



STATE OF NEW JERSEY

In the Matter of Vincent Ricciardi,
Hillside, Police Department

CSC Docket No. 2024-2429
OAL Docket No. CSR 07635-24

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

ISSUED: JANUARY 15, 2025

The appeal of Vincent Ricciardi, Police Chief, Hillside, Police Department, removal, effective September 21, 2023, on charges was heard by Administrative Law Judge Andrea Perry Villani (ALJ), who rendered her initial decision on December 11, 2024. Exceptions were filed on behalf of the appellant and a reply was filed on behalf of the appointing authority.

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 January 15, 2025, adopted the ALJ's Findings of Facts and Conclusions of Law and her recommendation to uphold the removal.

As indicated above, the Commission has thoroughly reviewed the exceptions filed in this matter and finds them unpersuasive. The appellant's main contentions in his exceptions all essentially boil down to the appellant's disagreement with the ALJ's determinations, which ultimately turned on her assessment of the credibility of the witnesses.

The ALJ assessed the witnesses' credibility in numerous portions of the initial decision. In each portion, the ALJ found the appellant's testimony less credible than the testimony offered by the appointing authority's witnesses. While the appellant, in his exceptions, argues that the ALJ's determinations were not supported, and attempts to demonstrate the same by providing examples, the Commission is not persuaded. In this regard, the Commission acknowledges that the 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). While the appellant disagrees with the ALJ’s credibility determinations, the Commission finds no persuasive evidence in the appellant’s exceptions or the record to demonstrate that the ALJ’s credibility determinations, or her findings and conclusions based on those determinations, were arbitrary, capricious or unreasonable. As such, the Commission finds those determinations worthy of due deference and the Commission adopts the findings and conclusions made therefrom.

The appellant also argues that the penalty of removal is too harsh. The Commission disagrees. Similar to its assessment of the charges, the Commission’s review of the penalty is *de novo*. In addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 N.J. 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant’s offense, the concept of progressive discipline, and the employee’s prior record. *George v. North Princeton Developmental Center*, 96 N.J.A.R. 2d (CSV) 463. However, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual’s disciplinary history. *See Henry v. Rahway State Prison*, 81 N.J. 571 (1980). It is settled that the theory of progressive discipline is not a “fixed and immutable rule to be followed without question.” Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown*, 191 N.J. 474 (2007). Even when a law enforcement officer does not possess a prior disciplinary record after many unblemished years of employment, the seriousness of an offense may nevertheless warrant the penalty of removal where it is likely to undermine the public trust. In this regard, the Commission emphasizes that a law enforcement officer is held to a higher standard than a civilian public employee. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also, In re Phillips*, 117 N.J. 567 (1990).

In her initial decision, the ALJ found:

In this case, Ricciardi’s misconduct rendered him unsuitable for continuation in his position. Ricciardi administered and enforced the rules of HPD unevenly and harshly upon those he didn’t like. He violated the rules himself when he retaliated against a subordinate

officer and was untruthful. His untruthfulness is most concerning, as honesty is an essential trait for any officer, whether he is a patrolman or a police chief. As such, I **CONCLUDE** that progressive discipline should be bypassed, and that Ricciardi must be terminated from his position.

In this matter, the Commission agrees with the ALJ and finds that the appellant's infractions are egregious and inimical to what the public expects from a law enforcement officer, who is held to a higher standard. In this regard, the Commission cannot emphasize enough that the appellant, as the Police Chief, is held to the highest standard. Clearly, in this matter, not only did the appellant administer his duties in, at best, an uneven manner, of most concern is that he compounded this dereliction of duties by being untruthful. This lack of veracity is significantly problematic and cannot be countenanced in any public employee and especially not a Police Chief. As such, a penalty less than removal would serve to undermine the public trust. Accordingly, the Commission finds the penalty of removal neither disproportionate to the offense nor shocking to the conscious.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore upholds that action and dismisses the appeal of Vincent Ricciardi.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15TH DAY OF JANUARY, 2025

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment



State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 07635-24

AGENCY DKT. NO. N/A

2024-2429

**IN THE MATTER OF VINCENT RICCIARDI,
TOWNSHIP OF HILLSIDE, POLICE DEPARTMENT**

Ronald Ricci, Esq., for appellant (Ricci & Fava, attorneys)

**Scott Salmon, Esq., for respondent (Jardim Meisner Slamon Sprague &
Susser, attorneys)**

Record Closed: November 15, 2024

Decided: December 11, 2024

BEFORE ANDREA PERRY VILLANI, ALJ:

STATEMENT OF THE CASE

Respondent, Township of Hillside, terminated its Chief of Police, Vincent Ricciardi, after he aggressively prosecuted officers who violated department rules (while ignoring another officer's rule violations) and was untruthful about the Internal Affairs investigations. Must the termination stand? Yes. An officer's dishonesty in Internal Affairs investigations is significant and grounds for termination. See Ruroede v. Boro. of Hasbrouck Heights, 214 N.J. 338, 362-63 (2013).

PROCEDURAL HISTORY

On September 21, 2023, the Union County Prosecutor's Office ("UCPO") submitted an Internal Affairs ("IA") Investigation Report to respondent, Township of Hillside ("Hillside"), recommending removal of its Chief of Police, Vincent Ricciardi, due to his alleged improper involvement in five Hillside Police Department ("HPD") IA investigations.

