

**CIVIL SERVICE COMMISSION
CITY OF SANTA BARBARA**

IN RE BRIAN LARSON,

**DECISION ON APPEAL
FROM DISMISSAL**

v.

CITY OF SANTA BARBARA.

The hearing on the appeal of Sergeant Brian Larson (“Larson”) from the City of Santa Barbara Police Department’s demotion and termination of Appellant was heard on April 29, 30, May 1 and June 3 and 4, 2024, before the City of Santa Barbara Civil Service Commission. (“Commission”) Commissioners present at the Hearing were Chair Lindsey Charles, Vice Chair Donna Lewis, and Commissioner Hap Freund.

The Appellant was represented by Robert Baumann and Kylie Coleman, Ferrone Law Group and the City of Santa Barbara was represented by Tony Carvahlo, Liebert, Cassidy & Whitmore.

Because of the length of the hearing (5 days) and many transcripts to review, the parties requested and were given additional time to review the transcripts and were also given an additional twenty (20) days from the date of receipt of the transcripts within which to file closing arguments/briefs. Counsel for both parties have filed their closing arguments/brief in a timely manner.

1 The Exhibits as found in the Exhibit "binder" as well as the following Exhibits
2 F, G, 56-61 were also entered into the record and admitted into evidence. In addition,
3 Mr. Bauman sent the Hearing Officer an email from Larson asking for letters of
4 support. This email is referred to as the "talking points" email. The Commission and
5 the City's counsel were provided with a copy of the letter. It is admitted into evidence.
6

7 No other documentary evidence was presented or admitted. Mr. Carvahlo and
8 Mr. Baumann made opening statements.

9 The following witnesses testified at the hearing:

- 10 1. [REDACTED], [REDACTED] [REDACTED]
11 was formerly employed as a Santa Barbara Police detective during most
12 of the relevant time frame.)
13
- 14 2. Santa Barbara County Deputy District Attorney Marguerite Charles
15
- 16 3. Santa Barbara County Deputy District Attorney Megan Chanda
17
- 18 4. Santa Barbara County Deputy District Attorney Hanna Meyer
19
- 20 5. Santa Barbara Chief of Police Kelly Gordon
21
- 22 6. Detective Chad Hunt (A former SBPD Sergeant, presently employed as
23 an investigator with the Santa Barbara County DA's Office)
24
- 25 7. Detective Kyle Crooks
26
- 27 8. Assistant City Manager Rene Eyerly
28
9. Dan McGrew, Santa Barbara County District Attorney Investigator (Mr.
McGrew was a former SBPD Commander, presently employed as an
investigator with the Santa Barbara County DA's Office)
10. Brian Larson, Appellant

1 11. Garon Wyatt, Wyatt Private Investigators

2 12. Charles Katsapis, Santa Barbara Police Department Commander

3 Both parties had the opportunity to call the witnesses and to cross-examine
4 them.

5
6 The issues before the Commission arising out of this second Skelly hearing¹
7 are i) Larson's demotion based upon soliciting letters critical of detective [REDACTED]
8 ([REDACTED]) [REDACTED]'s work performance, ii) Larson's termination for improperly accessing
9 Police Department "private" and "confidential" files, without prior authorization and
10 for Larson's personal benefit, iii) POBR statute of limitations violation and, iv)
11 refusing a direct order to return copies of department files in Larson's possession.
12

13 Testimony relating to those issues concluded on June 4, 2024. Upon conclusion
14 of the testimony, the Commission agreed to continue the hearing in order to allow the
15 parties additional time to submit their closing briefs. The time for Hearing Officer
16 Stephen Underwood to prepare a draft Findings of Fact and Conclusions of Law was
17 also extended by agreement of the parties with deliberation and final order due
18 thereafter. On July 30, 2024, the Commission deliberated in closed session with
19 Hearing Officer Stephen Underwood present.
20

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22 After due deliberation, the Commission unanimously adopted Findings of Fact,
23 Conclusions and Order.
24

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27 ¹ The first Skelly hearing and decision related to Larson's disparate treatment of [REDACTED] and inappropriate and
28 demeaning conduct towards [REDACTED] and other females in Larson's unit. Those were the subject of a
Commission hearing in April 2023.

PROCEDURAL BACKGROUND

Appellant was employed by the City of Santa Barbara Police Department for approximately 16 years and had various assignments with the department during his career. During the relevant times that are at issue in this appeal, he was the supervising Sergeant in the Crimes Against Persons Unit.

Sergeant Larson was known as a demanding supervisor who expected a lot from himself and his unit. By most accounts, Larson was well respected by those he worked with and for.

