Appellant Brian Crimmins testified on his own behalf. The appellant also called Jason Freeman (Freeman), Business Administrator for the City since March 2020, who signed the FNDA and to whom Crimmins reported as Chief.

Letter from the BCs to the City regarding Crimmins

In early 2021, the seven tour commanders under Crimmins met to discuss their experiences with Crimmins and his leadership of the department, and in early February 2021, they delivered a letter reflecting a Vote of No Confidence to the Mayor. (R-1.) The letter was signed by BCs Buoncoure, Carter, Cassesa, Fini, Moyeno, Peskens and Joseph Turner (who is no longer with the HFD), and Captain Frank Daliani. The letter

contains a host of allegations concerning Crimmins. They allege in the letter that Crimmins: created an atmosphere of hostility and mistrust at the HFD; engaged in a pattern of vindictive and deceitful behavior; made poor policy decisions; lacks leadership and management skills; issued an ill-advised order concerning OEM; made disparaging remarks concerning, and showed hostility towards, the OEM coordinator; did not properly respond to and plan for a Black Lives Matter protest; failed to establish protocol and procedures to address the COVID-19 pandemic; failed to communicate or give direction in connection with the February 1, 2021 state of emergency; did not hold command staff meetings; and that he violated the union contract. These allegations were incorporated into the FNDA.

Each allegation made by the respondent in the FNDA is addressed below, as well as the evidence presented at the hearing concerning each allegation and with my assessment of its sufficiency.

Interactions with OEM, and allegations Crimmins issued an unlawful or improper order relating to OEM

Montanez served as OEM Coordinator for the City since 2014. The OEM Coordinator declares and has operational authority during a State of Emergency. (J-11.) He also coordinates with the municipal agencies and departments, including the HFD, regarding emergency management responsibilities, and is empowered to issue and enforce orders as may be necessary to implement and carry out emergency management operations and to protect the health, safety, and resources of the municipality's residents.

Even before Crimmins became Chief, and as early as 2016, there were communication issues between the HFD and OEM/Montanez. Montanez testified about his interactions with Crimmins, and his general opinion that Crimmins was difficult to work with. However, emails in evidence reflect that at the outset of his appointment to Chief in 2018, Crimmins reached out to Montanez to attempt to improve OEM and HFD communication. Following some email exchanges, Crimmins issued General Order 2018-01 to improve OEM, HFD, and Hudson Police Department (HPD) communications

protocol. Montanez ultimately conceded that Crimmins did make efforts to improve communication between the two.

Buoncoure testified that Crimmins always had an issue with Montanez and the fact that Montanez did not follow the Incident Command System (ICS). Crimmins testified that he was very concerned by Montanez's failure to use the ICS not only because it was required, but because Crimmins was concerned about Montanez giving orders directly to Firefighters during an emergency, and its impact on the chain of command.

In 2018, Crimmins scheduled an Active Shooter Training session to be taught by the Department of Homeland Security and the New Jersey State Police, and one of the topics that was discussed was the use of ICS. Peskens and other respondent witnesses testified that during the training with four commanders, Firefighters and Captains present, Crimmins made disparaging comments about how OEM and Montanez do not follow rules. Peskens and Carter did not recount precisely what Crimmins said, but testified that it involved criticizing Montanez's operational performance and competence, and how he handled a particular active-training incident and used the ICS. In response to leading questions, Carter, who was in a romantic relationship with Montanez, agreed that she felt Crimmins' comments were personal and directed at her. She testified that these disrespectful remarks made her uncomfortable. The City's witnesses testified that Crimmins' public criticism of Montanez was inappropriate, particularly since it was made in the presence of Carter, Montanez's partner. While I **FIND** that Crimmins made comments that were critical of OEM and Montanez during a training, and in the presence of Carter, the criticisms were not personal but related to the job itself and OEM's operational performance. I also **FIND** that while Crimmins' comments may have been viewed as insensitive by some, there is insufficient evidence to find that these comments were made with the intent to discredit, offend, or to make anyone uncomfortable. I also **FIND** that while Crimmins' comments made Carter uncomfortable, there is no evidence that they undermined her authority, nor that they had any deleterious impact on Carter's job.

When Montanez began to call HFD dispatchers directly to give orders, in or about November 2018, Crimmins issued an order to dispatchers not to communicate with OEM

and ordering the BCs that any communications from OEM be directed to Crimmins alone. Crimmins essentially prohibited OEM from communicating with or ordering any member of the HFD to do anything, even during an emergency. Peskens testified that this order was inconsistent with the role of OEM and that the restrictions placed on communications with the Coordinator is a threat to public safety because it could cause delays in responding to emergencies. While the BCs criticize Crimmins now for issuing this order, their reactions at the time, five years ago, were positive. Montanez testified that this order would limit his time to respond to emergencies, and he described the order as an unlawful one, referencing the State of New Jersey's Office of Emergency Management Policy.² (J-11.) Crimmins ultimately retracted the order about two weeks later. He testified that he regretted ever issuing the order and conceded that it was unclear. I FIND that Crimmins issued an improper, ill-advised, order to restrict OEM's communication with members of the HFD, and that this order, which was in effect for two weeks in 2018, could have had a detrimental impact on OEM's ability to communicate in an expeditious and effective manner during an emergency. There is no evidence, however, that the order actually had any detrimental impact on the ability of the HFD and/or OEM to communicate or respond to any emergency during that two-week period.

In March 2020, the early days of the pandemic, Montanez requested that Crimmins assign Firefighters to drive the City's Hop bus. Montanez testified that Crimmins was unwilling to assist and accommodate his request even though the City needed drivers to provide shuttle services to seniors purchasing food during the pandemic. According to Montanez, when he called Crimmins to request that some Firefighters assist in driving the shuttle for the City's seniors, Crimmins refused and gave the excuse that his Firefighters were not certified to drive the shuttle bus. The evidence is inconclusive whether a CDL license was required to drive the Hop bus at the time. Montanez asserts that it was not, while Crimmins continues to maintain that it was. Moreover, at the time, Crimmins also informed Montanez that the Firefighter unions were outraged by this request, and correspondence from the unions to Crimmins corroborates Crimmins' testimony that the

² Montanez referenced the provision in the policy which reads, in part "Municipal Emergency Management Coordinators in accordance with regulation promulgated by the State of New Jersey Emergency Management shall be in power to issue and enforce such orders as be necessary to implement and carry out emergency management operations to protect health, safety, resources of residents of the municipality." (J-11)

unions were opposed to having their members drive the bus. Crimmins testified that he was also concerned about protecting his Firefighters from exposure to the virus if they were to provide this service as this would impact the Department's manpower and operations. Ultimately, some Firefighters volunteered to drive the Hop bus and at some point, Freeman ordered Crimmins to have Firefighters drive the bus. The Firefighters who were directed to do so submitted complaints to their respective union. While Crimmins and the OEM Coordinator evidently had a strained working relationship, I **FIND** that Crimmins did not act unreasonably in his handling of Montanez's request to provide drivers for the Hop bus.

