

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

JOSEPH STOKES AND STEPHEN WELSH :  
 :  
v. : Case No. PF-C-24-32-W  
 :  
CECIL TOWNSHIP :

**PROPOSED DECISION AND ORDER**

On April 8, 2024, Police Officers Joseph Stokes and Stephen Welsh filed a charge of unfair labor practices with the Pennsylvania Labor Relations Board (PLRB or Board) against Cecil Township (Township or Employer) alleging that the Township violated Section 6(1)(c) of the Pennsylvania Labor Relations Act (PLRA), as read *in pari materia* with Act 111, when Township Police Chief Shawn Bukovinsky disciplined them on February 26, 2024.

On May 1, 2024, the Secretary issued a Complaint and Notice of Hearing assigning the charge to conciliation for the purpose of resolving the matters in dispute through mutual agreement of the parties, and designating August 23, 2024, in Pittsburgh, as the time and place of hearing.

The hearing was continued once at the joint request of the parties. The hearing was then held on January 10, 2025 in Pittsburgh, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. A second day of hearing was held on April 11, 2025 in Pittsburgh. Stokes and Welsh submitted a post-hearing brief on May 20, 2025. The Township submitted a post-hearing brief on June 23, 2025.

The Hearing Examiner, based on all matters of record, makes the following:

**FINDINGS OF FACT**

1. The Township is a public employer and political subdivision under Act 111 as read *in pari materia* with the PLRA. (N.T. 8-10)<sup>1</sup>.

2. Police Officers Joseph Stokes and Steve Welsh are policemen under Act 111 and employees under the PLRA. (N.T. 5; Joint Exhibit 1).

3. Cecil Township Police Wage and Policy Unit, FOP Lodge #22 (Union) is the exclusive bargaining representative of the police officers of Cecil Township. The Union and the Township were subject to a collective bargaining agreement (CBA) with the effective dates of January 1, 2016 through December 31, 2020. The terms of this CBA were continued by memorandum of agreement (MOA) dated June 20, 2020, which extended the CBA to December 31, 2025. The MOA only modified wages and the effective term. (N.T. 19-23; Union Exhibit 1, 2).

4. Pursuant to the CBA, the first step to the grievance procedure is a meeting with the Chief. Step two of the grievance procedure is before the

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<sup>1</sup> All citations are to the January 10, 2025 transcript unless underlined. Underlined citations refer to the April 11, 2025 transcript.

Township Board of Supervisors. Step three is before an arbitrator. With respect to overtime, the CBA states in relevant part:

Police Officers shall have no right to refuse special duties unless ill or on vacation as herein described and further, should a Police Officer refuse overtime, when requested on three (3) consecutive occasions, that Police Officer shall relinquish or surrender consideration to work overtime for a period of thirty (30) days.

(N.T. 23-25; Union Exhibit 1).

5. Joseph Stokes is employed by the Township in its police department as a sergeant. He has been an employee of the Township for over twelve years. (N.T. 19).

6. Stephen Welsh was hired by the Township as a police officer in August 2017. Welsh left Township employment on July 5, 2024. At the time of the hearing, he worked for the Allegheny County Police Department. (146-147-149).

7. Chief Shawn Bukovinsky has been employed by the Township as a police officer for over 30 years and has been chief for over 12 years. Bukovinsky had been a member of the Union up to 2024, including his time as Chief. In the fall of 2023, other police officers asked Bukovinsky to step out of the Union. He stated that he believed he was in the bargaining unit as a chief. Eventually, the President of the Union, Stokes, found Board documents that convinced Bukovinsky that the chief was not part of the Union's bargaining unit. (N.T. 6-9, 50)

8. At the times relevant to this matter, Stokes was president of the Wage and Policy Unit. He had been president for over six years. (N.T. 19-20).


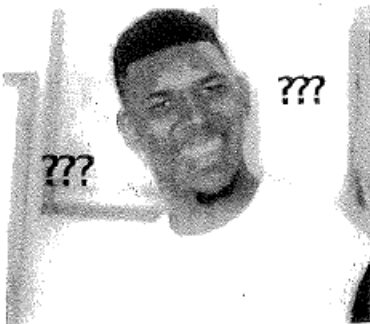
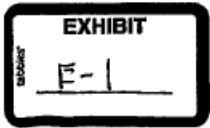
9. Stokes and Welsh filed the charge against the Township as individuals. The Union was not involved. (N.T. 20-21).

10. In March 2023, Township police officers were aware that an individual in the Township was allegedly running a lottery scam. Stokes and another officer made an arrest of the individual at a gas station and seized the suspect's car. The case was turned over to Township detectives, Officers Nida and Marcucci. The vehicle was searched at that time by the detectives. Approximately one year later in January, 2024, the vehicle was still in police possession at an impound lot and was eligible for asset forfeiture. Officer Richard Oddi searched the car again and found a large amount of crystal meth in a front door compartment. (N.T. 77-78, 85, 193-194; Employer Exhibit 1).

11. Welsh found the above incident humorous because the detectives had missed the crystal meth when they originally searched the car. On January 18, 2024, Welsh created a paper document which contained an internet meme picture showing a confused man and attached it to a police report which detailed Oddi finding the crystal meth in the previously searched car. The meme was of former NBA player Nick Young with question marks around him. In order to find the picture, Welsh used the search term "confused black man". He highlighted specific sections in the police report which showed when the

detectives initially searched the car with the date and then highlighted another section which showed that Oddi found crystal meth nearly a year later. He put the document in the two detectives' office mailbox and posted it in the locker room. Stokes was the supervising sergeant on the same shift as Welsh when Welsh created the meme document. Stokes was aware of what Welsh was doing. (N.T. 25-27, 78, 82-84, 185-186; Employer Exhibit 1).