Larson's first indication there was a disciplinary issue about him and his conduct² began on June 3, 2022, when Larson received a Skelly Notice of Intent to Dismiss/Terminate (Skelly 1)³, arising from an internal complaint by [REDACTED], who at the time was a detective supervised by Larson. This notice from Commander Kushner indicated potential violations of policy by Larson. Kushner's Notice included a warning stating "it is illegal to retaliate against any person who has filed a complaint." Larson signed the notice, indicating he received the Notice from Kushner. (Exhibit 60)

It was alleged, among other things, that Larson used inappropriate and demeaning language with reference to [REDACTED] and other females in his unit. Larson was also alleged to have treated [REDACTED] in a manner different than the male detectives in their

² Sergeant Larson had no prior discipline on his record. He was given a "Guerry Award," one of the highest honors an officer can get. He was, according to those who knew him, an excellent detective.

³ To differentiate Larson's Skelly notices and hearings, the negative work environment is Skelly 1 and the allegations regarding improper use of Department files and solicitation of letters of support are Skelly 2.

1 work assignments. Larson believed that [REDACTED] was generally tardy with her work
2 assignments and lacked follow-through.

3 Once Larson received the Notice of Intent to Terminate (Skelly 1), he appealed
4 the discipline and set about gathering information that he thought might be helpful to
5 his defense when he had his Skelly meeting.⁴
6

7 As a result of [REDACTED]'s claim, the City hired an investigator, Ms. Kathy Gandara,
8 to investigate the claim⁵, interview witnesses and determine whether the claims made
9 by [REDACTED] were sustained or not. Gandara's investigation report is Exhibit 59.
10

11 Relevant to this Appeal (Skelly 2), Larson objected to the accuracy of Ms.
12 Gandara's report, claiming she failed to interview the witnesses Larson believed would
13 corroborate his claim that [REDACTED]'s work product and timeliness were problematic. As
14 alleged by Larson, [REDACTED]'s problems with timeliness were reasons Larson treated her
15 differently than other detectives he supervised.
16

17 He testified that, "Detective [REDACTED]'s work performance was at issue in that it was
18 my entire explanation for why I interacted with her more than other detectives."
19 (Larson testimony, Day 4, p.111, lines 19-21) Gandara did not review [REDACTED]'s work
20 product or review any cases she was assigned.
21
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25 ⁴ *Skelly v. State Personnel Board* (1975) 15 Cal.2d194, states "Government employees must be given
26 a due process hearing before the Skelly officer prior to any final discipline. The employee is entitled to
27 provide information that would assist the Skelly officer in making his/her final determination of the
28 discipline to be imposed."

⁵ Ms. Gandara's investigation and the subsequent Skelly hearing are not at issue in this appeal,
however, the discipline imposed and the basis for that discipline are relevant in this appeal as it relates
to progressive discipline and other underlying facts which arose out of that Skelly. (Skelly 1)

1 Despite Larson asking Ms. Gandara to interview Santa Barbara County Deputy
2 District Attorneys (DDAs), he failed to identify who might have relevant information.
3 The DDAs he was apparently referring to were DDAs Chanda, Meyer and Charles,
4 who all had work-related contact with [REDACTED], and all had various, but similar issues with
5 her timeliness. Gandara did not interview them. She indicated there was no reason to
6 do so because no one "at the district attorney's office complained." (Gandara report, p.
7 69). Larson said Ms. Gandara's failure to interview the DDA witnesses and hear their
8 complaints was one of the reasons he felt he needed to get letters of support from them
9 for his defense.
10

11
12 Gandara's statement about the DDAs proved incorrect. DDAs did have
13 complaints, some they had told Larson about. Deputy District Attorneys Chandra,
14 Meyer and to a lesser extent Charles, worked closely with both Larson and [REDACTED] on
15 significant cases, particularly the "Smokey" and Leon cases. DDAs Chanda and
16 Meyer complained about [REDACTED]'s timeliness in completing her work to Larson, but
17 never said anything to [REDACTED].
18

19 The DDAs mentioned were assigned cases which required them to work closely
20 with the Crimes Against Person's Unit. That unit handles domestic violence, rape and
21 homicide cases. These cases were among the most serious criminal cases within the
22 City.
23

24 As part of Gandara's investigation, several police department employees were
25 interviewed. There was testimony that Larson attempted to manage [REDACTED] by frequently
26 discussing workload issues with her, as well as to-do lists.
27
28

1 Larson also claimed that he sought out others to assist him. Sergeant Hunt⁶ was
2 one such person. He was a good friend of Larson's and Hunt counseled him in his
3 attempts to work out his issues with [REDACTED]. Hunt testified that he never heard Larson
4 speak disparagingly about [REDACTED]. Larson said he was trying to figure out how to get the
5 work done on his prescribed timeline. (Hunt Testimony Day 3, pp 502-503.)
6