That same day, September 21, 2023, Hillside served Ricciardi with a Preliminary Notice of Disciplinary Action ("PNDA"). In the PNDA, Hillside charged Ricciardi with incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); discrimination that affects equal employment opportunity (as defined in 4A:7-1.1) including sexual harassment in violation of N.J.A.C. 4A:2-2.3(a)(9); and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12).

On November 10, 2023, Hillside conducted a Loudermill hearing and, on December 16, 2023, the hearing officer issued a decision suspending Ricciardi without pay. On January 16, 2024, the disciplinary hearing commenced, and on May 4, 2024, the hearing officer issued a decision for removal. The hearing officer sustained three out of four charges against Ricciardi in connection with three out of five HPD IA investigations.

That same day, May 4, 2024, Hillside issued a Final Notice of Disciplinary Action ("FNDA") sustaining the following charges: incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12).¹

On May 8, 2024, Ricciardi filed this appeal, and on May 29, 2024, the Civil Service Commission transmitted the case to the Office of Administrative Law ("OAL") as a

¹ The FNDA incorrectly states that four charges were sustained. The parties agree that the hearing officer did not sustain the charge of Discrimination under N.J.A.C. 4A:2-2.3(a)(9), and it was mistakenly included in the FNDA.

contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23.

On June 27, 2024, I conducted a pre-hearing conference and scheduled hearing dates for August 7, 2024, August 14, 2024, and August 26, 2024, which were later changed to August 14, 2024, August 26, 2024 and August 29, 2024.

On August 1, 2024, Ricciardi's counsel requested a telephone conference to discuss a discovery dispute. On August 2, 2024, I conducted the conference and permitted Ricciardi to file a motion to compel the remaining discovery that he requested from Hillside. However, later that day, Ricciardi's counsel advised, "Ricciardi will not be filing a formal motion and is ready for trial."

On August 6, 2024, upon receipt and review of Hillside's exhibit list, I conducted another telephone conference to clarify a discrepancy in the hearing officer's decision that was incorporated by reference in the FNDA.² I gave both parties the opportunity to respond in writing, which they did, and I held another conference on August 7, 2024 in lieu of starting the hearing. On August 8, 2024, I issued an order limiting the scope of the hearing to the three incidents that Hillside proved by a preponderance of the evidence at the disciplinary hearing.

On August 14, 2024, the hearing commenced, and it continued on August 26, 2024, August 29, 2024, September 20, 2024, and September 26, 2024. Both parties filed written summations on November 15, 2024, and I closed the record.

DISCUSSION AND FINDINGS OF FACT

On March 18, 2022, the Union County Prosecutor's Office ("UCPO") received an email about Vincent Ricciardi, Chief of the Hillside Police Department ("HPD"). The email was from Lester Swick, an Investigator for a law firm that often represents members of

² The hearing officer incorrectly used the word 'charges' when referring to incidents. Indeed, the FNDA references the hearing officer's decision in the section titled, "*Incidents giving rise to the charges...*" (emphasis added). Of the five incidents, the hearing officer found that Hillside only proved three by a preponderance of the evidence.

the Fraternal Order of Police ("FOP"). The email stated that Lieutenant Matthew Cove of HPD wished to speak with UCPO about Ricciardi's alleged inappropriate use of the Internal Affairs ("IA") process.

The UCPO assigned the matter to Sergeant Dennis Donovan for investigation. Donovan is a former State Trooper who attained the rank of captain after twenty-five years with the State Police. He now works in the professional standards unit of the UCPO. Once Donovan was assigned to the case, other members of HPD called him to complain about Ricciardi's alleged corruption of the HPD IA system. The overarching theme of the allegations was that Ricciardi used the HPD IA process to target officers that he didn't like and cover up for others he wanted to protect.

Detective Donovan began his investigation by interviewing Cove, who said he was targeted by Ricciardi. Cove alleged that Ricciardi used IA investigations vindictively against him and others. More specifically, Cove felt that Ricciardi targeted union leaders. For instance, Cove was the president of the Superior Officer's Association for HPD, and Officer Matthew Casterline, who also complained about Ricciardi, served as an officer in the FOP. By contrast, Ricciardi allegedly protected Lieutenant Qiana Brown, who is not a union member and is someone whom Ricciardi liked (he promoted her when he became chief).

In addition to interviewing Cove, Casterline, and Brown, Donovan collected all IA reports in question, located relevant rules and regulations, and interviewed other individuals involved. During this process, Donovan engaged in multiple "round tables" with his lieutenant and investigation supervisor to discuss his progress and the direction his investigation should take. Donovan's investigation took approximately nine months to complete. His report went through six levels of review by his superiors: lieutenant, investigation supervisor, deputy chief, chief, county prosecutor, and the Attorney General's office. This is the only one of Donovan's cases that has been reviewed by the Attorney General's office.

Donovan investigated eleven separate incidents or allegations against Chief Ricciardi. Donovan found that Ricciardi should be exonerated on two of the allegations.

(H-4.) He also found that four of the allegations were not sustained by the evidence. (H-4.) But he found that five of the allegations were sustained. (H-4.) Hillside presented those five allegations to the hearing officer at the departmental disciplinary hearing. The hearing officer found that Hillside proved three out of the five allegations. (H-24.) Those three allegations or incidents are discussed in turn below.