12. The meme document created by Welsh appears as:

	
Cecil Township Police Department	
3599 Millers Run Road Suite 102 Cecil, PA 15321	
Phone #: 724-743-0940	
Email:	
Call Summary Report	
3/13/2023-Sgt Holt Jr.-- Rosemary Chardella called inquiring if Cubberley had his dogs with him. I advised her that there was no mention of his dogs in the report. She said she will check his residence to make sure the dogs are ok	
UPDATE: (3/13/23)--- Attorney General Agents Jim Hillinger and Abram Cone advised for me to obtain a warrant and seize the listed items. They will then get a warrant to take possession of any computer and or phones. Hillinger texted me last night stating that they weren't going to be able to interview Cubberley at the jail on 3/14/23. I typed a search warrant and forwarded the draft to ADA John Friedman to review. Friedman gave me the ok to have the warrant signed. DJ Saleva to sign the warrant at 13:30 on 3/14/23. Will search the vehicle on 3/15/23 with Detective Nida.	
UPDATE: (3/14/23)---I called and spoke to Agent Cone from AG's Office. He stated that this type of theft is being done in the Philadelphia area. They are headed out there later this week. He will call me with updates and when they will be interviewing Cubberley. MM	
UPDATE: (8/8/23)---Det. Aulerich of the Lower Burrell Police Department requested a copy of this incident due to Cubberley being a suspect in recent similar incident within their jurisdiction. I emailed a copy of the incident to Det. Aulerich. AN	
UPDATE: (1/16/24)---Ofc. Oddi located a small clear zip-lock baggy in the vehicle's driver's side door compartment. The bag contained a clear crystal-like substance which field tested positive for meth. It was packaged and placed into evidence for destruction. AN	
UPDATE: (1/17/24)---Cubberley's vehicle was released to Washington County DA's Drug Task Force (Det. Jack Hancock) at approximately 10:30 hours. AN	
<u>Additional Documents</u>	
	
ORI: PA0631500	

(Employer Exhibit 1).

13. Detectives Nida and Marcucci complained to Lieutenant Egizio that the meme document had been placed in their mailboxes. Marcucci and Egizio were angry about the document. (N.T. 85-86, 226).

14. On the morning of January 18, 2024, Bukovinsky was in his office and Lieutenant Egizio came in and told him that the two detectives Marcucci and Nida had concerns about a report. Bukovinsky saw the meme document then and was very upset. Bukovinsky testified that he was initially concerned that a report had been edited and he was also concerned about the potential public relations impact on the department if the meme document made it to the public. Bukovinsky testified he believed that selecting the picture of Nick Young was inappropriate and unprofessional especially considering it was added to an official police report. He said out-loud that morning that he was going to fire Welsh. When Bukovinsky had first seen the meme document, he had never seen that meme before. He had to do research to figure out it was Nick Young pictured. (N.T. 10-14, 76).

15. After Welsh distributed and posted the meme document, he reported to his next scheduled shift. Nothing was said to him about the meme document and he worked his twelve-hour shift and went home. After this shift, he got a call from Bukovinsky. Bukovinsky told Welsh to come into the department and that he was on administrative suspension. When Welsh got to the department, Bukovinsky ordered him to turn in his gun, badge, keys and police officer ID. He also lost access to department IT services such as email. (151-152).

16. While Welsh was on administrative suspension, he learned that Bukovinsky had stated out-loud in the department that he was going to fire him. This information prompted Welsh to make sure he had an attorney with him when he went to his Weingarten interview on January 29, 2024. (N.T. 152).

17. On January 19, 2024, Bukovinsky issued Stokes a letter which placed him on paid administrative leave. (N.T. 30; Union Exhibit 4).

18. On January 19, 2024, Bukovinsky issued Welsh a letter which placed Welsh on paid administrative leave. (N.T. 30, 152; Union Exhibit 5).

19. Stokes and Welsh were on administrative leave from January 19, 2024 through February 28, 2024. While on administrative leave, Stokes and Welsh lost their MPOETC card (police certification), badge, keys, access to email, and access to the scheduling system. (N.T. 30, 39, 149).

20. Bukovinsky testified that he believed the administrative suspensions of Stokes and Welsh were necessary "to start the investigation and protect any evidence or ability to collect evidence while we were looking into the matter." Bukovinsky had the IT department review Welsh's internet searches. (N.T. 16-17).

21. On January 19, 2024, Bukovinsky issued Stokes a letter ordered him to attend a fact-finding interview on January 29, 2024. (N.T. 31; Union Exhibit 6).

22. Stokes attended the January 29, 2024 interview as ordered. He brought with him Attorney Ronald Retsch, who is counsel for the Union. At the meeting for the Township was Bukovinsky, Lieutenant Egizio, and Attorney

Catherine Clark, Township Solicitor. There were no questions about any alleged "racial connotation" to the meme document at this interview. (N.T. 32-33, 50).

23. On January 19, 2024, Bukovinsky issued Welsh a letter which ordered Welsh to attend a fact-finding interview on January 29, 2024. (N.T. 31; Union Exhibit 7).

24. Welsh also attended a January 29, 2024 interview as ordered. He brought with him Attorney Retsch. In the meeting for the Township was Bukovinsky, Egizio, and Solicitor Clark. There were no questions about any alleged "racial connotation" to the meme document at this interview. (N.T. 150, 189, 50).

25. On January 31, 2024, Solicitor Clark wrote a letter to Attorney Retch which states in relevant part:

Dear Attorney Retsch:

The purpose of this correspondence is to follow up on the pre-discipline meeting held at the Cecil Township Police Department pursuant to Policy 1005, subsection 1005.11 on January 29, 2024. Specifically, according to subsection 1005.11(d) of the Policy, in the event that the Chief of Police elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.

Therefore, please be advised that the following are the results of the investigation:

1. The document in question was created by Officer Steve Welsh with the assistance of Sergeant Joe Stokes. Video footage was viewed from the station during the time in question and it is clear from the footage that Sergeant Stokes is an active participant in the creation of the document.