7 Larson also went to his supervisor, Lieutenant Morton. According to Gandara's
8 investigation, Larson brought his concerns to Lt. Morton. Gandara's report of her
9 interview of Morton noted that he attempted to mediate Larson's concerns with [REDACTED],
10 as well as her issues with Larson, but there was no resolution.
11

12 According to Morton, he wished he had done a better job of mediating [REDACTED]'s
13 complaints and as Larson's supervisor he should have "done more." (Gandara report,
14 Miller interview, p. 34) [REDACTED] had just returned from maternity leave and Larson
15 wanted to make a more formal record of [REDACTED]'s work deficiencies, but his supervisors
16 told him not to put comments in her watch file. (Skelly 1 hearing transcript, binder p.
17 638, lines 19-24).
18

19 While the Gandara investigation was in progress, Larson was on administrative
20 leave. During that time, Larson stated it would be helpful to obtain letters of support.
21 There is some discrepancy about the way Larson obtained letters of support; either he
22 solicited fellow City police officers to write letters and members of the Santa Barbara
23
24

25
26 ⁶ There was a separate issue arising out of Hunt's actions in calling [REDACTED] to ask her if he thought
27 Larson's Skelly 1 punishment was appropriate. It appeared that Hunt initiated the call to [REDACTED] at
28 Larson's specific or implied request. After a brief discussion, [REDACTED] terminated the call with Hunt.
Larson, when interviewed Wyatt, was not forthcoming about his role in this, which caused Wyatt to
question Larson's credibility. (Transcript, Day 5, p. 54-55).

1 County District Attorney's Office to write letters, or they did so on their own, or some
2 combination of both when they heard Larson was on leave due to some discrimination
3 claim or otherwise heard gossip about Larson's discipline.

4 One of the main issues in the Skelly 2 appeal concerned the way Larson
5 defended himself. The issue was whether Larson sought out people to support him, or
6 they on their own raised the issue of sending supportive letters to the Skelly Officer,
7 Acting Chief Melekian.⁷ At issue as well was the way he sought to obtain letters from
8 DDAs as they were an outside agency. Importantly, it was an issue whether Larson
9 directed the DDAs to make negative comments about [REDACTED]'s work.
10

11
12 There was little concern about Larson obtaining letters of support from fellow
13 officers. A key concern was Larson's seeking support, including negative comments,
14 from the DDAs specifically pertaining to the aspect of his discipline that related to
15 [REDACTED]. Hannah Meyer testified either Larson contacted her, or she wrote the letter on
16 her own. She indicated that she did it [sent letter] on her own. (Transcript p. 290. Lines
17 14-17) This was also essentially what DDAs Charles and Chanda testified to as well.
18

19 Ms. Charles said she asked Larson if she could write a letter of support or do
20 anything else to be of support and asked Larson to let her know. She testified that, "I
21 think Larson said, 'Sure. If you want to write a letter, that's great.' I wrote the letter."
22 (Charles testimony, p. 231, lines 1-5)
23

24 Megan Chanda testified:
25
26 _____
27

28 ⁷ There was no discussion of the DDA letters of support during Skelly 1. Acting Chief Melekian
apparently received them, but Larson did not bring them up during his Skelly 1 hearing.

1 "I contacted him when I kind of heard the rumor mill about there being some
2 kind of -- well, that he was on administrative leave, (April 30 testimony, p. 230, lines
3 22-p. 231, p.2) I contacted Brian and said, you know, I'm sorry to hear that he was
4 going through this. (Testimony p.230, lines 25, p. 231 (lines 1-4) I asked if I could
5 write a letter of support or do anything to be of support, let me know. And I think he
6 said, 'Sure. If you want to write a letter, that's great.' I wrote the letter." (April 30
7 Testimony, p. 231. Line 25; p. 231, lines 1-5)

9 Ms. Chanda said, "The last time I remember communicating with Brian would
10 have been right around the time that I wrote the letter. Q. Did he ask you to write the
11 letter? A. I don't think so. I think we just discussed possibly where to send it. (p. 398,
12 lines 4-5)

14 Contradicting the above was the following line of questions: Q. "So, Sergeant
15 Larson reached out to you to write that character letter for him; right? A. Correct. Q.
16 And he called you and asked you to write that letter? A. He called me, and during that
17 conversation, asked me if I was comfortable writing a character letter for him, would I
18 do that. And I said yes." (Chanda testimony, April 30 p. 401, lines 19-25)

20 The intended recipient of the support letters was Acting Chief of Police,
21 Bernard Melekian. He was the Skelly Officer for the first Skelly hearing. (Skelly 1)
22 After meeting with Larson and his attorney, Robert Baumann, and after reviewing the
23 materials from Gandara's report and Larson's responses to the findings and
24 conclusions, Melekian decided not to terminate Larson. Melekian imposed a 160-hour
25 suspension, held further discipline in abeyance and stated if Larson did not have any
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1 further occurrences (a sustained finding) within a 12-month period, he would not be
2 demoted or terminated.