Incident 1 – IA Investigation of Lt. Brown:

This incident involved Casterline's complaint against Brown for being absent without leave during her regularly scheduled shift on Thanksgiving Day, November 23, 2017. Brown was Casterline's shift supervisor, and both were scheduled to work on Thanksgiving Day from 5:30 p.m. on Thursday to 4:15 a.m. on Friday. In his complaint filed December 12, 2017, Casterline reported that Brown arrived at headquarters at 1:00 a.m. on Thanksgiving Day, seven and one-half hours after her shift began, wearing plain clothes. (H-13, Casterline To/From Report.) Casterline filed a complaint with his superior, Sergeant Daniel Wanat, who then sent it to IA Investigator Captain Lashonda Burgess, who eventually wrote a report to Chief Ricciardi. (H-13.)

There is no dispute that Ricciardi was annoyed by Casterline's complaint. Ricciardi, Burgess, and Donovan all testified that he was annoyed because Casterline, a patrol officer, was reporting on his superior officer, a lieutenant. There is also no dispute that Ricciardi disliked Casterline. Ricciardi explained that Casterline is known for routinely breaking the rules, so he felt Casterline should not be making sure the rules were followed by his lieutenant. Thus, according to Burgess, Ricciardi was upset when they received Casterline's complaint, and he said: "Who does he think he is? This isn't going anywhere."

Ricciardi acknowledged making a similar comment. He testified that he said something like, "Why is a patrolman monitoring a lieutenant?" But Ricciardi also testified that he "definitely" made this comment *after* Burgess submitted her report. However, that is not what Ricciardi told Donovan back in January 2023: "...when the first complaint was made, well, I might have said well why is he sending us a letter about this...why is the officer sending us a letter about this..." (H-11, p. 63). Donovan asked, "So that

conversation took place after the report...?” Ricciardi answered, “I believe so. This is 2017 Sarge...I’m trying to remember.” (H-11, p. 63). In 2023, Ricciardi couldn’t clearly remember, but at trial in 2024, he “definitely” remembered. I did not find his testimony credible.

Burgess’s account was more credible. Burgess clearly and consistently recounted that Ricciardi was immediately disgusted by Casterline’s complaint. She testified that Ricciardi said, “Who does he think he is,” which is nearly identical to what she told Donovan: “he said like the nerve, who does he think he is.” (H-8, p.13.) Even Ricciardi acknowledged to Donovan that he said this. Donovan asked: “the nerve of this guy, who does he think he is...did you say that?” Ricciardi responded, “...I’m sure I said something similar to that, yeah.” (H-11, p. 53.) Burgess also testified that Ricciardi directed her to “just get reports and that’s it” and told Donovan he said, “just get a statement from her.” (H-8, p. 18.) So that’s what Burgess did: she requested a written statement in the form of a To/From Report from Brown and Wanat. She did not take any other steps in her investigation of Brown.

Ricciardi, Burgess, and Donovan all agree that Burgess’s investigation of Brown’s absence from work on Thanksgiving Day was inadequate. Ricciardi testified, “It wasn’t very good. All her reports weren’t very good.” Burgess herself called it a “very bad investigation,” because it was missing key information. For instance, Brown’s To/From Report stated that Wanat could verify her time of arrival at work, but Wanat did not verify her arrival time. His To/From Report was conspicuously silent as to Brown’s arrival time. (H-13, Wanat To/From Report.) Burgess did not discuss this in her report or follow up with an interview of Wanat. Remarkably, Burgess did not interview anyone at all during this investigation.

Further, Burgess did not check the video surveillance at headquarters or the data on Brown’s access card to ascertain Brown’s arrival time. Both Brown and Ricciardi admitted at trial that there was a camera in the HPD parking lot that was monitored by the communications desk. Despite acknowledging the camera at trial, Ricciardi previously told Donovan, “...at that time, that was 2017, we did not have cameras.” (H-11, p. 62.) Burgess also did not check the data on Brown’s access card to determine when she

entered the building. Ricciardi testified that officers use an access card to enter the department unless they enter through the basement door or get "buzzed in" at the front. While Brown could have done either, Burgess never asked her.

Burgess's report did not address Brown's violation of HPD's two-supervisor mandate. By Brown's own admission, she was at least four and one-half to five hours late to work (arriving between 10:00-10:30 p.m.). She stated that Cove covered her supervisory duties, but that was only for three hours (from 5:30 to 8:30 p.m.), thereby leaving the department short one supervisor for one and one-half to two hours (from 8:30 to 10:00-10:30 p.m.). Ricciardi acknowledged that "the two-supervisor rule comes into play at 8:30" because two platoons are working, and two supervisors are needed. Cove left at 8:30 p.m., and the other supervisor, Sergeant Wingate, was on vacation.

Brown's claim that she took a half-comp day to account for this violation is unavailing. Brown's use of comp time would only cure a possible lateness or theft of time violation, not the neglect of her supervisory duties. Comp time or no, her absence left HPD short a supervisor. Further, Brown did not actually take comp time, as she never put it into the system. She claimed that she attempted to enter the time that very evening, but there was a "technical glitch," and the entry did not go through. She acknowledged at trial that she never actually entered the time, and she's not sure how it happened, but she believes Burgess ultimately entered the time for her. Brown did not clearly explain why she didn't notice her alleged mistake sooner or even why she was late to work that day.

Again, Burgess did not include any of this in her report. She testified that her report was inadequate because of Ricciardi's reaction to the complaint: "He's the chief. He didn't want it to go anywhere, so it didn't go anywhere." Ricciardi testified that Burgess's report was inadequate because she writes bad reports.