2. The photo or "meme" used to create the document in question was found through a Google internet search for "confused black dude."

3. An additional copy of the document was shared with Officer Richard Oddi, Jr. On January 29, 2024, Officer Oddi confirmed he received the document in question and threw it away.

Pursuant to subsection 1005.11(e), the "employee may thereafter have the opportunity to respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials. Please advise if either of your clients wishes to provide additional information pursuant to subsection 1005.11(e).

Should any additional information be obtained through further investigation, you will be advised prior to the

imposition of any recommended discipline as required by Policy 1005.

(N.T. 95; Employer Exhibit 4).

26. After the January 29, 2024, Welsh also learned that the Township was concerned about the "racial context" of the meme document he created. (N.T. 154). (Union Exhibit 9).

27. After his interview on January 29, 2024, Welsh composed a letter addressing the January 31, 2024 letter from Solicitor Clark and a concern by the Township expressed through a phone call from Solicitor Clark to Attorney Retsch that there was a "racial connotation" to the meme created by Welsh. The question of any "racial connotation" of the meme used by Welsh was not brought up at the January 29, 2024 interview. (N.T. 34-35, 95, 130, 154; Union Exhibit 8).

28. After reviewing this letter from Welsh (Union Exhibit 8), the Township no longer had any concerns about any "racial connotation" in the meme document created by Welsh. (N.T. 68-69).

29. On February 13, 2024, Solicitor Clark sent Attorney Retsch an email which states:

Good afternoon:

On behalf of the Chief, I wanted to invite Officer Welsh and/or Sergeant Stokes to come to the Cecil Township Police Department as provided in subsection 1005.11 of Policy 1005 which is governing this personnel investigation. At this time the investigation is almost complete and we wanted to provide an opportunity for either individual to review any of the materials that have been gathered as part of the investigation prior to the imposition of any recommended discipline. From my perspective, this would be an opportunity for all parties to discuss the issue informally and allow any potential agreements to be reached prior to a formal Investigation report being issued and recommended discipline imposed.

However, this is not a mandatory meeting. and only need happen if the parties are amenable to it. I would appreciate you letting me know if either Officer Welsh and/or Sergeant Stokes are interested in such a meeting by the end of the day tomorrow and we can discuss scheduling a date/time. Otherwise, I will be in touch soon to set up an individual meeting to review the completed investigation report and a determination as provided for in subsection 1005.10.1 of Policy 1005.

(Employer Exhibit 11).

30. Welsh agreed to have an informal meeting. Stokes did not agree. Bukovinsky met with Welsh and Attorney Retsch on or before February 23, 2024. At this meeting Bukovinsky confirmed that the Township was no longer concerned about any "racial connotations" relating to the meme document created and distributed by Welsh. (N.T. 31, 68-69; Union Exhibit 10,11).

31. On February 23, 2024, Bukovinsky issued a letter to Stokes which states in relevant part:

Dear Sergeant Stokes:

Please consider this correspondence written notice pursuant to Cecil Township Police Department Policy 1005, subsection 1005.10.1 that the personnel investigation is complete. The disposition of the investigation is SUSTAINED, and there is sufficient evidence to establish a violation of the Cecil Township Police Department Rules 1, 9, 12, 16 and 17 as well as Cecil Township Police Department Policies 314, 802 and 1015.

At this time, my recommended discipline is deduction of (40) forty hours of pay and two months demotion.

You have an opportunity to respond orally or in writing to me regarding this recommended discipline, withing five (5) days of receiving this Notice.

(Union Exhibit 3).

32. On February 26, 2024, Bukovinsky issued a letter to Stokes which states in relevant part:

Dear Sergeant Stokes:

Please consider this correspondence written notice pursuant to Cecil Township Police Department Policy 1005, subsection 1005.10.2 of the final written decision.

On February 24, 2024, you were provided with a written notice of the recommended discipline. At that time you waived the opportunity to, within five (5) days, present any information in response to the recommended discipline. As a result, the disposition remains unchanged and is SUSTAINED, as there is sufficient evidence to establish a violation of the Cecil Township Police Department Rules 1, 9, 12, 16 and 17 as well as Cecil Township Police Department Policies 314, 802 and 1015.

The final discipline is deduction of (40) forty hours of pay and two months demotion.

The grounds and reasons for the discipline are as follows: Sgt. Stokes was present, watched and had full knowledge of the activities of Officer Welsh, and did disrespect fellow Cecil Township Police Department ("CTPD") officers, and was present, watched and had full knowledge of the activities of Officer Welsh as he obtained and used a confidential CTPD report regarding a recent incident involving fellow CTPD Officers. Sgt. Stokes was present, watch and had full knowledge of the activities of Officer Welsh as he used the internet at

the CTPD while on duty to search for a meme of a "confused black dude" and printed a meme. Sgt. Stokes was present, watch and had full knowledge of the activities of Officer Welsh as he altered the confidential CTPD report by highlighting certain sections of it and taping the meme to the confidential CTPD report. Sgt. Stokes was present, watched and had full knowledge of the activities of Officer Welsh as he made color copies of the altered confidential CTPD report while on duty at the CTPD. Sgt. Stokes watched as Officer Welsh placed copies of the altered confidential CTPD report into the mailboxes of fellow CTPD Officers and placed copies of the altered confidential CTPD report in a public place, the men's locker room/restroom located in the CTPD.

Throughout the investigation, Sgt. Stokes insisted he violated no policies or rules and when asked about the activities of Officer Welsh, Sgt. Stokes was emphatic that he never told Officer Welsh to stop what he was doing nor would he ever advise Officer Welsh to stop those types of activities because Sgt. Stokes asserted nothing improper occurred.

All of these actions constitute misconduct.