3 In addition, Melekian further decided that Larson would be transferred out of
4 the Crimes Against Person's Unit to patrol, and required him to take training in
5 discrimination, bias and supervisory/management skills. Larson appealed this
6 discipline to the Civil Service Commission.⁸ (Skelly 1 Decision and Notice of
7 Suspension, July 12, 2022, pp. 385-395)
8

9 In preparation for the Civil Service appeal, the assigned Assistant City
10 Attorney, John Doimas, met with [REDACTED]. While discussing her role in the Skelly
11 1 hearing, she was shown the letters sent by the DDAs on behalf of Larson.⁹
12

13 This was the first time [REDACTED] heard some DDAs were dissatisfied with her work.
14 She stated no DDA ever told her there were concerns about her work and that she even
15 received commendations for the very cases the DDAs complained about.
16

17 [REDACTED] was shocked by the letters and considered them defamatory and
18 derogatory of her work. As a result of seeing the letters on January 5, 2023, [REDACTED] filed
19 a formal complaint with the City's Human Resources Department alleging she was
20 treated differently by Larson than the male detectives in her unit and that Larson made
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27 ⁸ The Civil Service Commission hearing was held on April 24, 2023. After a day of a hearing, Larson
28 notified the Commission he was withdrawing his appeal.

⁹ Larson has argued this was a violation of his POBR rights, since he did not consent to its release.

1 derogatory statements about her and fellow female detectives in the unit.¹⁰ (

2 Complaint, Exhibit A2, pp. 61-62)

3 As a result of's complaint, the City hired Garon Wyatt, Wyatt
4 Investigative Services, LLC.,¹¹ to conduct an investigation into the support letters
5 Larson solicited from certain DDAs.¹² (see Wyatt Report, Exhibit A1, pp. 7-60). As
6 part of Mr. Wyatt's investigation, he interviewed several of Larson's fellow officers
7 who had written letters of support for Larson's Skelly hearing. (Skelly 1) Wyatt also
8 interviewed the DDAs Chanda, Charles and Meyer, who also wrote letters of support.
9

10 As a result of Wyatt's investigation of Larson's conduct, on July 11, 2023,
11 Larson was served with a Notice of Intent to Demote. (Skelly 2) (PSU-2023-005)
12 (Exhibit binder, p. 1 Exhibit A)

13 While the Wyatt investigation was still pending, Larson served his suspension
14 and returned to work in early January 2023. Larson was assigned to work Patrol,
15 which resulted from Melekian's determination in Skelly 1 that Larson should be
16 transferred out of the Crimes Against Person's unit. He retained his rank of Sergeant.
17

18 The Notice of Intent to Demote included, as part of the subject matter of the
19 proposed demotion, Larson's sending the DDAs an email which included "talking
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23
24 ¹⁰ By this date, had left the Police Department and was working as an investigator for the
25 Ventura County District Attorney's Office, although she still had a working relationship with the
26 DDAs.

27 ¹¹ There were claims of bias and unprofessional conduct against Mr. Wyatt. That is not at issue
28 directly in this appeal but may be considered as part of Larson's defense to Wyatt's report. These
claims were raised by DDAs Chanda and Meyer and they claimed Wyatt's conduct showed bias
against Larson.

¹² This investigation also relates to Larson's use of department computer systems for his own personal
use.

1 points” about issues with [REDACTED]’s work performance. (Email dated June 7, 2022) The
2 talking points email contained sample language; “I have had specific work issues XYZ
3 with Detective [REDACTED]’s timeliness, followthrough[t] (sic), needs to prompt her for finish
4 tasks etc.” According to the demotion notice, as a Sergeant, Larson was expected to
5 support his subordinates and not unfairly criticize their work performance, particularly
6 to outside agencies such as the District Attorney’s Office. (Exhibit binder A, p. 4)
7

8 As to the Intent to Demote, Ms. Eyerly, who was the Skelly Officer for Skelly
9 2, determined that Larson sought out members of the District Attorney’s Office asking
10 them to criticize a subordinate, [REDACTED]. Eyerly saw this failure to support and
11 mentor [REDACTED] as a violation of departmental policy warranting demotion, though she
12 wasn’t able to point to any policy or directive.
13

14 As part of the Notice to Demote relating to his criticism of [REDACTED], Ms. Eyerly
15 also denied Larson’s claim that the one-year statute of limitation to bring that action
16 had expired under Government Code section 3304(d)¹³. Larson claimed that his
17 Skelly 1 final notice was on June 27, 2022¹⁴ and the pending Notice (Skelly 2) was on
18 July 11, 2023, which was more than one year from the final notice in Skelly 1.
19

20 Larson’s assertion was that since Acting Chief Malekian had possession of the
21 DDA letters, he should have known that they indicated a breach of department policy
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25 ¹³ [N]o punitive action . . . shall be undertaken for any act, omission, or other allegation of misconduct
26 if the investigation of the allegation is not completed within one year of the public agency’s discovery
27 by a person authorized to initiate an investigation of the allegation of an act, omission, or other
28 misconduct...