I found Burgess more credible. For one thing, Burgess corroborated Ricciardi's account of another incident even though she had a lawsuit pending against him at the

time, so Donovan exonerated Ricciardi of any charges related to that incident.³ Additionally, the aspect of Burgess's investigation – or lack thereof – I found most striking was that she did not conduct a single interview, which aligns with her testimony that Ricciardi told her to "just get reports and that's it." Though Ricciardi testified that Burgess also failed to conduct interviews in subsequent investigations, like the Cove investigation at issue in this case, Burgess *did* conduct interviews in the Cove investigation as stated on the second page of her report. (H-15.)

Ultimately, however, the reason behind Burgess's inadequate investigation is not as significant as the result. On December 19, 2017, the same day Burgess submitted her report, Ricciardi issued his determination in a letter to Casterline stating: "The investigation and a review of all information failed to disclose sufficient evidence to clearly prove or disprove the allegation." (H-13.) This statement is not true. Ricciardi did not review all information. Again, Ricciardi, Burgess, and Donovan all agreed that Burgess wrote a bad report that was missing important information. Stated otherwise, even if Ricciardi is correct about Burgess being an ineffective IA officer, his statement that there was a "review of all information" is still false. Ricciardi's excuse that this phrase was a "copy and paste" from a form letter in the appendix to the Attorney General's Internal Affairs Policy and Procedure ("IAPP") manual is unpersuasive. Ricciardi was clearly aware that he can and should modify the form letter as needed to address the particular circumstances of an investigation, because that is precisely what he did to the December 19, 2017 letter when he added the second paragraph.

In addition to the untrue statement that all information was reviewed, Ricciardi's December 19, 2017 letter included a problematic second paragraph. It stated: "I caution you that it is not in your scope of authority to investigate, question, or monitor your supervisors. Unless your complaint can be plainly proven, doing so is considered an act of insubordination and a number of other violations. I strongly suggest your focus remain on the duties of a patrolman. Please consider this your only warning." (H-13.) This reprimand was a clear retaliation against Casterline for his complaint against Brown.

³ That incident, involving a ring buoy, is not at issue in this case. Donovan recommended that Ricciardi be exonerated of all charges related to that incident, so it was never presented to the hearing officer or OAL.

Ricciardi stated to Donovan and at trial that he gave this warning to protect Brown. Ricciardi testified that he was trying to protect Brown from Casterline, who allegedly called her a rat and wished death on her family. However, just because Casterline hated Brown does not mean that his report against her was untrue. It is very likely that both things were true: Brown violated HPD rules on Thanksgiving Day and Casterline reported it because he disliked her. Casterline's complaint had at least some merit and may have been entirely accurate. Brown never actually put in comp time, and not a single person or source verified Brown's arrival at the time (other than Brown herself). Moreover, it is improper for the chief of police to "protect" any officer during an IA investigation, as HPD protocol requires IA investigations to be "thorough and objective." (H-3.)

Indeed, Burgess testified that she was shocked the first time she read Ricciardi's warning to Casterline in the December 19, 2017 letter. Burgess testified: "I've never seen a reprimand to a complainant before." Burgess was the IA investigator for HPD for two years, and she has participated in at least five disciplinary hearings. She was appointed as the Officer in Charge ("OIC") for HPD after Ricciardi's removal, and she led the department in that capacity for six months.

Incident 2 – IA Investigation of Lt. Cove

This incident involved a three-minute conversation between Cove and other officers that was captured by Sergeant Alberto Velez's body camera on March 7, 2019, when it was mistakenly activated. The conversation occurred in a hallway at HPD headquarters. Cove, Velez, Wanat, and Officer Michael Flowers were present. Two minutes of the conversation were about a kidnapping that occurred in Hillside the previous day. One minute of the conversation was Cove joking about his friend, Sergeant Cosimo Tripoli, who was not present.

On March 20, 2019, Ricciardi directed Burgess to conduct an IA investigation of Cove for the March 7, 2019 conversation. (H-15.) Burgess conducted the investigation and issued an undated report recommending three charges: insubordination, violation of supervisory duties, and violation of commanding officers' authority and responsibilities. (H-15.) On March 29, 2019, Ricciardi brought six more charges, for a total of nine

charges, against Cove in a letter alleging, among other things, that he “was captured on video participating in non-work-related conversation, *i.e.*, loafing/idling.” (H-15.) On May 1, 2019, Ricciardi conducted Cove’s disciplinary hearing. (H-16.) On May 15, 2019, Ricciardi issued a decision finding Cove guilty on all nine charges and suspending him without pay for five days. (H-15.) Ricciardi’s decision as hearing officer conflicted with Burgess’s report, which did not find that Cove was idling and loafing.

Burgess testified that Cove was not idling and loafing because most of the conversation (two out of three minutes) was work related. I agree. Cove and the other officers were discussing a kidnapping that had just occurred in Hillside, during which a man was held at gunpoint, forced into the trunk of his car, and driven to a location in Irvington. At the time of the conversation, Cove was waiting for the State Police to arrive at headquarters. He and Officer Flowers were meeting with the State Police, who were about to execute a search warrant in Irvington. The State Police were going to make the entry and HPD was going to transport the suspect back to Hillside. The mere fact that the officers made a few jokes or that the conversation was not absolutely necessary for them to complete their duties did not render the conversation unrelated to work.