The discipline is effective immediately. You will be put back on the schedule and start the deduction of the 40-hours of pay and demotion to patrolman for 2-months on Thursday, February 29, 2024, at 0600 hours. You are not to work your shifts during the 40-hour deduction period. I will contact you on Wednesday, February 28, 2024, to set up a time to give you your Police ID, keys to the station, and duty weapon. . . .

(Union Exhibit 3).

33. On February 23, 2024, Bukovinsky issued a letter to Welsh which states in relevant part:

Dear Officer Welsh:

Please consider this correspondence written notice pursuant to Cecil Township Police Department Policy 1005, subsection 1005.10.1 that the personnel investigation is complete. The disposition of the investigation is SUSTAINED, and there is sufficient evidence to establish a violation of the Cecil Township Police Department Rules 1, 16 and 17 as well as Cecil Township Police Department Policies 314, 315, 802 and 1015.

At this time, my recommended, discipline is deduction of (40) Forty Hours of pay.

You have an opportunity to respond orally or in writing to me regarding this recommended discipline, withing five (5) days of receiving this Notice.



(Union Exhibit 3).

34. On February 26, 2024, Bukovinsky issued a letter to Welsh which states in relevant part:

Dear Officer Welsh:

Please consider this correspondence written notice pursuant to Cecil Township Police Department Policy 1005, subsection 1005.10.2 of the final written decision.

On February 24, 2024, you were provided with a written notice of the recommended discipline. At that time you waived the opportunity to, within five (5) days, present any additional information in response to the recommended discipline. As a result, the disposition remains unchanged and is SUSTAINED, as there is sufficient evidence to establish a violation of the Cecil Township Police Department Rules 1, 16 and 17 as well as Cecil Township Police Department Policies 314, 315, 802 and 1015.

The final discipline is deduction of (40) Forty hours of pay.

The grounds and reasons for this discipline are as follows: There is sufficient evidence to establish that Officer Welsh disrespected fellow Cecil Township Police Department ("CTPD") officers when he sought a specific confidential CTPD report regarding a recent incident involving fellow CTPD officers. Officer Welsh used the internet at the CTPD while on duty to search for a meme of a "confused black dude" and printed a meme using CTPD equipment. Officer Welsh altered the confidential CTPD report by highlighting certain sections of it and taping the meme to the confidential CTPD report. Officer Welsh made color copies of the altered confidential CTPD report while on duty at the CTPD. Officer Welsh placed copies of the altered confidential CTPD report into the mailboxes of fellow CTPD Officers and placed copies of the altered confidential CTPD report in a public place, the men's locker room/restroom located within the CTPD.

Additionally, Officer Welsh placed a copy of the altered confidential CTPD report into the desk drawer of another fellow officer and sent a photo of the same altered confidential CTPD report via text messaging.

All of these actions constitute misconduct.

The discipline is effective immediately. You Will be put back on the schedule and start the deduction of 40-hours of pay on Thursday, February 29, 2024, at 0600 hours. You are not to work your shifts during the 40-hour deduction period. I will contact you on Wednesday,

February 28, 2024, to set up a time to give you your Police ID, keys to the station, and duty weapon.

(Union Exhibit 3).

35. Bukovinsky testified that in Stokes' case he chose the amount of discipline because "the whole situation was a unique bad situation." He testified that he came up with the 40-hour suspension and demotion because "I had no other explanation on the case and the officers were not taking responsibility for any actions." (N.T. 33).

36. Bukovinsky testified that in Welsh's case, he chose the amount of discipline based on Welsh altering an official report and the two detectives complaining about it. He testified that he also based Welsh's discipline on the fact that Welsh would not take responsibility for his actions. (N.T. 35-36).

37. On February 27, 2024, Stokes and Welsh submitted written grievances to Bukovinsky over the February 26, 2024 discipline issued to them. (N.T. 28, 150; Union Exhibit 3).

38. Stokes served the 40-hour or five-day suspension and was demoted for two months. As a result of the demotion, Stokes received a ten percent reduction in pay while demoted. (N.T. 39-41).

39. Welsh served the five day or 40-hour unpaid suspension from February 29, 2024 through March 6, 2024. (N.T. 149).

40. On February 28, 2024, at approximately 9:30 a.m., Stokes and Bukovinsky, as Chief, had the step one meeting. Stokes had with him Oddi as a Union representative. Stokes brought with him documents that he believed supported him. As the meeting began, he attempted to present these allegedly exculpatory or exonerating documents to Bukovinsky but Bukovinsky refused to look at them or consider them. Bukovinsky said that he was not "going to hold court over the matter." Stokes also questioned Bukovinsky about why his discipline was so severe. Bukovinsky said, "Make me an offer." Stokes stated he believed the appropriate discipline should have been at most a verbal warning. Bukovinsky said a verbal warning was "out of the question because he had too much invested in this." Bukovinsky also stated that he was concerned if the memo document had been made public it could have damaged the reputation of the police department. Stokes responded that in his memory of the department, no police officer had been punished to this extent. In response, Bukovinsky said "It was because you got lawyers involved." Bukovinsky continued, "the punishment would have been much less if [Stokes] would have come to him and met with him and not got attorneys involved." Stokes said one reason Stokes and Welsh had attorneys was because of Bukovinsky's earlier statement that he was going to fire Welsh. Stokes was also concerned that he was going to be fired. Bukovinsky replied that he didn't mean it and that he was angry when he said he was going to fire Welsh. Stokes continued to try to get his punishment reduced to a verbal warning or a written warning. Bukovinsky replied it was out of the question. The interview ended. (N.T. 42-50, 109-113, 200-204, 76; Union Exhibit 3, 16).

41. Following this step one interview, Stokes sent his bundle of allegedly exculpatory information to the Township Board of Supervisors as part of the step two procedure. (N.T. 52).