¹⁴ The notice letter indicated the date was June 27, 2023, rather than in 2022, which appears to be a
typo. (Eyerly testimony, day 4, p. 73, lines 20-24)

1 and was therefore indicative of a potential POBR violation which warranted further
2 investigation. There was no evidence the DDA letters were considered by the Acting
3 Chief at the Skelly 1 hearing.

4 In order to prove his defense Larson was required to present evidence and he
5 raised the issue in connection with Ms. Eyerly's testimony and discussion of the one-
6 year statute in the Final Notice. (Notice, p. 358) To prevail on this affirmative
7 defense, Larson was required to produce evidence Acting Chief Melekian had
8 knowledge of potential actionable misconduct by Larson. Larson did not provide any
9 evidence that Melekian knew the letters violated City policy or directive and Ms.
10 Eyerly was not familiar with the legal standards as to POBR violations. (Testimony,
11 Day 4, p. 56, lines 6-12)

14 Since Acting Chief Melekian did not testify in the hearing, there is no evidence
15 in the record that he viewed the DDAs letters and knew there might be potential
16 actionable misconduct by Sergeant Larson. Under those circumstances, there is no
17 POBR violation. According to the California Supreme Court "[t]he one-year period
18 runs from the time the misconduct is discovered", referring to *Mays v. City of Los*
19 *Angeles* (2008) 43 Cal.4th 313, 322. (*Garcia v. State Dep't of Developmental Servs.*
20 (2023) 88 Cal. App. 5th 460) The alleged actionable misconduct was not discovered
21 until Ms. [REDACTED]'s claim of discrimination in January 2023. The statute of limitations
22 began to run on that date and therefore, there is no one-year violation.

26 In addition to the Intent to Demote, on July 11, 2023, Larson also received
27 Notice of Intent to Dismiss for accessing police department files without prior
28

1 approval (Notice of Intent to Dismiss, PSU 2023-002, p. 216, Exhibit B). Larson did
2 not dispute that he accessed police department files.

3 With respect to the dismissal notice and, as part of his defense, Larson testified
4 that as he began his new assignment as a patrol Sergeant, he wanted to get up to speed
5 on some of his old cases and review department files, so he was better able train new
6 patrol officers about writing reports, all in preparation for his new assignment. He
7 testified that to do that, he needed to access departmental files. (Exhibits binder B12
8 and B13)
9

10 All department files and reports are located within the department's records
11 management system, called Versadex. (Chief Gordon testimony, p. 67, lines 23-25,
12 p.68, line1) Some of the files related to former cases, such as the "Smokey" and Leon
13 case which was a file [REDACTED] had been assigned to be lead investigator. Some of the files
14 were "private" files, while others were "confidential" files under the California Penal
15 Code.
16

17 There was conflicting testimony on who was authorized to access the files.
18 Officer Crooks, who was well-versed on Versadex, testified that viewing confidential
19 files was permissible without prior supervisor approval, and private files could be
20 accessed if the person was authorized to have access. (Crooks' testimony, p. 693, lines
21 20-24)
22

23 Sergeant Hunt also confirmed that officers could access department files and
24 use them for training purposes. He further testified there was no policy prohibiting
25 officers from looking at files. (Hunt testimony, Day 3, pp. 520-521)
26
27
28

1 According to Larson, files marked "private" were accessible to any officer who
2 wanted to review them, while files marked "confidential" were those where a victim
3 wanted the file confidential under the Penal Code. Chief Gordon testified that access
4 still was required to be on a "need to know-right to know basis," but the City never
5 proved it was a policy. For whatever reason, and after serving his suspension, Larson
6 still retained access to the Versadex records management system files.
7

8 Larson accessed files related to the "Smokey" investigation, and the Leon case.
9 The "Smokey" case was one that Larson was the lead investigator. Leon was a
10 domestic violence homicide assigned to [REDACTED] and one Larson was involved in as a
11 supervisor while in the Crimes Against Person's Unit. He said he accessed "Smokey"
12 to see how the case turned out, and for use as a training opportunity in his supervisory
13 capacity of patrol officers.
14