Montanez also criticized Crimmins for requesting daily baseline COVID-19 testing for his Firefighters, asserting that the request was unreasonable, made no sense, and that the City lacked the necessary resources to provide this testing. Crimmins testified that he was concerned about the health and safety of his staff, particularly since Firefighters regularly responded to medical calls from individuals who presented with flu-like symptoms and did not know whether they had COVID. Crimmins testified credibly that, at the time, he believed that testing Firefighters for COVID was very important, even when they were not experiencing symptoms. Issues with OEM providing testing for Firefighters continued through early 2021. Montanez complained that Firefighters were showing up to the testing center without an appointment, but there is no evidence that Crimmins instructed them to go for testing without an appointment, and Crimmins testified that he investigated this complaint by Montanez and was unable to confirm whether this, in fact, was occurring. I **FIND** that the City did not establish that Crimmins acted unreasonably or improperly in attempting to secure baseline testing, or in managing and overseeing COVID testing, for his Firefighters. I also **FIND** that the evidence does not preponderate that Crimmins methodically established a pattern of hostility and animosity directed at the OEM Coordinator, as alleged in the FNDA.

Command Staff Meetings

The respondent charges Crimmins with failing to hold frequent command staff meetings. Section 27 of the Rules and Regulations specifically requires the Chief to

schedule staff meetings "at frequent intervals." The Rules and Regulations do not define "frequent intervals," nor do they require a minimum number of meetings.

The City's witnesses assert that the prior Chiefs at the Department always met with the BCs at least quarterly, but that Crimmins only held two such meetings during his tenure—in June 2019 and November 2019. Despite this testimony, evidence was presented that Crimmins scheduled and held meetings not only in June 2019 and November 2019, but also one in April 2020, two in May 2020, and another in December 2020. The meetings in 2020 were conducted via Zoom due to the pandemic. While Crimmins testified that he held quarterly meetings, no evidence was presented to corroborate his testimony that he held command staff meetings in 2018, when he became Chief, through June 2019. I **FIND** that while Crimmins may not have held command staff meetings prior to the June 2019 meeting, he held two meetings in the second half of 2019 and several meetings in 2020. I **FIND** that Crimmins failed to hold quarterly or frequent command staff meetings in 2018 and during the first five months in 2019.

Response to COVID-19 Pandemic

The respondent's witnesses testified that Crimmins' response to the COVID-19 emergency was inadequate. Many asserted that Crimmins offered no, or little, guidance during COVID-19, and some offered their opinions as to what they thought should have been done.

Specifically, Peskens testified that Crimmins only instituted two COVID plans: one that was an old and "boilerplate" plan (J-13); and another dated May 1, 2020 that was initiated and prepared by the BCs and later issued by Crimmins (J-14). Other witnesses, including Moyeno and Fini, initially testified that they did not recall receiving COVID guidance from Crimmins, and when shown memoranda and written guidance distributed by Crimmins, they dismissed them as "boilerplate," "cut-and-pasted," and useless. Moyeno also testified that there were no procedures in place during COVID and the information Crimmins provided did not address "major concerns" like separating people/the houses, testing, quarantining.

The evidence presented at the hearing, however, shows that Crimmins was aware of, and attempted to manage, COVID-related issues as early as January 2020. Crimmins distributed a memo to his staff in January 2020 concerning this new virus, reminding staff about safety precautions, and revising the Infection Control Program to address COVID-19 concerns and ensure that the HFD had certain personal protective equipment and cleaning supplies it needed. In early March 2020, Crimmins requested a meeting with Freeman, Montanez, the Police Chief, and Hoboken's Health Director, to coordinate a response to the virus, and he suggested ways in which the City could have an integrated response to the virus. The Mayor held its first safety meeting concerning the virus later that week. Crimmins later distributed memoranda concerning and updating COVID-19-related procedures on at least four separate occasions in March 2020: on March 10, 2020; March 13, 2020; March 20, 2020 (modifying the HFD's sick leave policy to include quarantine requirements); and on March 24, 2020. On March 24, 2020, he issued a six-page General Operating Guideline 2020-03 which addressed COVID-19 procedures for members of the HFD. In part, this modified the Department's housekeeping policy and sick leave policy, and included specific guidance on operations. On March 31, 2020, Crimmins revised General Operating Guideline 2020-03 to include additional information.

Crimmins testified credibly that after the lock-down in mid-March 2020, he continued to communicate regularly with staff and attended meetings with Fire Chiefs Associations concerning the handling of the pandemic.

Crimmins testified credibly that some of the operational changes he considered in response to the pandemic involved adjusting shifts and separating the four fire houses. He attempted to work with the unions to effectuate these operational changes. In March 2020, the BCs were looking for additional guidance on the day-to-day operations of the Department. In late March, Fini and Captain McGlinchy approached Crimmins and offered to draft a policy that would address operational concerns, such as adjusting shifts, separating the fire houses, and testing. Crimmins agreed, and Fini met with the BCs to develop a new guideline/plan.

Crimmins was satisfied with the recommendations proposed by the BCs, and he adopted these recommendations and issued General Order 2020-01, which was first

distributed on April 5, 2020. (A-21.) General Order 2020-01 provided additional directives addressing COVID-19 precautions, including restricting access to any firehouse; taking temperatures regularly; providing N95 masks; eliminating house-to-house details; and shift-change procedure changes, among others. Crimmins thanked the BCs, including Fini and Captain McGlinchy, for developing this guidance. According to Peskens, this comprehensive plan that was developed by the BCs and adopted and implemented by Crimmins worked, although he criticized Crimmins for not soliciting this guidance from the BCs. The respondent's witnesses either criticized Crimmins for not drafting this himself or for not directing the BCs to develop this policy.

As updated COVID-19 information, including information from health officials, became available, Crimmins continued to revise General Order 2020-01 addressing COVID-19 procedures. He revised it approximately twelve times through April 2021. (A-22 - A-23.)

I **FIND** that Crimmins did not fail to establish HFD protocol or implement systems and procedures to address the COVID-19 pandemic, nor did he delay in doing so. While some of the City's witnesses testified that they did not find the guidance issued by Crimmins to be helpful, they offered no compelling testimony or evidence to demonstrate that it was improper or inadequate. While the City asserts in the FNDA that Crimmins' failure to establish COVID-related protocol and implement systems resulted in inadequate testing of HFD members and "potentially" caused preventable COVID-19 exposure that put members and their families at risk, I **FIND** that no competent or credible evidence was presented to show that there was ever a lack of access to, or inadequate, testing at the HFD, or that his management approach to the pandemic was haphazard or "scatter-shot." Crimmins was actively involved in preparing for and addressing COVID-related concerns at the Department. When Fini approached Crimmins to express concerns regarding the operations of the Department and offered to draft guidance, Crimmins, acting within his authority as Chief, agreed to delegate the task to his BCs. He was thankful for their work, and issued General Order 2020-01, which contained their recommendations. It is worth noting that the shut-down occurred in mid-March 2020, and Fini offered to draft guidance in late March. It was the very early days of the pandemic when there was still a great deal of uncertainty concerning the duration and potential impact of this emergency.

Crimmins was actively providing guidance to the members of the HFD throughout the month of March, and he promptly issued General Order 2020-01 once the BCs provided him with the information. There is no evidence that Crimmins delayed in establishing protocol or in implementing systems and procedures to address COVID-related issues.

BC Fini's Claims of Harassment

Fini testified that, at his request, he met with Crimmins at the W Hotel in March 2020 to inform Crimmins that the administration was looking to have him step down from his position to BC. Fini did not provide Crimmins with a reason for this request, and Crimmins was taken by surprise. Crimmins testified credibly that he was told by Fini that he would be terminated if he did not step down. Crimmins did not voluntarily step down.