During the remaining one minute of conversation on March 7, Cove mentioned a picture of an eagle that he gave to his friend, Tripoli, whose nickname is “Eagle Eyes.” Cove went on to tell a story about Tripoli that elicited laughter from the group. Though Cove testified at trial that he placed the eagle picture inside Tripoli’s mailbox on his office door, he stated during the March 7th conversation that he “took it down”: “Oh he took it down, he took it down right away.” (H-15.) The phrase “took it down” implies that the picture was hanging on Tripoli’s door rather than inserted in the mailbox. When Cove placed the eagle on Tripoli’s door, he violated Ricciardi’s May 21, 2018 directive that prohibited such postings: “effective immediately, there are to be no postings in HQ...except if the posting is for a law enforcement purpose.” (H-15.)

Given the foregoing, it was reasonable for Ricciardi to charge Cove for insubordination as Burgess recommended in her report. It may also have been reasonable for Ricciardi to charge Cove with violations related to his supervisory responsibilities, as Burgess recommended, because he teased Tripoli in front of

subordinate officers. However, it was unreasonable for Ricciardi to deviate from Burgess's recommendations and charge Cove with idling and loafing for a one-minute conversation. Even accepting Ricciardi's interpretation of the conversation that all three minutes were not work related, it is unreasonable to charge an employee with idling and loafing for a three-minute conversation. Surely there is no employee that hasn't spent three minutes in personal conversation while at work.

Ricciardi also testified that Cove was idling and loafing because the conversation took place approximately one hour into his shift. Cove's shift started at 5:30 p.m. and the video was captured at 6:21 p.m. From this, Ricciardi concluded that Cove and Flowers (whose shift also started at 5:30) were loafing for 51 minutes: "...it is more than likely the officers in this video had yet to begin their duties." (H-15.) But the evidence does not support this conclusion. Cove stated at trial and at his disciplinary hearing: "...after coming to work, patrol went out to the road, including Mike Flowers, who appeared in the video. I don't recall what time shortly after...I was approached by Lieutenant Rodelo and he requested a uniformed officer...He requested Officer Flowers. I called Officer Flowers off the road." (H-16, p. 21.)

The effort that Ricciardi put into investigating this three-minute conversation is remarkable, especially when comparing it to the Brown investigation. Ricciardi was intimately involved in the Cove investigation, which was about three minutes of time, yet he had almost no involvement in the Brown investigation, which was about seven and one-half hours of time. As to the Cove investigation: Ricciardi specifically instructed Burgess to investigate Cove; he did not accept Burgess's recommendation for three charges and instead brought nine charges; he presided over Cove's departmental hearing; and he issued a seven-page decision suspending Cove for five days.

By contrast, Ricciardi did not conduct any follow up to the Brown investigation. Donovan remarked that the Brown investigation was the only IA investigation he saw that Ricciardi was not involved in. Ricciardi did not make any suggestions, ask for more information, request changes to the report, etc. He stated there was a review of all information when there wasn't. He disregarded Brown's violation of the two-supervisor mandate. He dismissed Brown's admitted "lateness" because "the two hours were not

significant...there shouldn't be an undue hardship on people, from a human perspective." Yet, he did not extend this human courtesy or understanding to Cove and his three-minute conversation.

Incident 3 – IA Investigation of Off. Casterline

This incident involved a referral that Ricciardi made to UCPO about Casterline allegedly stealing ammunition from HPD. On December 14, 2021, Spotswood Police Department ("SPD") arrested Casterline for a domestic violence ("DV") assault. As required by New Jersey law, SPD seized all weapons and ammunition in Casterline's home. On December 15, 2021, Ricciardi learned of the arrest and suspended Casterline without pay. (H-20.) Ricciardi testified that, later that same day, he called Brown into his office and told her to refer the matter to the prosecutor's office. The next day, December 16, 2021, Ricciardi emailed SPD stating, "It appears much of the ammunition seized on that DV case...was stolen from our armory." (H-20.)

On January 4, 2022, Brown and Sergeant Francisco Vega went to Spotswood to take pictures of the ammunition. (R-4.) On January 6, 2022, Brown issued a target letter to Casterline based on "the allegation of taking home department owned property, *i.e.*, police ammunition, without authorization or being so directed previously." (H-20.) On January 11, 2022, Casterline notified Brown that the DV charges were dropped and asked about returning to work. (H-20.) That same day, Brown reported the alleged theft to UCPO. (H-19.) On January 14, 2022, Detective Alex Lopez of UCPO submitted his report, which recommended exonerating Casterline of the charge. (H-19.) The UCPO did not take any further action.

Vega, who was appointed as the head firearms instructor for HPD in 2019, testified that it's possible the previous firearms instructors gave Casterline the ammunition. He stated that he personally did not give Casterline any ammunition (except what was necessary for duty and for qualifying every other year), but he explained that, in the past, there was a surplus of ammunition that instructors distributed to officers for practice or their own personal use. Though Vega stated that some of the ammunition, such as the Gold Dot Duty Ammunition boxes (R-4, #37) in Casterline's possession, was "identical"

to the ammunition used by HPD, he also stated that he had no reason to believe the ammunition was stolen. He would have noticed missing ammunition, and he did not notice that anything was missing.

Vega acknowledged that HPD policy prior to 2019 encouraged officers to use HPD ammunition for their personal firearms. The policy stated: "[t]he department will furnish ammunition for off-duty/back-up firearms" and "[a]ny officer using other than department issued ammunition must have same approved by the department firearms officer." (H-22.) In 2019, Ricciardi changed the policy and discontinued the supply of ammunition for personally owned firearms. (H-23.) When Ricciardi changed the policy, he specifically referenced the prior policy of supplying ammunition for personally owned firearms as "quite costly" (H-23), thereby demonstrating that he was fully aware of the prior policy and the obvious possibility that some officers would have department-issued ammunition in their possession.