42. Welsh had his step one grievance meeting with Bukovinsky on February 28, 2024 at approximately 9:00 a.m. Welsh brought Oddi as his Union representative. Welsh had with him the same packet of allegedly exculpatory documents that Stokes had. Welsh tried to explain that he thought the punishment was unjust considering the severity of the incident and the information in the packet. Welsh and Oddi brought up that no one in the department had been disciplined for internet jokes which have been common in the department. Bukovinsky refused to consider any information brought up by Welsh. Bukovinsky said, "I am not going to hold court over the matter." Welsh said that he would settle for a verbal reprimand or a written reprimand. Bukovinsky responded that he "needed to take days" from Welsh. Welsh asked Bukovinsky what were the factors that he used to decide on a five day suspension. Bukovinsky said it was because that Welsh did not come to see him without counsel. Specifically, Bukovinsky stated that the reason that the punishment was so high is because Stokes and Welsh got an attorney before anything even started. Welsh explained to him, "I got an attorney because I heard you say you were going to fire me". Bukovinsky confirmed to Welsh that he had said he would fire him. (N.T. 155-159, 183, 200-204, 76).

43. On March 4, 2024, Welsh sent an email to the Township Board of Supervisors which states in relevant part:

Dear Cecil Township Board of Supervisors,

Attached to this email is a grievance filed on behalf of Officer Stephen Welsh, of the Cecil Township Police Wage and Policy Unit.

I, Officer Welsh, am the grievant of discipline that I received on February 26, 2024 for an incident that occurred within the police depaliment on Janualy 18, 2024. I was placed on administrative leave for six weeks, stripped of my firearm, badge, police identification, and access to the station and schedule. I am filing this grievance because the incident in question involves alleged misconduct that has until now never been treated as misconduct and I believe the discipline received is without just cause. I have been employed by Cecil Township since 2017 and over the past seven (7) years, I have had zero discipline issued to me over this time.

. . .

On February 28, 2024, bargaining unit representative Richard Oddi and myself met with Chief Bukovinsky as the first step of the grievance procedure outlined in the Cecil Township Police Agreement Section X. During this meeting, Chief Bukovinsky refused to look at any documents that I brought to explain why I believed the discipline was without just cause and violated past practice of the department leading to the filing of this grievance. During this meeting, Chief Bukovinsky also stated that he chose the amount of discipline issued based on myself and another officer involved, Sergeant Joseph Stokes, not contacting him and discussing the incident prior to our ordered

investigatory interview. He stated that the discipline could have been less severe had we elected to meet in that manner which would be waiving our right to representation during an investigatory interview, known as Weingarten rights, and spoke to him without an attorney. It is my understanding that imposing a more severe discipline due to exercising a union right of representation is an unfair labor practice. Also, it was stated that he had only obtained the services of the Township attorney because we had elected to have legal counsel with us. The Chief also stated that "out of anger" he had stated that he was going to fire me out loud in the police department where an officer heard him. I was made aware of this statement during my shift I worked on January 18th. . . .

. . .

Thank you for your time and consideration in this matter.

(N.T. 165; Union Exhibit 18).

44. On March 6, 2024, counsel for the Township issued a letter to Stokes which states in relevant part:

On behalf of Cecil Township, pursuant to the Township - Police Collective Bargaining Agreement, Section X, Subsection A (ii) and (iii), your grievance dated February 26, 2024 was submitted to the Board of Supervisors for resolution. At a meeting held on March 4, 2024, the Board voted, by a vote of 5-0, to deny your grievance (Resolution I 00-2024). This letter serves as written notice of the Board's resolution of your grievance.

(Union Exhibit 3).

45. On March 6, 2024, counsel for the Township issued a letter to Welsh which states in relevant part:

On behalf of Cecil Township, pursuant to the Township - Police Collective Bargaining Agreement, Section X, Subsection A (ii) and (iii), your grievance dated February 26, 2024 was submitted to the Board of Supervisors for resolution. At a meeting held on March 4, 2024, the Board voted, by a vote of 5-0, to deny your grievance (Resolution 99-2024). This letter serves as written notice of the Board's resolution of your grievance.

(Union Exhibit 3).

46. On March 6, 2024, Stokes and Welsh both notified the Township by letter of their intent to proceed to binding arbitration over their respective discipline grievances. (Union Exhibit 3).

47. The two discipline grievances were consolidated and heard by Arbitrator Marc Winters who issued an Opinion and Award (Winterd Award) on August 6, 2024. The Winters Award was not appealed and is final. The Winters Award states in relevant part:

Based on the reasoning and discussion above and the entire record before me, this Arbitrator finds that the evidence presented at the Hearing, in support of the charges, were not sufficient to show just cause exists whereby the end result would justify a deduction of (40) hours pay (five (5) day unpaid suspension) for Officer Welsh nor a deduction of (40) hours pay (five (5) day unpaid suspension) and a two (2) month demotion for Sergeant Stokes.

However, the evidence presented at the Hearing, in support of the charges, were sufficient to show just cause exists whereby the end result would justify discipline in the form of a deduction of (8) hours (one (1) day unpaid suspension) each for Officer Welsh and Sergeant Stokes.

With respect to Officer Welsh: The Township is hereby ordered to make Officer Welsh whole for any and all loss of earnings, with the exception of the one day unpaid suspension in accordance with the above Decision. Seniority will be adjusted, if necessary, to reflect the change in the unpaid suspension time. This Award does not include missed overtime opportunities.

With respect to Sergeant Stokes: The Township is hereby ordered to not only reverse the two (2) months demotion but to make Sergeant Stokes whole for any and all loss of earnings, with the exception of the one day unpaid suspension in accordance with the above Decision. Seniority will be adjusted, if necessary, to reflect the change in the unpaid suspension time and demotion time.

This Award does not include missed overtime opportunities.

(N.T. 26; Union Exhibit 21).

48. Historically, before January 2024, the discipline process was that there would be an agreement between Bukovinsky and the officer in lieu of a suspension or termination and going through the formal discipline process. The police officer would agree to a less stringent disciplinary result such as losing a vacation day, or 12 hours from their vacation bank, or losing a comp day. (N.T. 65-66, 116-117, 221-222, 228, 22-26; Union Exhibit 20).