Fini testified that after this meeting with Crimmins at the W Hotel, his relationship with him changed and that he felt that he was being targeted and harassed.

Specifically, Fini alleges that Crimmins improperly asked him to provide the names of Firefighters and Captains who work for Fini in his outside business. Fini testified that he felt this was personal information and he refused to provide Crimmins with this information. Crimmins testified credibly that Corporation Counsel directed Crimmins to have Fini provide this information. I **FIND** that the evidence does not preponderate that Crimmins improperly attempted to insert himself into Fini's private business affairs when he ordered Fini to report on the names of HFD employees that Fini employed. I also **FIND** that the City failed to demonstrate how Crimmins' request for the names of HFD members who work for a superior officer in an outside business was improper or outside the scope of his authority.

Another charge in the FNDA relating to Fini involves an allegation that Crimmins falsely alleged that he received a complaint from Velez, acting as the union representative for Firefighters, that Fini was conducting unsafe training. Both Fini and Velez testified that in approximately 2018, Crimmins told Fini that Velez had complained to him that Fini was running dangerous training on a new SOP and that someone was going to get hurt. Velez adamantly denied saying this to Crimmins and he testified about how this

misrepresentation put him, as a Firefighter, in a difficult position with a superior officer. Fini was disturbed to hear this from Crimmins and called Velez into the meeting he was having with Crimmins to ask him about the statement. Velez credibly denied saying this to Crimmins, and both Velez and Fini testified consistently about their meeting with Crimmins. Fini testified that Crimmins appeared to be embarrassed and stated that he thought that Velez said what he reported to Fini. Buoncoure, who was also at this meeting, testified that he observed these exchanges and that Crimmins said that maybe he misunderstood. Crimmins testified that Velez did call him and expressed his concerns about the training conducted by Fini, and that it deviated from established practices and protocol on fighting fires. Crimmins approached Fini about the training because he wanted to ensure that Fini was following proper protocol. I **FIND** that while Velez may have expressed concerns to Crimmins about the training, he did not tell Crimmins that Fini's training was unsafe or dangerous, or that someone was going to get hurt. I also **FIND** that although Crimmins incorrectly told Fini that Velez reported that the training was dangerous or unsafe, I cannot find that Crimmins intentionally and knowingly lied to Fini. When this occurred, Crimmins stated that he may have misheard or misunderstood Velez, and Fini and Crimmins addressed that miscommunication at the time.

Fini also testified that Crimmins targeted him for discipline regarding an alleged violation of a quarantine or sick leave policy during the pandemic. In early December 2020, Fini self-reported being exposed to COVID outside of work, and he was placed on a fourteen-day quarantine, as was the policy at the time. On the thirteenth day of his quarantine, at about 11:00 a.m., Fini attended a ribbon cutting ceremony at a Taco Bell that opened in a building that he owned. Crimmins saw a picture on social media of Fini, dressed in a business suit, at the ceremony and standing between the Mayor and another Firefighter. Crimmins offered a photograph that corroborates his testimony. Fini testified that he was just stepping outside to get food for his family and that he did not intend to attend this event. However, I **FIND** that Fini's testimony was unconvincing, particularly since he was wearing a suit when he asserts that he was just running an errand. Crimmins testified that, at the time, he believed Fini's attendance at that event while under quarantine violated the HFD's sick leave policy, which he believed required Fini to remain home for fourteen days. On December 30, 2020, Crimmins notified Freeman and the City's Corporation Counsel concerning Fini's suspected violation of the sick or quarantine

policy and recommended that Fini be disciplined. I **FIND** that the evidence does not preponderate that Crimmins harassed Fini about his whereabouts while he was under quarantine. Crimmins did not act outside his authority when he questioned Fini about his whereabouts when he saw a picture of him attending the event with the Mayor and others while he was under quarantine. Moreover, Crimmins' concerns were not unwarranted as Freeman ultimately disciplined Fini by way of an oral reprimand for violating the quarantine or sick leave policy. As a result, I **CANNOT FIND** that Crimmins targeted Fini for discipline.

Fini also alleged that Crimmins falsely told the unions that Fini was responsible for stopping promotions of the BCs and Captains on a Zoom meeting. Fini was not on the Zoom meeting and testified that it was Cassesa who reported this to him. I **FIND** that the record is inconclusive that Crimmins even made this representation to the unions. These alleged statements constitute uncorroborated hearsay. Cassesa did not testify that Crimmins made these, or any, false statements to the unions about Fini.

During the COVID emergency, Fini performed occupancy inspections to enforce occupancy restrictions in restaurants. On one occasion, when he responded to a complaint and conducted an inspection at a local restaurant, he bumped into, and spoke with, an aide to the Mayor. This was the same aide who had asked Fini to tell Crimmins that the administration wanted him to step down. Fini testified that Crimmins later asked him for a full written report on his conversation with the aide. Fini refused because he felt the exchange with the aide was private. I **FIND** that even if Crimmins did ask Fini to report on the conversation that he had with the Mayor's aide while he was working and conducting an inspection, the City did not demonstrate how this request was outside the scope of Crimmins' authority as Chief, or improper. Also, Crimmins never disciplined Fini for refusing to provide this information. As a result, I also **CANNOT FIND** that Crimmins made this request to Fini with the intent to retaliate against him or the aide.

Fini also alleged that Crimmins falsely told Noble that he wanted her dead. This is described in more detail below.

Communications with Cheryl Noble

Crimmins is charged with falsely telling Noble, administrative assistant to the Chief, that Fini wanted her dead. Peskens and other respondent witnesses testified that Crimmins falsely told Noble that all BCs hated her. Peskens also testified about how this was an example of how Crimmins tried to divide the department and turn people against one another. At the hearing, when asked what Crimmins told her, however, Noble did not testify that Crimmins told her that the BCs hated her and that Fini wanted her dead. Rather, she testified that, in May 2020, Crimmins told her that the BCs were upset with her. This exchange with Crimmins occurred after Crimmins saw a note that Noble left on an overtime sheet in response to an overtime discrepancy that Fini made. When Crimmins spoke with her, Noble called Fini and at least one other BC, both of whom denied being upset with her. Based on Noble's own testimony, I FIND that Crimmins did not tell Noble that Fini or any other BC hated her or wanted her dead, as asserted in the FNDA.

Black Lives Matter Event

A Black Lives Matter (BLM) protest was planned to take place in Hoboken on Friday, June 5, 2020. Crimmins became aware of this on May 31, 2020. Protests fall under the jurisdiction of the police department, and the fire department assists in responding to any emergencies that arise during the protests.

Carter criticized Crimmins for not having a plan and for not securing additional manpower, or upstaffing, until the morning of the BLM event. However, she later recognized that Crimmins sent out an email on June 1, 2020 informing the BCs that he needed all personnel to review the NFPA Civil Unrest document that he posted on Power DMS, that HFD procedures will be based upon this document, and that he would be revisiting staffing levels for that Friday. Crimmins had contacted the HPD Chief on June 1 to obtain information regarding the protest and he continued to be in communication with the Hoboken Police Department that week concerning the anticipated event. He also communicated with the New Jersey Regional Fireboat Task Force partners and scheduled the fireboat for deployment during the protest.