Even with this in mind, Ricciardi reported the ammunition stolen the day after he heard about Casterline's arrest. On December 16, 2021, Ricciardi emailed SPD: "it appears much of the ammunition...was stolen from our armory." (H-20.) Ricciardi didn't say the ammunition was HPD property that should be held for inspection. He didn't say that he was concerned about Casterline "stockpiling" ammunition, as he testified at trial. He used the word "stolen." Moreover, Ricciardi said the ammunition was "stolen" before conducting any meaningful inquiry or follow up. He never even asked Vega, his head firearms instructor responsible for safekeeping HPD's ammunition, whether ammunition was missing, if he gave Casterline ammunition, or anything at all about the subject. Indeed, Vega testified that no one from HPD ever asked him about it.

In addition to emailing SPD, Ricciardi testified that he immediately told Brown to report the alleged theft to UCPO. Ricciardi stated that he told her this on December 15, 2021, when he received the arrest report and pictures of the ammunition. Ricciardi explained that section 1.0.9 of the IAPP requires him to immediately report possible criminal activity. Section 1.0.9 states: "Where a preliminary investigation indicates the possibility of a criminal act on the part of the subject officer, the County Prosecutor must be notified immediately. No further action should be taken, including the interviewing of,

or the filing of charges against the officer, until the County Prosecutor so directs.” (R-1.) Notably, Section 1.0.9 requires immediate referral to the prosecutor after a preliminary investigation; yet, as of December 15, 2021, neither Ricciardi nor anyone else at HPD had investigated the alleged theft.

I did not find Ricciardi’s testimony about the events of December 15 to be credible. Despite his claim that he told Brown to report the theft to UCPO on December 15, 2021, Brown did not actually report it until January 11, 2022, twenty-seven days later. This was after she conducted her preliminary investigation and issued a target letter. (H-19.) Ricciardi provided no explanation for the delay, other than to say it was probably because Brown was busy doing other things and he did not micromanage her schedule. But this doesn’t make sense. If Ricciardi told Brown to refer the matter to UCPO in December as he claims, she should not have been conducting an investigation after the fact in January. As noted above, logically and under IAPP 1.0.9, the preliminary investigation should occur *before* the chief decides to refer the matter to the prosecutor.

Given Ricciardi’s professed awareness of IAPP 1.0.9, it is much more likely that he told Brown to refer the case to UCPO on January 11, 2022 – the actual date of the referral – *after* she had completed her preliminary investigation. January 11, 2022 was also the day Casterline informed Brown that the DV charges were dropped, and he wanted to return to work. Ricciardi likely referred the case to UCPO at that point out of frustration because – in addition to Casterline asking to return to work – Hillside’s attorney had just advised Ricciardi that he improperly denied Casterline a Loudermill hearing (which Ricciardi admitted at trial) and should not have removed Casterline from the payroll. Indeed, it was the next day, January 12, 2022, that Ricciardi notified Glynn Jones, the CFO for Hillside, that Casterline should be returned to pay status and awarded back pay. (H-26.) It appears that Ricciardi was looking for a way to bring additional charges against Casterline after other attempts at penalizing him had failed.

As previously discussed, it is undisputed that Ricciardi did not like Casterline. Ricciardi testified at trial that “Casterline was known as a clown and as a guy who didn’t follow the rules and who does things he shouldn’t do.” What is less clear is why Ricciardi disliked Cove. Perhaps it was because Cove supported the former HPD chief, Louis

Panarese, in his bid to continue as chief when he was replaced by Ricciardi. It could also be that, as Cove explained, he and Ricciardi have very different management styles. Cove claims to be a "jokester" who uses humor to lighten the mood and build comradery, while Ricciardi claims to be a "rules guy." Either way, it does not appear that Ricciardi disliked Casterline and Cove because they were union members. (Ricciardi himself was a union member and past President of the FOP). But, when Ricciardi became visibly angry at trial when discussing Cove, he made it clear that, indeed, he disliked them both.

On the other hand, Ricciardi was very protective of Brown. He admitted at trial that he tried to protect Brown from unfair treatment by other officers, especially Casterline. Yet, she – along with Casterline and Cove – made mistakes. Brown was absent from her shift for a minimum of four and one-half to five hours, possibly as much as seven and one-half hours, leaving HPD short a supervisor. Cove spent three minutes "telling war stories" (per Ricciardi's characterization) and posted an eagle on his friend's door. Casterline was arrested on DV charges and had HPD ammunition in his possession. They all violated HPD rules to some extent, but Ricciardi only disciplined Cove and Casterline. Brown was never even investigated in a meaningful way. Thus, I **FIND** that Ricciardi inadequately supervised the IA process, unevenly administered discipline to members of the HPD, and has been untruthful about the IA investigations.

CONCLUSIONS OF LAW

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 4A:2-6.2. 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). Major discipline may include removal of the public employee from his position. N.J.A.C. 4A:2-2.2(a).

In appeals concerning major disciplinary action, the appointing authority bears the burden of proof. N.J.A.C. 4A:2-1.4(a). The burden of proof is by a preponderance of the evidence, In re Phillips, 117 N.J. 567, 575 (1990), and the hearing is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980). The evidence must be such as to lead a

reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). One can describe preponderance as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975).