49. Stokes and Welsh are the first officers to file discipline grievances and take a discipline grievance to arbitration since at least 2013. (N.T. 65-66).

50. While Stokes was suspended from February 29 through March 7, 2024, he was called to work overtime. He refused two overtime calls because he was suspended. Bukovinsky had said Stokes could work the overtime shifts while

suspended, but Stokes, relying on advice of Union counsel, believed it would not be proper to work overtime shifts while suspended due to potential issues with being covered by Heart and Lung and questions of personal liability if Stokes was involved in a critical incident while suspended. Additionally, Stokes believed Bukovinsky was being contradictory because the discipline document authored by Bukovinsky stated that he was not to work his shifts. Due to these two refused overtime calls, along with another on March 11, Stokes was unable to work any extra duty or overtime shifts for thirty days. Bukovinsky is not directly involved in administering overtime. Overtime is administered by Lieutenants Egizio and Kuzak. (N.T. 70-75, 102-106, 52, 95, 110).

51. On March 4, 2024, Bukovinsky sent Welsh a text message which states:

Officer Welsh, during our last meeting you told me that you were currently looking for another job, and you are currently speaking with a new employer. You stated you are leaving this department. Since the Washington County SWAT Team is a county member organization and you would be involved in many incidents out of Cecil Township jurisdiction, I have decided not to schedule you for SWAT training, and you will no longer be a member of the team.

(Union Exhibit 17).

52. Welsh had told Bukovinsky he "was looking to leave" the Township in the February 28, 2024 meeting. Welsh formally applied to the Allegheny County Police Department in April 2023. Bukovinsky removed Welsh from SWAT because he knew Welsh was leaving the department and did not want him going out on high-risk calls in order to protect the Township from potential liability. (N.T. 173-177, 45-47).

### DISCUSSION

Stokes and Welsh allege Bukovinsky's actions towards them are unfair labor practices under Section 6(1)(c) of the PLRA as read with Act 111.

In a discrimination claim under Section 6(1)(c) of the PLRA, the charging party has the burden of proving that an employee engaged in protected activity, that the employer was aware of this activity, and that the employer took adverse action against the employee that was motivated by the employee engaging in that known protected activity. Duryea Borough Police Department v. PLRB, 862 A.2d 122 (Pa. Cmwlth. 2004); FOP, Lodge 5 v. City of Philadelphia, 38 PPER 184 (Final Order, 2007). It is the motive for the adverse employment action that creates the offense under Section 6(1)(c). PLRB v. Ficon, 254 A.2d 3 (Pa. 1969). An employer may rebut a claim of discrimination under Section 6(1)(c) of the PLRA by proving that the adverse employment action was based on valid nondiscriminatory reasons. Duryea Borough Police Dept, supra.

The Board has recognized that, in the absence of direct evidence, it will give weight to several factors upon which an inference of unlawful motive may be drawn. City of Philadelphia, 26 PPER ¶ 26117 (Proposed Decision and Order, 1995). The factors which the Board considers are: the entire background of the case, including any anti-union activities by the employer;

statements of supervisors tending to show their state of mind; the failure of the employer to adequately explain the adverse employment action; the effect of the adverse action on unionization activities—for example, whether leading organizers have been eliminated; the extent to which the adversely affected employees engaged in union activities; and whether the action complained of was “inherently destructive” of employee rights. City of Philadelphia, supra, citing PLRB v. Child Development Council of Centre County, 9 PPER ¶ 9188 (Nisi Decision and Order, 1978). Although close timing alone is insufficient to support a basis for discrimination, Teamsters Local 764 v. Montour County, 35 PPER 12 (Final Order, 2004), the Board has long held that the timing of an adverse action against an employee engaged in protected activity is a legitimate factor to be considered in determining anti-union animus. Berks Heim County Home, 13 PPER ¶ 13277 (Final Order, 1982).

In this matter, it is clear that both Stokes and Welsh engaged in protected activity. Both had brought Union counsel to their respective Weingarten interviews on January 29, 2024. Welsh had an additional meeting with Bukovinsky on February 23, 2024 and had Union counsel with him for that meeting as well. It is well settled that a public employee has the right to have the assistance of counsel at an investigatory interview under NLRB v. Weingarten, 420 U.S. 251 (1975), as adopted by the Board in PLRB v. Conneaut School District, 12 PPER 12155 (F.O. 1981).

It is not contested on this record that Bukovinsky knew Stokes and Welsh engaged in protected activity. He was present in the above-mentioned meetings in which Stokes and Welsh had counsel present on their behalf.

It is also clear on this record that Bukovinsky took adverse employment action against Stokes and Welsh. On February 26, 2024, Bukovinsky disciplined both Stokes and Welsh. Both received a 40-hour suspension. Stokes also received a two-month demotion.

The record also shows that Bukovinsky took adverse action against Stokes and Welsh because they engaged in that known protected activity. On February 28, 2024, or two days after Bukovinsky had disciplined Stokes and Welsh, he told Stokes in the step one grievance meeting that the amount of discipline Stokes received “was because you got lawyers involved.” Bukovinsky continued, “the punishment would have been much less if [Stokes] would have come to him and met with him and not got attorneys involved.” Also on February 28, 2024, in Welsh’s step one meeting, Bukovinsky told Welsh that he decided on a 40-hour suspension because Welsh did not come to see him without counsel. Specifically, Bukovinsky stated to Welsh that the reason that the punishment was so high is because Stokes and Welsh got an attorney before anything even started. This is plain and overt evidence of unlawful motivation on behalf of Bukovinsky and the discipline issued to Stokes and Welsh was based on them engaging in protected activity. In its Brief at page 23, Counsel for Stokes and Welsh eloquently argues:

In this matter . . . both Stokes and Welsh testified that they disputed just cause for any discipline. . . . Accordingly, they insisted on Union counsel representation to be present for interviews and any discussions on resolution. The Complainants argue that the Chief’s standard practice of . . . keeping the matter “in house” in the Department and outside the purview of the Township Board of Supervisors, could not occur here, given that the Complainants requested union

legal counsel and felt the possible discipline was unjust and excessive and worth contesting at arbitration, especially given any allegations of "racial bias." Thus, the Chief was rankled by the presence of union legal counsel, which prevented him from using the customary leverage against the officers to force them into a "vacation swap" resolution, consistent with his past practice. This is why the Chief stated that the discipline would have been much less severe had each officer "just met with him" and elected to forego their Weingarten rights for administrative investigations.