Crimmins included Carter and Buoncoure in a meeting on June 3, 2020 with the Chief of Police, representatives from Transit, Stevens Institute of Technology, and others to plan for the anticipated BLM event. He also issued General Operating Guideline 2020-05, Civil Unrest Protests and Riots, which he posted on Power DMS and distributed to members of the HFD. This guideline addressed several possible scenarios regarding civil unrest in anticipation of the BLM event. Crimmins also emailed the Fire Officers Union advising that the plans for the protest had been finalized.

Buoncoure also testified that the HFD was not prepared for the BLM protests and that Crimmins "recklessly excluded" Moyeno from the planning. He did not explain how the Department was not prepared for the protests, or how not including Moyeno from the planning was "reckless." Moyeno also criticized Crimmins for not using him during the BLM event despite his specialized training in large events and crowd control. Moyeno reached out to Crimmins on June 1 inquiring about a contingency plan and Crimmins responded about an hour later concerning the status and procedures and informing him that he posted the NFPA Civil Unrest document on Power DMS. On June 4, 2020, Moyeno asked, by email, to be briefed on the finalized plans, but when Crimmins called him about fifteen minutes later, Moyeno did not respond and did not return his call. In response to counsel's leading questions, Moyeno agreed that the plans that Crimmins distributed in anticipation of the protests were "off the shelf" and unhelpful, but he did not explain how.

Crimmins testified that he did not include Moyeno in the meeting of June 3 because he was not on duty, and the City did not dispute that Moyeno was off-duty at that time. Buoncoure suggested that Crimmins did not involve Moyeno to avoid accumulating overtime. While the City asserts that Crimmins should have included Moyeno in the planning because he has specialized training in large events and crowd control, Crimmins testified that he had the same training, and this was not disputed by the City.

While Moyeno, Buoncoure and Carter may not have agreed with the manner in which Crimmins handled matters leading up to and during the June 5, 2020 event, I FIND that Crimmins did not act recklessly by not including Moyeno (referred to as the riding

Tour Commander in the FNDA) in the planning for the BLM protest. Crimmins testified credibly that he received the same training as Moyeno, and no evidence was presented that Moyeno's presence was needed or that Crimmins acted outside the scope of his authority as Chief in opting not to include Moyeno. There is simply no evidence that Crimmins' decision not to include Moyeno was careless or reckless. Moreover, I **FIND** that the City failed to establish, by a preponderance of the evidence, that Crimmins had "no plan," or that he failed to issue coherent, coordinated response guidelines that were necessary to address the protest, or that he placed the HFD in any tactical disadvantage. Rather, I **FIND** that there is sufficient competent evidence in the record to show that Crimmins did plan and issue guidance in anticipation of the protest; he coordinated with the police department, and actively prepared for the protest once he became aware of it earlier that week. Fortunately, the event was peaceful and there were no incidents.

Response During Snowstorm

The City criticized Crimmins' response to a February 2021 snowstorm, and the FNDA specifically charges him with providing no communication or direction about preparations, reporting and managing the winter storm, and asserts that he was absent and "improperly denied" a tour commander's request for additional overtime.

Carter, who was present during the snowstorm, testified vaguely that Crimmins may not have been in, that she "thinks someone" tried to call him because they needed extra manpower and that she was not even sure whether they secured the extra manpower that was needed. Crimmins testified credibly that he worked the day shift during the storm, that the storm started in the evening and that he was in fact monitoring the storm. The riding tour commander made the decision that day to use the HFD's snowplow to clear all areas surrounding the fire house. Despite the City's assertion that Crimmins improperly denied the tour commander's request for additional overtime, and only provided two additional Firefighter, Crimmins testified credibly that he authorized overtime for six additional Firefighters. His testimony was corroborated by a list of those Firefighters who worked overtime during the storm. They worked on different twelve-hour shifts starting prior to the storm in order to begin preparations for the storm and to ensure that there would be coverage throughout the entirety of the storm. I **FIND** that the City

did not present sufficient evidence to substantiate the allegations that Crimmins did not properly manage that 2021 snowstorm, and no credible evidence was provided to support the assertion that Crimmins "improperly denied" a request for overtime. In fact, he authorized overtime for six additional Firefighters during this storm.

While not expressly referenced in the FNDA, Peskens and Moyeno criticized Crimmins' response to another winter storm in 2018. Moyeno testified that he requested additional manpower during the storm, and that Crimmins delayed about three hours to respond, and informed him that two Firefighters would be able to assist. Peskens also testified that, as the tour commander that day, everyone worked hard and did a great job during this storm, and that he became frustrated when Crimmins expressed "petty" complaints about the parking lot not being shoveled. He later acknowledged, however, that one of the responsibilities of a tour commander, per the City's Snow Removal Plan, is the removal of snow around the firehouses secondary to responding to fire emergencies. (A-12.) While Peskens may have been frustrated that Crimmins complained about the parking lot after a full day of successfully handling emergencies in the City, and while Crimmins could have communicated more tactfully with Peskens, Crimmins acted within his authority to ensure that the snow was removed around the firehouses, and the snow removal was evidently one of the responsibilities of the BCs.

General Order 2021-01

On May 7, 2021, Crimmins issued General Order 2021-01, which alters the rights and responsibilities of the Administrative BCs. The FNDA charges Crimmins with issuing General Order 2021-01 to retaliate against the Administrative BCs, and "altering General Order 2021 after receiving direction from City Administration."

The HFD has a minimum staffing level, which is about twenty individuals on duty, consisting of one BC, Captains and Firefighters. Crimmins testified that when one person calls out, that individual is replaced with another who incurs overtime. There is also discretionary overtime. Crimmins testified credibly that the administration expressed their concerns about the Department's overtime. This is corroborated by a memo that he wrote to the Mayor in March of 2021 in which Crimmins explains the causes of overtime and

other staffing issues at the HFD. He also made several proposals to the City on how to address the Department's overtime and staffing-level concerns. Crimmins testified credibly that he had several discussions with Freeman concerning ways to address the overtime concerns, and that Freeman directed him to draft a policy to address BC overtime. One option that was proposed was to have Administrative BCs replace Tour Commanders. Crimmins expressed his concern that issuing such an order may be viewed as retaliatory because it changed the Administrative BCs' assignments, particularly since it was around this time that he was informed that he was being investigated for harassment. Crimmins and Freeman collaborated on the draft order, and it was reviewed by counsel.

After General Order 2020-01 was issued, the Administrative BCs filed a grievance and alleged that this was retaliatory because they had signed the Letter of No Confidence weeks before. Carter, one of the Administrative BCs, testified that she felt Crimmins was being vindictive when he attempted to alter her work schedule after signing the Letter of No Confidence. However, she also conceded that there had been overtime concerns at the time. While Carter and other BCs may have perceived Crimmins' issuing General Operating Order 2021-01 as vindictive or retaliatory because it impacted their schedules and their ability to obtain overtime, I FIND that the credible evidence does not show that Crimmins issued the order with the purpose of retaliating against the Administrative BCs, or that he improperly or intentionally altered General Order 2021 contrary to direction from City Administration.

Other Allegations of Retaliatory and Vindictive Behavior and Allegations of Creating a Work Environment of Deceit, Hostility and Retribution

Some of the City's witnesses testified that Crimmins acted in a retaliatory manner and that he created a work environment of deceit and hostility. The City's witnesses provided the following examples of Crimmins' alleged retaliatory or vindictive behavior.