15 The department, upon doing a check arising out of a document production
16 request by Larson (Exhibit binder, pp. 248-262), audited IT data and determined that
17 upon his return to duty, Larson accessed both "private" and "confidential" files, which
18 according to Chief Gordon he was not permitted to access, (Chief Gordon testimony,
19 p. 53, lines 6-13) although no one told him that before he was sent home on
20 administrative leave. Upon investigating the files searched by Larson, the department
21 could determine what had been accessed.
22

23 It was clear Larson had accessed several files, including both private and
24 confidential ones. Upon his return to duty there wasn't any order permitting him to
25 review files, likewise there was no order prohibiting him from accessing files.
26 Similarly, the City could not produce a rule to that effect.
27
28

1 Larson admitted he looked at files that he thought would assist him in his
2 upcoming Civil Service Commission hearing. Viewing the files, according to Larson,
3 was not prohibited and the files he reviewed were for use in his Skelly 2 defense, and
4 he stated they were not for personal reasons. (Exhibit binder, p. 285, Larson email to
5 Chief Gordon)
6

7 Commander Katsapis testified that access, which he indicated was limited,
8 could be based upon the role of the person making the inquiry. For example, he
9 indicated Crimes Against persons or Major Crimes supervisors would have access to
10 the files and could look at those cases to review casework on your team's side. That
11 would be a position where you might have access authority. (Katsapis testimony, Day
12 4, p. 45, lines 5-7)
13

14 Since Larson was no longer going to be in Crimes Against Persons he would,
15 according to Katsapis, not have a need to know or right to know or have access to
16 cases he previously worked on or supervised. Commander Katsapis testified on the
17 issue of right to know-need to know as follows:
18

19 “So, if someone historically had access, if they're going back to look at that and
20 they still happen to have access, are they accessing that for a purpose that is, you
21 know, right to know, need to know basis there. In other words, are they going to take
22 that material and use it for something that is work related that is within the scope of
23 what they should be doing?” (Katsapis Testimony-Day 4, p.47, lines 12-18.)
24

25 Chief Gordon was not supportive of Larson’s accessing the files and on January
26 12, 2023, upon finding Larson accessed both private and confidential files without
27 obtaining prior authorization, placed him on administrative leave, and ordered him to
28

1 return copies of all files, including those on thumb drives or copied by Larson.

2 (Exhibit binder Exhibit B12, p. 351) Larson complied, almost.

3 After Larson was relieved of duty and placed on administrative leave, he
4 retained a copy of the "Smokey" murder investigation file on a separate thumb drive
5 and refused to turn it over on advice of counsel, alleging the file was included as part
6 of a larger file of attorney work-product. This action is in direct conflict with the order
7 by the Chief to return all files, including copies, retained by him. (Chief's Order re
8 Administrative leave, p. 365).

10 There was no legitimate justification articulated by Larson as to why he
11 retained the "Smokey" file or why he refused to return it per the Chief's order. Larson
12 said he gave the copy to his attorney. There was conflicting testimony on whether
13 Larson ever gave the "Smokey" file to his attorney or simply retained it. In addition,
14 no reason was given that Larson could not have segregated the file from attorney-
15 client material and place it on a separate thumb drive.

18 Two disciplinary actions were at issue in Skelly 2. First, was Larson's actions
19 against [REDACTED] based upon DDA's letters (PSU-2023-005 - Demotion, October 6, 2023,
20 Skelly Decision and Final Notice of Dismissal, pp. 385). Second was Larson's alleged
21 improper access of departmental files for his own personal use (PSU-2023-002 -
22 Dismissal/Termination). Both were held on September 18, 2023, before Assistant City
23 Manager, Rene Eyerly, as the Skelly Officer.

25 Ms. Eyerly determined that Larson had neither a right to know nor a need to
26 know the contents of the files searched, and that he accessed the files for his own
27 personal gain in violation of Departmental policy. (Final Notice of Dismissal, Exhibit
28

1 binder, p. 356-360) No written policy requiring need to know was provided. Ms.
2 Eyerly's decision noted there were proper ways to obtain information from the files for
3 a Civil Service hearing, which was through a request for production of documents.¹⁵

4 Ms. Eyerly stated that she considered the argument that Larson had a right to
5 know and a right to access the files, including the "Smokey" file. She stated that even
6 though there was no direction from SBPD to the contrary, Larson's argument was
7 unpersuasive as a reason for downloading the files as his access was for personal gain
8 and therefore a violation of policy. (Exhibit binder, Final Notice p. 357)

10 Ms. Eyerly also stated she wasn't persuaded by Larson's assertion that access to
11 the files were necessary for his defense in the Civil Service hearing. Mr. Larson
12 maintained that his request for files for training purposes, and files for his Skelly
13 hearing were for a work-related purpose and not for personal use. The work-related
14 purpose in his view included his efforts to overturn his discipline.

