

# **REPORT OF INVESTIGATION**

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## **REPORT OF INVESTIGATION**

Pursuant to the request of Pete Smith, City Attorney for the City of Richardson (the “City”), we have investigated a complaint regarding the use of an illegal ticket quota within the Richardson Police Department (the “Department”). The complaint was made to the Richardson City Council by Officer Kayla Walker of the City of Richardson Police Department. Following are our observations, conclusions, and legal analysis:

### **I. INTRODUCTION**

Kayla Walker is a police officer with the City of Richardson Police Department. On April 19, 2021, during the “Visitors/Acknowledgement of Public Comment Cards” portion of the City of Richardson City Council meeting, Officer Walker alleged that the City of Richardson Police Department utilizes a ticket quota policy in violation of state law.

### **II. LEGAL IMPLICATIONS OF COMPLAINT**

The Texas Transportation Code, Section 720.002, provides that a political subdivision may not establish or maintain, formally or informally, a plan to evaluate, promote, compensate, or discipline a peace officer according to the officer’s issuance of a predetermined or specified number of any type or combination of types of traffic citations. Tex. Transp. Code § 720.002(a)(1). Further, a political subdivision may not require or suggest to a peace officer that the peace officer is required or expected to issue a predetermined or specified number of any type or combination of types of traffic citations within a specified period. Tex. Transp. Code § 720.002(b)(1). Violation of these prohibitions is considered misconduct by an elected official and is grounds for removal for both an elected official and an individual who is not an elected official. Tex. Transp. Code § 720.002(e).

### **III. SUMMARY OF COMPLAINT**

Officer Walker alleges that the City is illegally using quotas to evaluate and discipline patrol officers. Specifically, Officer Walker alleges that patrol officers are threatened with punishment for not making enough arrests, writing enough tickets, and making enough citizen contacts. Officer Walker further alleges that the Department seeks to disguise these quotas as averages and productivity requirements.

### **IV. EXECUTIVE SUMMARY OF CONCLUSIONS**

The evidence does not support a finding that the City imposes an illegal ticket quota on the members of the Department. While the Department does use statistics to determine the productivity of its patrol officers, there is no evidence that the Department requires a predetermined or specified number of any type of activity, including traffic citations. There is also no evidence of any disciplinary action taken against patrol officers for failure to meet traffic ticket quotas.

## V. INVESTIGATION METHODOLOGY

This investigation consisted of reviewing internal documents in the Department and interviewing Chief Spivey, Chief Tittle, and multiple members of the Department. Our review included documents pertaining to performance evaluations, statistical data, and other documentary evidence provided to us. We made multiple attempts to interview the complainant, Officer Kayla Walker. Unfortunately, she chose not to participate in this investigation, so we were forced to conclude this investigation without her input.<sup>1</sup>

## VI. FINDINGS AND OBSERVATIONS

Based on the above-described interviews and investigation, we have made a number of findings and observations which are set out below. These findings are couched in terminology and form much like a court of law would state its legal “findings of fact” following a trial. The findings, however, are not legal findings and should not be so construed. These findings and observations are based in part on hearsay, anecdotal evidence, impressions of the witnesses, and speculation by the witnesses, none of whom were under oath. The process was helpful and necessary for the investigation to fully cover the subject matter; however, these findings should not be treated as admissible evidence or admissions as those terms are used by the Texas and Federal Rules of Evidence. This report should not be construed as a waiver by the City of any objection or privilege it might assert if these issues should later become a part of a legal proceeding or litigation.

With the above caveats and limitations, we offer the following from our investigation:

Patrol officers within the Department are evaluated on an annual basis. The annual evaluation forms are prepared by the Department and, therefore, are consistent across the board. The annual evaluation rates a patrol officer on twenty different categories, one of which is “self-initiative.” The patrol officers obtain a score based on the overall evaluation. The score dictates whether a patrol officer is a “Level 1” or “Level 2” officer. Any patrol officer receiving a score above eighty-five (a “meets expectations” score) on the annual evaluation, is a “Level 1” officer. Any patrol officer receiving a score below eighty-five is a “Level 2” officer. We were advised that all but a small number of patrol officers are considered “Level 1” officers.

Members of the Department bid for their desired shifts every six months. The sergeants bid first; then the patrol officers. As a result, the patrol officers can consider the sergeant they’d be working under when submitting their bi-annual bids. All “Level 1” officers bid, by seniority, before the “Level 2” officers submit their bids. The shift bidding results in patrol officers being

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<sup>1</sup> Our office reached out to Officer Walker on numerous occasions requesting an interview with her. We are able to substantiate that Officer Walker received our requests. Officer Walker stated publicly, however, that she would not cooperate with our investigation. *Uncensored with the Real Mike the Cop Podcast, May 15, 2021*. Subsequent to Officer Walker’s complaint, another patrol officer, David Conklin, appeared on WFAA News stating that he agreed with Officer Walker that the Richardson Police Department was violating the state law prohibiting ticket quotas. We made several attempts to meet with Officer Conklin to determine the basis for his allegations. Officer Conklin also declined to meet with us and joined Officer Walker in publicly stating that he would not cooperate with our investigation.

assigned to work specified days and hours every week, and assigns them to certain sectors or areas of the City under the primary supervision of a particular sergeant.