First, Carter testified that she felt targeted by Crimmins because of her relationship with Montanez. While Crimmins and Montanez had their disagreements and did not always work well together, I FIND that there is simply no credible evidence that Crimmins

targeted or harassed Carter. In fact, Carter was promoted as a BC under Crimmins and Crimmins never disciplined her.

Second, Fini testified that he felt that Crimmins put his relationship with Noble in jeopardy as an act of retaliation, and that Crimmins lied when he told the unions that Fini was responsible for stopping promotions. As I already found that Crimmins did not tell Noble that Fini hated her or wanted her dead, I also **FIND** that there is insufficient evidence that Crimmins retaliated against Fini or that he intentionally sought to jeopardize Fini's relationship with Noble. Moreover, as I already found that the record is inconclusive that Crimmins made an inaccurate statement about Fini to the union, I also **FIND** that there is no evidence that Crimmins retaliated against Fini by making a false statement to the unions.

Third, the City alleges that Crimmins was retaliating against Fini when he told Velez that Fini was conducting dangerous training. Again, even if Crimmins misstated or mischaracterized what Velez told him, I **FIND** that there is insufficient credible or competent evidence in the record to find that Crimmins did so to retaliate against Fini, or that Crimmins intentionally created a work environment of deceit or hostility.

Fourth, the City alleges that Crimmins retaliated against and harassed Fini when he asked him for a full written report of his talk with a Mayor's aide when he bumped into him during the course of an occupancy inspection. As stated above, the City has failed to demonstrate how this request was improper. Fini refused to provide this information, yet Crimmins took no action against him. Therefore, I **FIND** that the City has not convincingly demonstrated that Crimmins' request was retaliatory or harassing.

Finally, Peskens testified that he felt targeted by Crimmins. He testified that he discovered that Crimmins had drafted charges against him that were never actually filed, and that on one occasion Crimmins denied him vacation that he was entitled to. He later conceded that Crimmins restored those vacation days and a grievance was never filed. While Peskens testified that Crimmins demonstrated a pattern of vindictive behavior towards him, I **FIND** that the evidence does not preponderate that Crimmins acted in a vindictive or retaliatory manner towards Peskens. Even if Crimmins had at some point

drafted disciplinary charges against Peskens, they were never filed, and Crimmins never disciplined Peskens, nor did he ever cause him to lose any vacation days.

Despite the City's allegation that Crimmins was retaliatory and vindictive, that he made a "litany" of false statements, that he attempted to sow division among staff, and that and that he created a work environment of deceit, hostility and retribution, I **FIND** that the City has failed to offer sufficient credible and competent evidence to substantiate these allegations. While the BCs may be of the opinion that Crimmins was vindictive, that he tried to divide the Department and created a hostile work environment, the evidence presented by the City simply falls short of substantiating these allegations.

Allegations of Poor Policy Decisions

Peskens criticized Crimmins for making what he believed to be poor policy decisions, and he offered two examples—one involving the handling of Engine 3, and the other involving an autism training.

Peskens criticized Crimmins for "undoing" his accomplishments when Peskens was Provisional Chief about ten years ago. Peskens testified that Crimmins' "biggest mistake" was moving Engine 3 from Fire Headquarters back to Midtown, which he believed increased response times, specifically a two-minute increase in response time, and put people's safety at risk. However, no evidence was presented to support Pesken's opinion that moving Engine 3 was a poor or ill-advised decision, or that this move endangered the safety of Hoboken residents.

Peskens also criticized Crimmins' handling of an autism training where the training was offered once during the day and once that evening. Crimmins required the six companies to attend training at the same time and Peskens testified that there was no reason for everyone to be there at the same time, and that this left the City vulnerable because it could have resulted in delayed response times if there was an emergency. I **FIND** that while Peskens, or the City, may not have agreed with some of Crimmins' policy decisions, there is no evidence that these decisions had any negative impact on the

Department's operations or the public safety. Consequently, I **CANNOT FIND** that his policy decisions were "poor."

Crimmins' ability to lead the HFD

The City's witnesses all testified that they felt that Crimmins was not fit to lead the Department, and they agreed with the statements made in the Vote of No Confidence that the BCs submitted to the City. They testified generally that there were "trust issues." The allegations of Crimmins not being truthful are addressed above. They also allege vaguely that there were "access issues." Peskens offered one example of a text message sent to Crimmins that went unanswered, and the only other concrete examples of Crimmins allegedly not being available are also addressed above. Peskens also described Crimmins generally as "condescending," "always the smartest person in the room," and that he did not have a good leadership style. Others testified generally that they thought that Crimmins was not an effective Chief and that the relationship with Crimmins was irreparably damaged.

Freeman testified that the relationship between the BCs and Crimmins became untenable, and that it was no longer in the best interest of the City to have him remain as Chief. He testified that when the BCs said that they lost confidence in their Chief, and they provide their reasons, and "when there are working conditions that make people feel the way these allegation say Brian Crimmins make them feel, we have to address them." The City sought to remove Crimmins from his position because the administration believes the HFD could no longer be successful under Crimmins given the "aligned" complaints and allegations made by the BCs.

While Crimmins denies all of charges brought against him, he recognizes that his tenure as Chief was not perfect, and that there are certain things he could have done differently. He testified that he believes that he could continue to lead the Department, and that he would continue to work on his communication skills. It is worth noting that Crimmins presented as a very credible witness at the hearing. He was professional, articulate, and testified in a direct and clear manner.

Some, if not all BCs, also disliked Crimmins' leadership style and questioned his policies. While this may very well be their opinion, it is undisputed that during his tenure as Chief, every fire was extinguished in Hoboken, every fire victim was rescued, and every drowning victim was removed from the Hudson River. The HFD primarily exists to fight fires, and to protect lives and property in the community. No witness could give any example of any problems with the undertaking and the effectuation of these responsibilities while Crimmins was Chief. There is no evidence that there were inadequate supplies or equipment at the HFD, or that there were problems with fire operations under Crimmins' tenure. Crimmins led the Department during an unprecedented pandemic, advocated for the testing of his members, and while many may not have agreed with his approach, there is no evidence to suggest that exposures to COVID within the HFD were not adequately controlled and minimized.

After hearing and considering the testimony of all witnesses, and examining all of the documentary evidence presented at the hearing, I **FIND** that, despite the BCs' opinions on Crimmins' ability to serve as Chief, and their testimony that they feel he is not an effective or trustworthy leader, and that he should not return to his position, the City has failed to present the factual support needed to demonstrate, by a preponderance of the evidence, that Crimmins is unable, or unfit, to lead the HFD and perform the duties required of the Fire Chief.

Other Allegations in the FNDA

In the FNDA, the City charges Crimmins with lacking candor in the investigation interview conducted by outside counsel. Because no testimony was presented regarding the investigation interview, I **FIND** that the City failed to establish this allegation.

The FNDA also briefly references that Crimmins left "a brand-new fire truck exposed to the elements until the point it was rendered inoperable." Since no evidence was presented concerning this truck, I **FIND** that the City failed to establish this allegation.

LEGAL ANALYSIS AND CONCLUSIONS

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated pursuant thereto, N.J.A.C. 4A:1-1.1 to 10-3.2. However, public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a). An appointing authority may discipline an employee for sufficient cause, including failure to obey laws, rules, and regulations of the appointing authority. N.J.A.C. 4A:2-2.3(a)(12).