16 The Skelly notice and subsequent decision by Ms. Eyerly determined that Mr.
17 Larson's access to information gained through his position should not be used for
18 private interests and that he "breached the trust of the SBPD and the community, thus,
19 the decision to dismiss is appropriate." (Exhibit binder, p. 357)

22 FINDINGS OF FACT AND CONCLUSIONS OF LAW

23 Reviewing and sorting through the material in this case was a significant task.
24 The documents and transcripts of hearing testimony were well over a thousand pages.

26
27 ¹⁵ The Exhibits indicate that both a Public Records Act request (July 10, 2023) and a Notice for
28 Production of Documents (July 18, 2023) were made by Larson, which the City indicated was the
proper way to seek information for his Skelly hearing. (Exhibit binder pp. 256-261)

1 Many hours have been consumed by this appeal due to its complexity and conflicts in
2 the testimony.

3 The City of Santa Barbara is prosecuting this case, so they must prevail by a
4 preponderance of the evidence. To make the required findings of fact, certain
5 credibility determinations were made.
6

7 It is evident from the testimony and other evidence in this case that Larson did
8 not fully accept blame for his own conduct. Had Larson simply accepted what was
9 lenient punishment from Skelly 1, the matter would have ended long ago.
10

11 In Skelly 1, he claimed [REDACTED] had work performance issues, and he set a course
12 to show that was the case. Larson attempted to paint [REDACTED] in a bad light by soliciting
13 letters of support, specifically from DDAs Chanda and Meyer, which contained
14 negative comments about [REDACTED]'s work performance. [REDACTED]'s discrimination claim
15 resulted from the letters, and an investigation ensued resulting in Skelly 2.
16

17 It is Larson's position that he had no choice but to defend himself since Ms.
18 Gandara did not consider the DDAs' issues with [REDACTED] in her Skelly I report. Larson
19 needed to obtain evidence to prove [REDACTED]'s work was subpar and that he treated [REDACTED]
20 like he would any detective in her position.
21

22 The parties agreed Larson had a right to defend himself at his Skelly hearing.
23 There is no specific legal impediment to Larson attempting to defend himself by
24 soliciting letters seeking support in his various Skelly hearings. There is also no reason
25 to limit who can write a letter on Larson's behalf, so whether those letters came from
26 an "outside agency" or not, Larson is not prohibited from seeking letters of support.
27
28

1 What is at issue is whether Larson went too far and retaliated against [REDACTED] when
2 he solicited letters specifically by asking DDAs to criticize [REDACTED]'s work product, all
3 designed to support his claim that he needed to have illustrations of her performance to
4 use as evidence of why he singled her out for different treatment. It also relates to
5 whether his actions were discriminatory, and a violation of the directive given by
6 Commander Kushner in the June 3, 2022, Notice of Intent to Terminate which was
7 signed and received by Larson. (Exhibit 60) In addition, the July 11, 2023, Notice of
8 Intent to Dismiss advised Larson of his violation of Policy No. 342.4 "Agency
9 Property. (Exhibit binder, p. 218)
10

11 The evidence shows the DDAs willingly supplied letters to support Larson at
12 his Skelly 1 hearing. The letters were specific as to their contact with [REDACTED] and the
13 deficiencies they witnessed in her work product. The DDAs wrote what they
14 experienced with [REDACTED], and the issue isn't whether they wrote the letters, they did, but
15 it is the content of the letters and Larson's role in promoting specific negative content
16 that is the issue. As to that issue, the Commission finds there was sufficient evidence
17 that they wrote negative comments because Larson asked them to.
18

19 **The Commission finds that Larson's conduct in soliciting the letters was a**
20 **violation of the directive from Commander Kushner on June 3, 2022, warning**
21 **Larson not to retaliate.**
22

23 The Police Department is also seeking Larson's dismissal from his position as a
24 Seargent with the police department, based on his conduct in accessing department
25 files on Versadex, the departments records management system.
26
27
28

1 Larson does not contest that he accessed department files, he did. He claims he
2 wanted to access files to be able to train patrol deputies once he returned to work as a
3 sergeant in patrol. He also claims he accessed them not for an improper purpose, but
4 to gain information to defend himself. He also accessed department records to find
5 information concerning claims that he treated detective [REDACTED] differently than male
6 employees engaged in the same work and to make sure he gave Acting Chief Melekian
7 correct information regarding the "Smokey" case.
8