Charge 1 - Incompetency, Inefficiency or Failure to Perform Duties:

A public employee may be subject to major discipline for "incompetency, inefficiency or failure to perform duties." N.J.A.C. 4A:2-2.3(a)1. 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). Failure to exercise appropriate judgment is also a basis for removal of an employee in a sensitive position that requires public trust in that judgment. In re Herrmann, 192 N.J. 19, 36-38 (2007).

In this case, Ricciardi had a duty as police chief under N.J.S.A. 40A:14-118(a) to administer and enforce the rules and regulations for the discipline of the force and its officers. Yet, he failed to exercise appropriate judgment when enforcing the rules against Cove and Casterline, and he neglected his duty when he failed to enforce any rules at all against Lieutenant Brown. Therefore, I **CONCLUDE** Ricciardi is subject to discipline under N.J.A.C. 4A:2-23(a)(1) for failure to perform his duties.

Charge 2 - Conduct Unbecoming a Public Employee:

Conduct unbecoming a public employee has been interpreted broadly as conduct that adversely affects the morale or efficiency of a governmental unit or that tends to destroy public respect for governmental employees and confidence in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances "be such as to offend publicly accepted standards of decency." Karins, 152 N.J. at 555 (quoting, In re Zeber, 398 Pa. 35, 43 (1959)). Such misconduct need not "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.” 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)).

In this case, Ricciardi’s failure to administer discipline to the officers under his command in an even-handed and impartial manner adversely affected the morale and efficiency of HPD. As the Township’s chief law enforcement officer, he had a heightened responsibility to set a good example for his subordinate officers and the public. He fell short of this implicit standard of good behavior when he treated his subordinate officers differently, some unfairly, and was untruthful about the IA investigations. Therefore, I **CONCLUDE** that Ricciardi committed conduct unbecoming a public employee under N.J.A.C. 4A:2-2.3(a)(6).

Charge 3 - Other Sufficient Cause:

N.J.A.C. 4A:2-2.3(a)(12) holds that an employee may be subject to discipline for other sufficient cause. Other sufficient cause is an offense for conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct. Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419 (1955). It is a catchall category that often addresses violations of department rules and policies. See In re Hairston, No. A-3758-17T4 (App. Div. March 26, 2019) (slip op. at 13). In this case, Ricciardi violated several HPD policies and procedures.

Ricciardi violated HPD Rule 3:7.6, “Retaliation,” which states that “[n]o employee shall take any official action...with the intention to retaliate against any person for criticizing or complaining about an employee” (H-2), and HPD’s similar IA Policy, Section IV.B.1, which states that “retaliation against any employee for reporting misconduct shall constitute a serious disciplinary offense and may lead to a severe penalty up to and including termination” (H-3, p. 17). Ricciardi retaliated against Casterline for complaining about Brown when he issued a written warning to Casterline on December 19, 2017.

Ricciardi also violated Rule 3:1.7, "Obedience to Laws, Rules and Written Directives," which requires employees to obey all written directives of the department. (H-2.) As already discussed, Ricciardi did not obey Rule 3:7.6, which prohibits retaliation. What's more, Casterline was following HPD Rule 3:1.9 when Ricciardi reprimanded him. Rule 3:1.9 states: "[e]mployees knowing of other employees violating...written directives of the department shall report same to the Chief of Police through the chain of command." When Casterline observed that Brown arrived to work seven and one-half hours late (or even four and one-half hours late), he was required to report her, yet Ricciardi reprimanded him for it, thereby ignoring Rule 3:1.9 in violation of Rule 3:1.7.

Ricciardi also violated Rule 3:13.5 regarding truthfulness. Rule 3:13.5 requires employees "to be truthful at all times." (H-2.) However, Ricciardi stated in the December 19, 2017 letter to Casterline that there had been a "review of all information" in the Brown investigation, which was not true. Ricciardi was also untruthful when he told Donovan that HPD did not have cameras in 2017. Some of Ricciardi's testimony during this hearing was untruthful as well.

Ricciardi also violated Rule 3:1.10, "Neglect of Duty," as discussed above, by failing to adequately supervise the IA process and enforce HPD rules against Lt. Brown.

Finally, Ricciardi violated I.A. Policy III.B, "Objective and Impartial Investigation," during the Brown investigation when – by his own admission – he attempted to protect her from Casterline.

For all of these reasons, I **CONCLUDE** that Ricciardi is subject to discipline under N.J.A.C. 4A:2-2.3(a)(12) for "other sufficient cause."

Penalty:

Once a determination is made that an employee has violated a statute, regulation or rule concerning his employment, the concept of progressive discipline must be considered. W. New York v. Bock, 38 N.J. 500 (1962). However, where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal

is appropriate, regardless of an individual's disciplinary history. Henry v. Rahway State Prison, 81 N.J. 571 (1980). Indeed, 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. Herrmann, 192 N.J. at 33.

Police officers are different from other public employees and thus "are held to higher standards of conduct than other public employees." City of Jersey City v. Jersey City Police Officers Benevolent Ass'n, 154 N.J. 555, 572 (1998); In re Attorney General Law Enforcement Directive Nos. 2020-5 and 2020-6, 465 N.J. Super. 111, 147 (App. Div. 2020). They represent "law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public." Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966). Thus, the Appellate Division has, more than once, affirmed the dismissal of a police officer for infractions that went to the heart of the officer's ability to be trusted to function appropriately in his position. Herrmann, 192 N.J. at 35 (citing Cosme v. E. Newark Twp. Comm., 304 N.J. Super. 191, 206 (App. Div. 1997)).