In disciplinary cases, the appointing authority has the burden of both persuasion and production and must demonstrate by a preponderance of the competent, relevant, and credible evidence that it had just cause to discipline the employee and lodge the charges. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962). Evidence is said to preponderate "if it establishes the reasonable probability of the fact." Jaeger v. Elizabethtown Consol. Gas Co., 124 N.J.L. 420, 423 (Sup. Ct. 1940) (citation omitted). The evidence must "be such as to lead a reasonably cautious mind to the given conclusion." Bornstein v. Metro. Bottling Co., 26 N.J. 263, 275 (1958).

The issue to be addressed here is whether a preponderance of the credible evidence establishes that the appellant's actions constitute a violation of the charges set forth in the FNDA. If so, the question to be addressed is whether the violation warrants a demotion to Firefighter, as proposed by the City, or another penalty, if any.

The FNDA charges Crimmins with violating the following: N.J.A.C. 4A:2-2.3(a)(1), Incompetency, inefficiency, or failure to perform duties; N.J.A.C. 4A:2-2.3(a)(2), Insubordination; N.J.A.C. 4A:2-2.3(a)(3), Inability to perform duties; N.J.A.C. 4A:2-2.3(a)(6), Conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(7), Neglect of Duty; N.J.A.C. 4A:2-2.3(a)(8), Misuse of public property, including motor vehicles; and N.J.A.C. 4A:2-2.3(a)(12), Other sufficient cause.

The FNDA also reference, within the specifications, violations of the HFD Rules and Regulations. No specific HFD Rule and Regulation is referenced in the FNDA, but

in its post-hearing brief, the City asserts that Crimmins is charged with violating Chapters 1, 6, 7 and 36 of the HFD Rules and Regulations. (J-7) The City also offers no explanation as to how these specific rules were allegedly violated. At the hearing, however, there was testimony that Crimmins violated Chapter 1, Section 27 which requires the Chief to hold meetings "at frequent intervals" to discuss "advanced developments in fire control and extinguishment, hazardous material incidents, other emergencies..."

The appellant argues that the alleged violation of the HFD's Rules and Regulations must be dismissed because the City did not comply with the "45-Day Rule," N.J.S.A. 40A:14-28.1, in pursuing these charges. The rules states, in part:

A person shall not be removed from employment or a position as a paid member of a paid or part-paid fire department or force . . . or suspended, fined or reduced in rank for violation of the internal rules and regulations established for the conduct of employees of the department or force, unless a complaint charging a violation of those rules and regulations is filed no later than the 45th day after the date on which the person filing the complaint obtained sufficient information to file the matter upon which the complaint is based. A failure to comply with this section shall require a dismissal of the complaint.

[N.J.S.A. 40A:14-28.1.]

Here, Crimmins was first charged by the City on January 31, 2023, when the PNDA was issued. The appellant asserts the City had sufficient information to file its charges arising from alleged violations of the Department's Rules well before the 45-day period. He asserts that the evidence demonstrates that the City was aware of the OEM Order issued by Crimmins in November 2018; that it was aware of the investigation into Fini and the related discipline in December 2021 and January 2021; and that it was aware of the issues relating to General Order 2021-01 no later than May 2021. The appellant asserts that the City was aware of these alleged issues long before the PNDA was issued, and that any charges relating to violations of Rules and Regulations must be dismissed. I am persuaded, and I **CONCLUDE**, that the competent evidence supports, that the City had sufficient information to file these charges well before December 17, 2022, forty-five days

prior to the filing of the PNDA. Consequently, I **CONCLUDE** that the City's charges arising from alleged violations of the Department Rules and Regulations must be dismissed as they were issued out of time.

As outlined above, the City failed to substantiate the majority of its claims against Crimmins. Those claims that were sustained include: (1) Crimmins issued an improper, or ill-advised, order to restrict OEM communications with HFD members; (2) Crimmins failed to hold frequent Command Staff meetings in 2018 and up until the first meeting in June 2019; (3) Crimmins made critical comments of OEM and the OEM Coordinator that were viewed as insensitive because Carter, the OEM Coordinator's partner, was present; and (4) Crimmins inaccurately told Fini that Velez described his training as dangerous or unsafe. All of these incidents occurred in the early days of Crimmins' tenure as Chief.

Given my findings of fact, I **CONCLUDE** that Crimmins violated N.J.A.C. 4A:2-2.3(a)(7), Neglect of Duty, when he failed to hold any Command Staff meetings prior to June 2019. "Neglect of duty" has been interpreted to mean that an employee "neglected to perform an act required by his or her job title or was negligent in its discharge." In re Glenn, 2009 N.J. AGEN LEXIS 112 (February 5, 2009) (citation omitted), adopted, Civil Service Commission (March 27, 2009), <http://njlaw.rutgers.edu/collections/oal/>. While the Chief has some discretion as to when or how often to have these meetings, prior Chiefs held these meetings at least quarterly, and the applicable Rules and Regulations require these meeting take place at "frequent intervals." Since he held no meeting for multiple months in 2018 and prior to June 2019, he effectively breached a duty owed to the HFD. Neglect of duty can arise from omitting to perform a required duty as well as from misconduct or misdoing. State v. Dunphy, 19 N.J. 531, 534 (1955). While neglect of duty does not require an intentional or willful act, there must be some evidence that the employee somehow breached a duty owed to the performance of the job. Here, there is no evidence that Crimmins intentionally or knowingly neglected his duty to hold Command Staff meetings, and after June 2019, he did hold several meetings, even during the COVID pandemic.

I further **CONCLUDE** that Crimmins violated N.J.A.C. 4A:2-2.3(a)(7) in 2018 when he issued an ill-advised and improper order to restrict OEM communications with HFD

members. The order could have had a detrimental impact on the OEM's ability to communicate in an effective and expeditious manner during an emergency. Crimmins recognized his fault in issuing this order and regretted it. Fortunately, he rescinded the order two weeks later before it had any real impact on the operations of OEM or the HFD.

While I found that Crimmins made critical comments about the OEM Coordinator at a training session, and that the comments were made in the presence of Carter, the OEM Coordinator's partner, I am not persuaded that this conduct rises to the level of violating N.J.A.C. 4A:2-2.3(a). The comments made related only to OEM's operational performance, and they were not personal in nature. Moreover, while the comments may have upset Carter, and while they may have been viewed as insensitive by some because Carter has a personal relationship with the Coordinator, the evidence did not demonstrate that the comments were made by Crimmins with the intent to disrespect or offend Carter, nor is there any evidence that this had any impact on Carter's job or that it undermined her authority in any way, as alleged in the FNDA. Crimmins had his concerns about OEM's operations, and he shared them with the members of his Department.

Similarly, while I found that Crimmins inaccurately told Fini that Velez described his training as dangerous or unsafe, the evidence does not preponderate that Crimmins intentionally or knowingly lied to Fini, or that he made these statements with malintent. Therefore, I cannot **CONCLUDE** that Crimmins violated N.J.A.C. 4A:2-2.3(a) for making these statements to Fini.

Crimmins was also charged by the City with violating N.J.A.C. 4A:2-2.3(a)(1) for incompetency, inefficiency, or failure to perform his duties. In this type of breach, an employee performs his or her duties, but in a manner that exhibits insufficient quality of performance, inefficiency in the results produced, or untimeliness of performance, such that his or her performance is substandard. See Clark v. N.J. Dep't of Agric., 1 N.J.A.R. 315 (1980). Based on my consideration of the evidence presented and my findings of fact, I further **CONCLUDE** that Crimmins did not violate N.J.A.C. 4A:2-2.3(a)(1).