9 The testimony of individuals (Hunt, Crooks and Katsapis) regarding access to
10 Versadex information stated access was granted to those officers who needed access to
11 the files, which was common for sergeants in the Crimes against Persons unit
12 (Katsapis) The issue was whether any access was for personal or official purposes.
13

14 It was Chief Gordon's assessment that Larson's search of the files was for
15 personal purposes, and he failed to get permission to search the files for information
16 about [REDACTED]'s work. Larson claimed there was no specific policy regarding access to
17 files, however he was placed on administrative leave and specifically told to return all
18 files by Chief Gordon.
19

20 Larson did not return the "Smokey" file, so he did not return everything as he
21 was ordered to by Chief Gordon on January 12, 2023. As of the closing arguments of
22 this appeal, Larson had not returned the file to the police department or removed it
23 from the possession of his attorney. He did not seek permission to use the records
24 management system for any personal purpose, such as gathering documents for his
25 own defense.
26
27
28

1 Larson claimed there was no specific policy regarding access and Katsapis
2 indicated he had never heard anyone be admonished or punished for their access to
3 those files. Larson's remaining claim was that his access was for a work-related
4 purpose, although it was challenged and rejected by Chief Gordon. Wyatt also rejected
5 Larson's claim it was for a work-related purpose.
6

7 Although no evidence was presented to clearly support whether Larson's
8 conduct was for personal use, rather than a work-related purpose, it is arguable that
9 trying to keep your job is for personal purposes rather than involving police-related
10 assignments.
11

12 Larson violated the Chief's administrative order that he return all files. Larson
13 admitted he did not return his copy of the "Smokey" file. The Chief, investigator
14 Wyatt and Ms. Eyerly all determined that was a violation of a direct order. Their
15 consensus was Larson should have followed City policy and made a document request
16 for the files he needed. He made such a request, but by then he had already accessed
17 some of the files.
18

19 There was insufficient evidence to find a violation of policy by accessing files
20 without permission when Larson returned to work after his Skelly 1 suspension. He
21 claimed he wanted to review files in preparation for his role as new patrol sergeant is
22 plausible and Katsapis thought it was reasonable to do that.
23

24 While there was no direct policy violation in accessing department files,
25 accessing files under these circumstances was personal rather than work-related and
26 the Department met its burden of proving a violation of department policy. (Exhibit
27
28

1 binder, p. 218) Larson also failed to follow a direct order from Chief Gordon to return
2 copies of all files, which Larson did not do.

3 **The Commission finds:**

- 4 1. **Larson retaliated against detective [REDACTED] in violation of Commander**
5 **Kushner's direct and written warning not to retaliate by providing**
6 **sample language of bad performance for the DDAs to use.**
7
8 2. **Larson's access of files was for a personal purpose, and not for a work-**
9 **related purpose which violates written department policy.**
10
11 3. **Larson violated a direct order from Chief Gordon to return all files**
12 **which is insubordination.**
13
14 4. **Sergeant Larson's testimony was egregiously dishonest.**
15 **Sergeant Larson's contradictions discredit him. As a peace officer**
16 **Larson's testimony can be the basis for taking a person's freedom, even**
17 **life. It is extremely concerning that Larson's sworn testimony at the**
18 **hearing cannot be trusted.**
19
20 5. **Larson failed to prove his POBR statute of limitations defense.**

21 In the Final Notice to Dismiss, Chief Gordon stated,

22 "As Chief of Police, I must be able to put my trust in sworn personnel-
23 especially first-level supervisors such as sergeants—to act in compliance with
24 Department regulations and orders. Your misconduct and the likelihood you
25 will repeat it, demonstrates that I cannot trust you or your judgment as a
26 sergeant in this department. Furthermore, the fact that you made a digital copy
27 of the "*Smokey homicide*" case and maintained it at home demonstrates that I
28 cannot trust you to maintain the confidentiality of (or refrain from misuse of)
Sensitive department files."

ORDER

The demotion and dismissal are sustained. Sergeant Brian Larson shall be terminated from his employment with the Santa Barbara Police Department effective October 6, 2024.



Commissioner Hap Freund

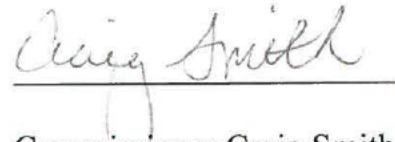
Chair



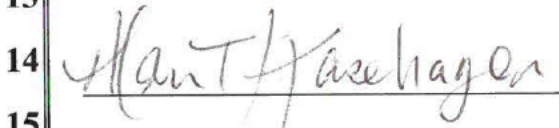
Commissioner Donna Lewis



Commissioner Lindsey Charles



Commissioner Craig Smith



Commissioner Alan Kashagen

Approved as to Form and Content:



Stephen Underwood, Hearing Officer

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