Our courts have also held that an officer's dishonesty in an Internal Affairs investigation is significant because "inconsistent statements during the course of the Internal Affairs investigation, [call] into question [the officer's] honesty, integrity, and truthfulness, essential traits for a law enforcement officer." Ruroede v. Boro. of Hasbrouck Heights, 214 N.J. 338, 362-63 (2013). Finally, the retention of a police officer with a record of untruthfulness in official matters endangers the effective and efficient direction of public services. Brady v. Maryland 373 U.S. 83 (1963).

In this case, Ricciardi's misconduct rendered him unsuitable for continuation in his position. Ricciardi administered and enforced the rules of HPD unevenly and harshly upon those he didn't like. He violated the rules himself when he retaliated against a subordinate officer and was untruthful. His untruthfulness is most concerning, as honesty is an essential trait for any officer, whether he is a patrolman or a police chief. As such, I **CONCLUDE** that progressive discipline should be bypassed, and that Ricciardi must be terminated from his position.

Procedural Issue:

Ricciardi argues in his summation that “this matter should have been dismissed for violations of N.J.S.A. 40A:14-147 and 40A:14-149.” Yet, Ricciardi never filed a motion to dismiss, and counsel did not raise the issue at all during prehearing conference or trial. Therefore, I **CONCLUDE** that Ricciardi waived this procedural argument. However, even if Ricciardi did file a timely motion to dismiss, the argument is wholly without merit.

Regarding N.J.S.A. 40A:14-147, the time restriction only applies to violations of “internal rules and regulations.” Here, Ricciardi didn’t just commit internal rule violations, he also failed to perform his duties under N.J.A.C. 4A:2-2.3(a)(1) and committed conduct unbecoming an employee under N.J.A.C. 4A:2-2.3(a)(6). Moreover, Hillside filed well within the time restriction. N.J.S.A. 40A:14-147 states that the charges must be filed no later than forty-five days “after the date on which the person filing the complaint obtained sufficient information to file the matter...” Hillside obtained sufficient information on September 21, 2023, when UCPO submitted Donovan’s final report to the mayor. (H-4.) Hillside then filed its complaint, the PNDA, later that same day. (H-1.)

Hillside also complied with N.J.S.A. 40A:14-149, which states, “if any member...of the police department...shall be suspended pending a hearing...such hearing...shall be commenced within thirty days from the date of the service of...the complaint upon him...” Hillside issued a decision suspending Ricciardi without pay on December 16, 2023. The disciplinary hearing commenced on January 16, 2024, thirty-one days later. Thus, there was no unjustified delay and Ricciardi was not prejudiced, so neither N.J.S.A. 40A:14-149 nor N.J.S.A. 40A:14-147 compel dismissal of the charges. See In re Arbitration Between FOP Lodge #97, 364 N.J. Super. 294, 299-300 (App. Div. 2003). As such, I **CONCLUDE** that the charges against Ricciardi must not be dismissed.

ORDER

Based upon my findings of fact and conclusions of law, I **ORDER** that Ricciardi is **TERMINATED** from his employment, and his appeal is **DISMISSED**.

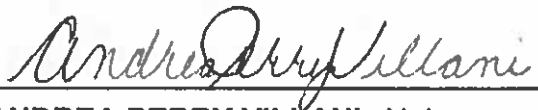
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

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. 40A:14-204.

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.

December 11, 2024

DATE



ANDREA PERRY VILLANI, ALJ

Date Received at Agency:

December 11, 2024

Date Mailed to Parties:

December 11, 2024

APV/sej

APPENDIX

WITNESSES

For Appellant:

Chief Vincent Ricciardi

Lt. Qiana Brown

For Respondent:

Sgt. Dennis Donovan

Sgt. Daniel Wanat

Capt. Lashonda Burgess

Sgt. Francisco Vega

Lt. Matthew Cove

Glynn Jones

EXHIBITS

For Appellant:

R-1⁴ IA Policies, NJ Attorney General's Office

R-2 Emails re: FLAG donation

R-3 Burgess Complaint

R-4 Ammunition Photos

R-5 Video of March 7, 2019

For Respondent:

H-1 Preliminary Notice of Disciplinary Action

H-2 HPD Rules and Regulations

H-3 HPD Internal Affairs Policy

H-4 UCPO Internal Affairs Report

H-5 Investigation Transcript of Lt. Matthew Cove

H-6 Investigation Transcript of Officer Matthew Casterline

H-7 Investigation Transcript of Sgt. Daniel Wanat

⁴ Counsel deviated from the standard marking of exhibits required by N.J.A.C. 1:1-15.7 to avoid confusion with Ricciardi and Respondent (Hillside). Ricciardi exhibits are marked with an R and Hillside exhibits are marked with an H.

- H-8 Investigation Transcript of Capt. Lashonda Burgess
- H-9 Investigation Transcript of Steeve Augustin
- H-10 Investigation Transcript of Lt. Ronald Bartell
- H-11 Investigation Transcript of Chief Vincent Ricciardi
- H-12 Investigation Transcript of Lt. Qiana Brown
- H-13 IA 17-23014 Report
- H-14 FBI Letter
- H-15 IA 19-7505 Report
- H-16 IA 19-7505 Report
- H-19 EA 2022-02 Report
- H-20 Casterline Complaint and Loudermill Notice
- H-21 Casterline Payroll History
- H-22 HPD Firearms Policy
- H-23 HPD Firearms Policy REVISED
- H-24 Final Notice of Disciplinary Action
- H-25 Payroll Instruction Form
- H-26 Ricciardi Letter to Glynn Jones