I agree with this paragraph from counsel for Stokes and Welsh and find that the record fully supports the inferences therein.

During his testimony at N.T. 42 and 76-77, Bukovinsky disputes that he said the above. Bukovinsky testified that he was asked if there would be less punishment if there were no attorney involved. Bukovinsky testified that he merely said, "I don't know." Based upon the record as a whole, including the demeanor of the witnesses on the stand, I credit the testimony of Stokes, Welsh and Oddi over Bukovinsky and find that he did in fact say to Stokes and Welsh (with Oddi present) that the discipline level was chosen because they had insisted on having an attorney with them at pre-disciplinary meetings. The testimony of Stokes, Welsh and Oddi is specifically and credibly supported by the contemporary letter from Welsh on March 4, 2024, to the Township Supervisors where he writes that Bukovinsky ". . . stated that the discipline could have been less severe had we elected to meet in that manner which would be waiving our right to representation during an investigatory interview, known as Weingarten rights, and spoke to him without an attorney."

Though there is direct evidence of animus in this case, and it does not need to be inferred, animus can nevertheless be inferred from the record. The protected activities and decision to discipline all occurred in February 2024 and thus timing is a very strong factor in this case.

Bukovinsky's negative attitude in the step one meetings with Stokes and Welsh also supports an inference of anti-union animus. Bukovinsky inexplicably flatly refused to consider any information brought by Stokes and Welsh to show how similar incidents had allegedly been handled in the past. When, in the step one meetings, he was confronted with arguments and alleged evidence of similar incidents, Bukovinsky bluntly stated "I am not going to hold court over the matter." Bukovinsky's obstinate refusal to meaningfully participate in the grievance process is evidence to support an inference of anti-union animus.

Finally, an inference of anti-union animus is supported by the lack of an adequate explanation for the discipline of Stokes and Welsh. The discipline was excessive. The record in this matter is detailed above and it is clear that in January, 2024, when Bukovinsky initially became aware of the meme document created by Welsh and the complaints by the detectives, he was incensed and stated out-loud in the police department that he was going to fire Welsh. I find this initial anger and statement to be somewhat reasonable given that Bukovinsky was perhaps unfamiliar with the meme chosen by Welsh and Bukovinsky thought that it was racist or, at least, racially insensitive. However, the record shows that once Bukovinsky investigated the



matter he, and the Township, determined the meme was not racist. Indeed, in the February 26, 2024 discipline letters Bukovinsky issued Stokes and Welsh, there was no mention of racism. But by that time Welsh and Stokes had already been suspended with pay for over a month and Bukovinsky along with the Township had completed a thorough investigation of them over the incident. I infer from the record that Bukovinsky realized by this point, despite his initial anger, public exclamations that he would terminate Welsh, and initiation of time-consuming investigations, that there was no legitimate reason to suspend Stokes and Welsh. Indeed, in Stokes' step one meeting, when Stokes said he would settle for a verbal warning, Bukovinsky said that was "out of the question because he had too much invested in this." When Welsh asked why a verbal reprimand was not appropriate, Bukovinsky stated that he, "needed to take days" from Welsh. I infer that Bukovinsky's need "to take days" was not based on the severity of the acts committed by Stokes or Welsh, but because Bukovinsky had "too much invested in this." This is not an adequate reason.

In this vein, I also infer that Bukovinsky's refusal to review any information from Stokes or Welsh that showed similar incidents in the department was based, in part, on Bukovinsky realizing that if he did review such information he'd be forced to concede the discipline he issued Stokes and Welsh was not similar to how like incidents had been handled in the past. I infer Bukovinsky knew the discipline he issued to Stokes and Welsh was not supportable and thus in the step-one meeting he refused to "hold court" over his decisions.

Bukovinsky did testify to non-discriminatory reasons for his actions. Bukovinsky testified that he was initially concerned that a report has been edited and he was also concerned about the potential public relations impact on the department if the meme document made it to the public. Bukovinsky testified that he believed that selecting the picture of Nick Young was inappropriate and unprofessional especially considering it was added to an official police report. Bukovinsky also testified that in Stokes' case he chose the amount of discipline based on "the whole situation was a unique bad situation." He testified that he came up with the 40-hour suspension and demotion because "I had no other explanation on the case and the officers were not taking responsibility for any actions." Bukovinsky testified that in Welsh's case, he chose the amount of discipline based on Welsh altering an official report and the two detectives complaining about it. He testified that he also based Welsh's discipline on the fact that Welsh would not take responsibility for his actions.

Overall, I do not find the reasons Bukovinsky testified about to justify the discipline he gave to Welsh and Stokes to be adequate. Of the reasons testified to by Bukovinsky, his concern about modifying a department report is the most credible. Indeed, this reason is highlighted in the February 26, 2024 discipline letters sent to Stokes and Welsh. However, it is impossible to square a 40-hour suspension without pay (and a two-month demotion for Stokes) over this infraction especially considering Bukovinsky did not apply progressive discipline.