Crimmins was also charged with violating N.J.A.C. 4A:2-2.3(a)(2), for insubordination. The respondent, however, failed to present any competent evidence to

demonstrate that Crimmins ever acted in an insubordinate manner. I **CONCLUDE**, therefore, that Crimmins did not violate N.J.A.C. 4A:2-2.3(a)(2).

Likewise, Crimmins was charged with violating N.J.A.C. 4A:2-2.3(a)(8) for misuse of public property, including motor vehicles, however no evidence was presented to support this charge for misuse of public property. Therefore, I **CONCLUDE** that Crimmins did not violate N.J.A.C. 4A:2-2.3(a)(8).

The appellant is also charged with violating N.J.A.C. 4A:2-2.3(a)(3), "Inability to perform duty," a charge which has been upheld where the employee is incompetent to execute his or her job responsibility. Klusaritz v. Cape May Cnty., 387 N.J. Super. 305 (App. Div. 2006) (removal of accountant who was incapable of preparing a bank reconciliation and was of no value to the county). I **CONCLUDE** that the respondent has not sufficiently demonstrated how Crimmins violated N.J.A.C. 4A:2-2.3(a)(3).

Crimmins is charged with violating N.J.S.A. 4A:2-2.3(a)(6), Conduct unbecoming a public employee. "Conduct unbecoming" is an "elastic" phrase that encompasses conduct that "adversely affects the morale or efficiency of [a governmental unit] . . . [or] which has a tendency to destroy public respect for [government] employees and confidence in the operation of [governmental] services." Karins v. City of Atl. City, 152 N.J. 532, 554 (1998) (quoting In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960)). Such misconduct need not necessarily "be predicated upon the violation of any particular rule or regulation, but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct." Hartmann v. Police Dep't of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep't of Civil Serv., 17 N.J. 419, 429 (1955)). I **CONCLUDE** that Crimmins' conduct was not unbecoming, and that the respondent failed to meet its burden to demonstrate that Crimmins violated N.J.A.C. 4A:2-2.3(a)(3).

Finally, Crimmins is charged with violating N.J.A.C. 4A:2-2.3(a)(12), "other sufficient cause." "Other sufficient cause" is an offense for conduct that violates the implicit standards of good behavior which devolve upon one who stands in the public eye

as an upholder of that which is morally and legally correct. In re MacDonald, 2014 N.J. AGEN LEXIS 236 (May 19, 2014), adopted, Civil Serv. Comm'n (September 3, 2014), <http://njlaw.rutgers.edu/collections/oal/>. I **CONCLUDE** that the respondent has failed to demonstrate, by a preponderance of the credible evidence, that Crimmins' conduct was in violation of this statutory provision, particularly since the City's charges arising from alleged violations of the Department Rules and Regulations are dismissed.

Consequently, I **CONCLUDE** that the charge of Neglect of Duty, N.J.A.C. 4A:2-2.3(a)(7), is hereby **SUSTAINED** with regard to the allegations that Crimmins issued an ill-advised OEM order, and that he failed to hold frequent Command Staff meetings. I also **CONCLUDE** that the charges of Incompetency, inefficiency, or failure to perform duties [N.J.A.C. 4A:2-2.3(a)(1)]; Insubordination [N.J.A.C. 4A:2-2.3(a)(2)]; Inability to perform duties [N.J.A.C. 4A:2-2.3(a)(3)]; Conduct unbecoming a public employee [N.J.A.C. 4A:2-2.3(a)(6)]; and Misuse of public property, including motor vehicles, [N.J.A.C. 4A:2-2.3(a)(8)]; and Other sufficient cause [N.J.A.C. 4A:2-2.3(a)(12)] are all hereby **REVERSED**.

PENALTY

When dealing with the question of penalty in a de novo review of a disciplinary action against an employee, it is necessary to reevaluate the proofs and "penalty" on appeal based on the charges. N.J.S.A. 11A:2-19; Henry v. Rahway State Prison, 81 N.J. 571 (1980); W.N.Y. v. Bock, 38 N.J. 500 (1962). In determining the appropriateness of a penalty, several factors must be considered, including the nature of the employee's offense, the concept of progressive discipline, and the employee's prior record. George v. N. Princeton Developmental Ctr., 96 N.J.A.R.2d (CSV) 463. Pursuant to Bock, concepts of progressive discipline involving penalties of increasing severity are used where appropriate. See In re Parlo, 192 N.J. Super. 247 (App. Div. 1983). Depending upon the incident complained of and the employee's past record, major discipline may include suspension, removal, or demotion. Bock, 38 N.J. at 522-24.

Progressive discipline may be bypassed when the misconduct is severe, when it renders the employee unsuitable for continuation in the position, or when the application

of progressive discipline would be contrary to the public interest. In re Hermann, 192 N.J. 19, 33 (2007). Termination of employment is the penalty of last resort reserved for the most severe infractions or habitual negative conduct unresponsive to intervention. Rotundi v. Dep't of Health & Human Servs., OAL Dkt. No. CSV 385-88, Initial Decision (September 29, 1988).

Here, the City argues that in the case of high-ranking employees such as Crimmins, or severe circumstances, such as the ones here, there is no need to follow progressive discipline. While I agree that progressive discipline may be bypassed when the misconduct is severe, here, the misconduct was not, and high-ranking employees such as Crimmins still have protections under the Civil Service Act. The City argues in its brief that Crimmins is a poor leader who was described as untrustworthy, dishonest, vindictive, and of poor judgment, and that he should be demoted three levels to the rank of Firefighter. While I agree with the City that a Firefighter is "a special kind of public employee" and "subject to a higher standard of conduct," the City failed to present the factual evidence needed to substantiate the vast majority of the charges, and to demonstrate that Crimmins is unfit or unable to lead the Department and perform the duties of a Fire Chief. I recognize, however, that as the head of the Department, the Chief has a responsibility to maintain departmental morale and discipline, and that the HFD evidently appeared to have a morale issue under Crimmins' tenure. Crimmins himself suggested that his communication skills may have been lacking, and based on my observation of the witnesses and consideration of their testimony, I am convinced that Crimmins would benefit from leadership and communication training.

As for the question of discipline, I **CONCLUDE** that the penalty proposed by the City, to demote Crimmins to the rank of Firefighter, is excessive and not appropriate, particularly given that the vast majority of the charges have not been sustained. In fact, I am not persuaded that major discipline is warranted here at all given the nature of the one sustained charge; the fact that the violations occurred in 2018 and early 2019, at the start of Crimmins' tenure as Chief; the fact that Crimmins subsequently held several meetings with staff; the fact that he recognized his error in issuing the OEM order and rescinded it after two weeks, without it having any impact on OEM or the HFD; and given

the absence of any prior discipline in his twenty years of service at the HFD, and the many commendations that he received over the years.

Given the above considerations, I **CONCLUDE** that a more appropriate penalty is a written warning, and the completion of a leadership and communication training program to improve Crimmins' communication skills, his working relationship with HFD senior staff, and his overall leadership of the Department.