In addition to the annual evaluation, the sergeants conduct inspections every other month of the patrol officers in their shift. Unlike the annual evaluations, there is no set inspection form the sergeants must use. It was reported to us that there are several different methods used by the various sergeants in the Department for conducting these inspections. The bi-monthly inspections appear to be a mechanism for the sergeants to advise the patrol officers on areas in which they are doing well, and on areas that require improvement, so the patrol officer has the opportunity to correct and improve behavior before the annual evaluation.

Several sergeants, including Officer Walker's sergeant, use the sector average approach to review patrol officer productivity. Under this approach, officer productivity is compared to the productivity of the other patrol officers working their same shift and sector. The categories reviewed vary by sergeant. Sergeant Chad Swiere, Officer Walker's direct supervisor, considers the following: stops, citations, days worked, arrests, field investigation cards, report calls, crash reports, call cards, and alarm responses. Based on the numbers in each of these categories, total activity and average activity are then calculated. Self-initiated activity generally consists of stops, citations, arrests, field investigations, and some call cards.

All of the patrol officers interviewed agreed that productivity is important. The supervisory and command staff all indicated that it is important to be able to show that a patrol officer is working his or her entire shift. The use of activity statistics is one way of doing this. However, it was emphasized that there is also an element of subjectivity that goes into the determination of productivity. Supervisory staff consider the type of work being done by a patrol officer, acknowledging that some activities will take significantly more time than others. For example, a patrol officer could spend an entire shift working one major incident such as a sexual assault report. While his/her statistical numbers will be low as a result, the sergeant knows the patrol officer was busy by the nature of the work performed.

All of the patrol officers interviewed also indicated that traffic management is important within the City. We were told by the command staff that the most common complaints received from citizens involve traffic concerns. As a result, traffic management is heavily emphasized. Several of those interviewed indicated that the purpose behind traffic management differs depending upon the time of day. On the day and evening shifts, traffic stops are a means of encouraging traffic safety by enforcing traffic laws to ensure public safety. On the night shift, traffic stops are a tool used to investigate and prevent crime. Regardless of the goal, however, traffic management is expected of all patrol officers.

## **VII. ANALYSIS OF EVIDENCE AND CONCLUSIONS**

As noted above, the Texas Transportation Code generally prohibits a political subdivision from evaluating an officer based on a predetermined or specified number of any type or combination of types of traffic citations. The words "predetermined" and "specified number" are not defined in the Transportation Code.

When possible, Courts determine legislative intent from the plain meaning of the words chosen. *State v. Shumake*, 199 S.W.3d 279, 284 (Tex.2006). This general rule applies unless enforcing the plain language of the statute as written would produce absurd results. *Fleming Foods of Tex., Inc. v. Rylander*, 6 S.W.3d 278, 284 (Tex.1999). Therefore, when construing a statute “the words [the Legislature] chooses should be the surest guide to legislative intent.” *Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864, 866 (Tex.1999); *Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 437 (Tex. 2009).

Interpreting the statute according to the plain meaning of the words chosen, there is no indication that the City has violated the Transportation Code because there is no evidence that the City in any way directed its patrol officers to issue a predetermined or specified number of traffic citations. None of the command or supervisory staff interviewed indicated that there is a quota system in place within the Department. All of the sergeants interviewed indicated that they have never been told that their patrol officers must issue a predetermined or specified number of citations. All of the sergeants interviewed also indicated that they have not advised their subordinates that a predetermined or specified number of citations must be issued. Rather, the focus is on productivity. The number of traffic citations issued by a patrol officer is one of many factors used as a means of determining whether a patrol officer is remaining busy. Moreover, the sergeants we interviewed indicated that the existence of a traffic stop, whether or not a citation was issued, was a sufficient factor to determine the goal of productivity.

Nevertheless, it is undisputed that the numbers of stops, citations, and arrests are closely reviewed as a means of judging productivity. The use of these numbers, coupled with the emphasis on traffic management in general, has led to the impression by some within the Department that a certain number of citations must be issued. Patrol officers interviewed advised that they had been told, not by command staff, but by senior officers and even by training officers, that if they wrote thirty to forty citations per month they would not get spoken to about the number of citations they write.

One patrol officer interviewed believed that the use of the sector averages created a monthly moving target that had to be met and, therefore, believed that the use of the average numbers created an illegal quota. None of the other patrol officers agreed, however, indicating that while there is an emphasis on traffic management in general, no one has ever directed that a predetermined or specified number of citations were required to be written. Moreover, across the board, all patrol officers we interviewed stated there has never been pressure to write tickets that weren't legitimately merited, nor would they ever do so.

Despite the above misgivings by some, the evidence indicates that productivity is measured by more than traffic citations. Supervisors appear to carefully scrutinize all self-initiated activity, including citations, as a means of judging productivity. This fact is supported by Officer Walker herself who noted in her statements during the April 19, 2021 City Council meeting that citizen contacts and arrests are emphasized as heavily as traffic citations. We were given the impression that there is a small undercurrent of dissatisfaction in the Department over the use of statistical numbers in general to evaluate the performance of patrol officers. However, we did not discern that there was a legitimate feeling by those patrol officers that the Department dictates ticket quotas in violation of state law. Nor did we see any evidence indicating that is occurring.