Bukovinsky did testify that he was concerned about the meme document becoming public, but I do not find this to be a credible and adequate reason to suspend Stokes and Welsh because there was no evidence that the meme document ever became public prior to discipline being issued. Though Bukovinsky refers to the police officer locker room as public, I find that is not a credible description. Additionally, to the extent this reason is valid

to support discipline, it is not adequate to support 40-hour unpaid suspensions as well as a two-month demotion for Stokes and no application of progressive discipline.

Bukovinsky's claim that the situation is unique is not credible especially considering, as discussed above, he refused to review information from Stokes and Welsh which they alleged to be of similar situations.

Finally, Bukovinsky's testimony that he chose the discipline in part because Stokes and Welsh "did not take responsibility" for what they did is not an adequate explanation for suspensions of police officers covered by a collective bargaining agreement. This reason testified to by the Bukovinsky shows that he was motivated by his desire to force Stokes and Welsh into his extra-CBA discipline procedure of police officers accepting discipline outside any formal procedure. This is not an adequate explanation.

For the above reasons, the Township committed an unfair labor practice when it disciplined Stokes and Welsh.

Stokes and Welsh also allege that Stokes's 30-day suspension from consideration for overtime and extra duties and Welsh's removal from the SWAT assignment were discriminatory unfair labor practices.

With respect to the overtime issue, the record shows Bukovinsky told Stokes he could work overtime while suspended. Nevertheless, Stokes came to the reasonable and justified conclusion that he should not work overtime shifts while suspended (and without, for example, proper police identification) as that would expose him to personal liability if he were involved in any incident. Therefore, he refused two overtime shifts while suspended which ultimately led to him being suspended by the lieutenants who administer overtime from all consideration for overtime or extra duties for thirty days as per the language in the CBA.

It is clear that Stokes was engaging in protected activity and the Township knew he had engaged in protected activity. There is however insufficient evidence to show the Township was motivated by anti-union animus to retaliate against Stokes engaging in protected activity when the decision was made disqualify Stokes for 30 days from overtime and extra duty consideration. Importantly, it was Stokes' decision to not work the overtime shifts offered to him while suspended. However reasonable these refusals were, the lieutenants accounted for these two refusals when they applied the CBA language. This is not an unfair labor practice.

However, the fact that Stokes did not take overtime shifts while suspended and his causally related 30-day suspension from all overtime and extra duty consideration are a natural outcome of the Township's unfair labor practice of disciplining him in the first place. Therefore, the Township shall construe the make-whole order below to include compensating Stokes for the overtime he missed while suspended and overtime and extra duty opportunities he missed during the 30 days he was suspended from overtime and extra duty consideration.

Finally, with respect to Welsh's removal from SWAT, it is clear that Welsh engaged in protected activity and the Township knew of the protected activity. However, Bukovinsky credibly testified that when he made the decision to remove Welsh from SWAT, he knew Welsh was leaving the Township police department and he did not want Welsh participating in the relatively

high-risk SWAT activities as Welsh's employment with the Township was coming to an end and Bukovinsky wanted to protect the Township from potential long-term liability. This is a legitimate and non-discriminatory reason for Bukovinsky's decision and, therefore, the removal of Welsh from SWAT was not an unfair labor practice.

### **CONCLUSIONS**

The Hearing Examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The Township is a public employer and political subdivision under Act 111 as read *in pari materia* with the PLRA.
2. Joseph and Stephen Welsh are policemen under Act 111 and employees under the PLRA.
3. The Board has jurisdiction over the parties hereto.
4. The Township has committed unfair labor practices in violation of Section 6(1) (a) and (c) of the PLRA and Act 111.

### **ORDER**

In view of the foregoing and in order to effectuate the policies of the PLRA and Act 111, the Hearing Examiner

### **HEREBY ORDERS AND DIRECTS**

that the Township shall:

1. Cease and desist from interfering with, restraining or coercing employees in the exercise of the rights guaranteed in the PLRA and Act 111.
2. Cease and desist from discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.
3. Take the following affirmative action which the Hearing Examiner finds necessary to effectuate the policies of the PLRA and Act 111:
  - (a) Immediately rescind all discipline issued to Stokes and Welsh on February 26, 2024.
  - (b) Immediately pay Stokes and Welsh and make Stokes and Welsh whole for all lost wages and benefits;
  - (c) Immediately pay Stokes and Welsh interest at the rate of six percent *per annum* on the outstanding backpay owed to them;
  - (d) Post a copy of this Decision and Order within five (5) days from the effective date hereof in a conspicuous place readily accessible to the bargaining unit employees and have the same remain so posted for a period of ten (10) consecutive days;

(e) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this Decision and Order by completion and filing of the attached Affidavit of Compliance; and

(f) Serve a copy of the attached Affidavit of Compliance upon Stokes and Welsh.

**IT IS HEREBY FURTHER ORDERED AND DIRECTED**

That in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this decision and order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this sixteenth day of July, 2025.

**PENNSYLVANIA LABOR RELATIONS BOARD**

/s/ Stephen A. Helmerich  
Stephen A. Helmerich, Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

JOSEPH STOKES AND STEPHEN WELSH :  
 :  
 v. : Case No. PF-C-24-32-W  
 :  
 CECIL TOWNSHIP :

**AFFIDAVIT OF COMPLIANCE**

Cecil Township hereby certifies that it has ceased and desisted from its violations of Section 6(1)(a) and (c) of the Pennsylvania Labor Relations Act; that it immediately rescinded the February 26, 2024 discipline issued to Stokes and Welsh; that it immediately paid and made Stokes and Welsh whole including interest at the rate of six percent *per annum* on the outstanding backpay owed to them; that it has complied with the Proposed Decision and Order as directed therein; that it has posted a copy of the Proposed Decision and Order as directed therein; and that it has served an executed copy of this affidavit on Stokes and Welsh.

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Signature

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Title

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Date

SWORN AND SUBSCRIBED TO before me  
the day and year first aforesaid.

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Signature of Notary Public