ORDER

Accordingly, it is **ORDERED** that the action of the respondent to demote the appellant to the rank of Firefighter is **REVERSED**, and that he be reinstated to the position of Fire Chief. It is **FURTHER ORDERED** that the appellant be issued a written warning, and that he attend a communication and leadership training program, or another training program recommended by the Civil Service Commission.

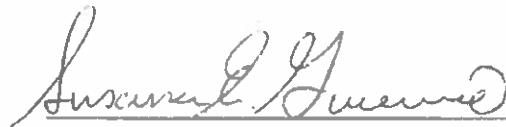
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

October 3, 2024

DATE



SUSANA E. GUERRERO, ALJ

Date Received at Agency:

October 4, 2024

Date Mailed to Parties:

October 4, 2024

jb

APPENDIX

WITNESSES

For Appellant:

Jason Freeman

Brian Crimmins

For Respondent:

Anton Peskens

Audra Carter

Cheryl Ann Noble

William Montanez

Luis Moyeno

Matthew Velez

Jason Cassesa

Mario Fini

David Buoncoure

EXHIBITS

Joint:

J-1 PNDA and cover letter

J-2 Hearing Officer's decision and cover letter³

J-3 FNDA and cover letter

J-4 Not in evidence

J-5 Not in evidence

J-6 Respondent's Supplemental Responses

J-7 Rules and Regulations, Department of Administration, Division of Fire

J-8 City of Hoboken Employee Handbook

³ While this was presented as a Joint Exhibit by the parties, no consideration was given of the hearing officer's decision since the hearing at the OAL is de novo.

- J-9 Crimmins training file
- J-10 Crimmins personnel file
- J-11 OEM state guidelines
- J-12 COVID-19-related documents, General Operating Guidelines
- J-13 COVID-19-related documents, Exposure Control Program
- J-14 COVID-19-related documents, General Order
- J-15 Not in evidence
- J-16 Email from Freeman
- J-17 COVID-19-related document, General Order

For Appellant:

- A-1 Power DMS printout regarding Peskens
- A-2 Text message thread between November 21, 2018 and December 25, 2019
- A-3 Text message thread April 2020 – May 26, 2020
- A-4 Text message thread May 29, 2020 – January 26, 2020
- A-5 Text message, December 29, 2020
- A-6 Email from Fini, November 16, 2019
- A-7 Email from Crimmins with attached After Action Report, November 12, 2019
- A-8 Memorandum from Crimmins January 28, 2020, re COVID-19, with revised GOG 1994-05, Respiratory Protection Program
- A-9 Email from Crimmins regarding exposure control plan and COVID-19 dated April 2, 2020
- A-10 Email from Crimmins regarding shift change guidelines dated April 3, 2020
- A-11 Emails regarding shift change guidelines and COVID-19 dated April 3, 2020 to April 5, 2020
- A-12 Hoboken's Snow Removal Plan 2020–2021
- A-13 Documents relating to 2016 incident regarding Montanez
- A-14 Text messages with BCs regarding communicating with OEM
- A-15 Memorandum from Crimmins, March 10, 2020, regarding COVID-19 Updated Procedures
- A-16 Memorandum from Crimmins, March 13, 2020, regarding COVID-19 updated Procedures
- A-17 Memorandum from Crimmins, March 20, 2020, regarding COVID-19

- A-18 Memorandum from Crimmins, March 24, 2020, regarding COVID-19
- A-19 General Operating Guidelines, 2020-03, COVID-19 Procedures, issued March 24, 2020
- A-20 General Operating Guidelines, 2020-03, issued March 31, 2020
- A-21 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, issued April 5, 2020
- A-22 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised May 1, 2020n
- A-23 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised May 22, 2020
- A-24 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised June 1, 2020n
- A-25 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised June 25, 2020
- A-26 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised July 8, 2020
- A-27 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised July 23, 2020
- A-28 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised October 16, 2020
- A-29 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised October 8, 2020
- A-30 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised January 17, 2021
- A-31 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised February 24, 2021
- A-32 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised March 19, 2021
- A-33 Memo from Crimmins regarding General Order 2020-01, COVID-19 Precautions, revised April 30, 2021
- A-34 Memo from Crimmins regarding General Order 2020-02, COVID-19 Return to Work Procedures, dated April 17, 2020
- A-35 Memo from Crimmins regarding COVID update, April 29, 2020

- A-36 Memo from BC Carter regarding training and COVID-19, October 8, 2020
- A-37 Not in evidence
- A-38 Email from Crimmins to BCs regarding June 5, 2020 BLM protest, June 1, 2020
- A-39 General Operating Guidelines, 2020-05, "Civil Unrest, Protests & Riots" referenced in June 1, 2020 email
- A-40 Power DMS printout regarding Carter
- A-41 Email from Crimmins regarding BLM event, June 2, 2020
- A-42 Not in evidence
- A-43 Emails between Crimmins and Montanez, regarding OEM/HFD communications, January 10, 2018 – January 11, 2018
- A-44 Email from Crimmins regarding Advanced Incident Command System training, January 17, 2020
- A-45 Email from Crimmins concerning General Order 2018-01, regarding HPD/HFD/OEM communication protocols, February 23, 2018
- A-46 Email from Crimmins to Montanez, November 13, 2018
- A-47 Emails between Crimmins and Montanez, March 22, 2020 – March 23, 2020
- A-48 Emails regarding Firefighter COVID-19 testing, April 2020
- A-49 Email from Montanez to Crimmins regarding testing, January 12, 2021
- A-50 Emails regarding Firefighter COVID-19 testing, January 12, 2021 – January 13, 2021
- A-51 Emails between Crimmins and Moyeno regarding BLM protest, June 1, 2020
- A-52 Emails between Crimmins and Moyeno regarding BLM protest, June 4, 2020
- A-53 Civil Service Commission decision issued October 4, 2012
- A-54 Emails regarding GOGs
- A-55 Emails between Crimmins and Freeman regarding Fini
- A-56 Civil Service Commission decision issued March 17, 2014
- A-57 Emails between Crimmins and Peskens regarding grant application, 2015
- A-58 OEM Directive No. 105, Incident Command System
- A-59 Not in evidence
- A-60 General Operating Guideline 1994-04 (revised January 2020), Infection Control Program
- A-61 Not in evidence
- A-62 Message from Freeman to Crimmins regarding Firefighter tweets

- A-63 Worley tweets
- A-64 Letter from Mayor rescinding EO 2011-02, March 4, 2020
- A-65 Not in evidence
- A-66 Email from Crimmins to Marks and Aloia regarding political activity, November 14, 2019
- A-67 List of HFD members who worked overtime, February 3, 2021
- A-68 Emails regarding Fini and Sick Leave Policy
- A-70 Not in evidence
- A-71 Crimmins' employment agreement
- A-72 Email from Crimmins regarding Coronavirus meeting and recommendations towards integrated response, March 2, 2020
- A-73 Memo from Crimmins to Mayor regarding HFD Overtime, with attachments, March 23, 2021
- A-74 Not in evidence
- A-75 Not in evidence
- A-76 letter from local unions regarding members driving Hop bus, March 29, 2020

For Respondent:

- R-1 Letter by BCs
- R-2 Text messages regarding communicating with OEM
- R-3 General Order 2021-01 dated May 7, 2021
- R-4 Letter from Fini to Aloia with attachments, February 5, 2021
- R-5 Email from Freeman dated April 16, 2021