

**DEREK SMITH LAW GROUP, PLLC**

IAN M. BRYSON, ESQUIRE

Attorney ID No. 321359

1835 Market Street, Suite 2950

Philadelphia, PA 19103

(215) 391-4790

ian@dereksmithlaw.com

*Attorneys for Plaintiffs Audra McCowan and Jennifer Allen*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AUDRA McCOWAN *and*  
JENNIFER ALLEN,

Plaintiffs,

v.

CITY OF PHILADELPHIA, *et al.*,

Defendants.

Civil Action No. 19-cv-3326-KSM

**Plaintiffs' Statement of Undisputed  
Material Facts in Support of Plaintiffs'  
Opposition to Defendants' Motions for  
Summary Judgment**

**A. The City's EEO policy is deficient, including that it could discourage women from complaining about sexual harassment and subject them to retaliation**

1. In 2018, the Office of the City Controller conducted an audit of the City of Philadelphia's implementation of its sexual harassment policies and procedures. (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3110.)
2. The Controller's Office initiated the audit pursuant to Section 6-400(c) of the Home Rule Charter, which authorizes the city controller to perform audits of the financial affairs of every city department, board or agency, as well as to conduct special audits when, in the controller's judgment, it appears necessary. (*Id.* at 3119.)
3. The audit was performed in accordance with *Government Auditing Standards* and is detailed in the attached report. (*Id.* at 3109-3154.)
4. The objectives of this audit were to determine whether the City has clear and effective procedures for reporting sexual harassment, performs investigations into employee complaints appropriately, and dispenses discipline fairly and consistently. (*Id.* at 3118-19.)

5. The audit also reviewed compliance with sexual harassment training requirements. (Id.)
6. At the conclusion of the audit, City Controller Rebecca Rhynhart wrote to Deputy Mayor Richard Lazer, “The findings paint a troubling picture of a policy and procedures that do not protect or support victims of sexual misconduct and improperly prepare supervisors to receive, investigate and resolve complaints.” (Id. at 3110.)
7. Controller Rhynhart further stated, “Broadly, our audit finds that the city lacks a clear and comprehensive policy, poorly implements the required procedures, administers discipline unevenly across departments for substantiated claims, and likely misses cases of sexual harassment by not properly documenting complaints . . .” (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3110.)
8. The audit found that the City’s sexual harassment prevention policy is a “one-size fits all document that does not adequately meet the needs of its employees.” (Id. at 3111.)
9. Overall, the procedures outlined in the policy reflect a decentralized system for addressing and preventing sexual harassment. (Id.)
10. The process for addressing a complaint or recommending disciplinary action is not centralized across departments. (Id.)
11. Under the policy, each city department is required to appoint an EEO officer. Departments are supposed to inform staff of who the EEO officer is, including posting their contact information, and what their role is. (Id. at 3112.)
12. The audit found that 13 departments did not have an EEO officer and 32 departments did not post the contact information for their EEO officer. (Id.)
13. This means staff in 45 of 50 departments may not have known who or had someone to report sexual harassment to in their office. (Id.)
14. Testing showed the 59% of supervisors, managers and executive staff had not received sexual harassment prevention training in the last five years. (Id.)
15. The audit found that discipline for substantiated claims of sexual misconduct is not commensurate with offenses, varied greatly between departments, and in five cases was more severe for lower level employees than for supervisors with similar infractions in the same department. (Id.)
16. The audit found that the City’s policy “is inadequate, decentralized and implemented poorly across city departments. The process for reporting is opaque and complicated, with several points of contact and the potential for confusing “formal” and “informal” complaints. The procedures in place leave many questions for individuals experiencing sexual misconduct as a City of Philadelphia employee and for supervisors, human

resources personnel and EEO officers who largely are responsible for receiving, investigating and resolving a complaint.” (Id.)

17. The audit found that the City’s policy “does not function as intended.” (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3125.)
18. “There are variations with terminology, and vague references to procedures that may or may not exist. While the policy is clear that employees have the choice of making reports through their supervisors, departmental administrators or the EEO Officer, they are not provided with instructions on when to choose one option over the other or what to expect by way of a response from the administration.” (Id.)
19. “Supervisors and managers are not given explicit instructions for how to address complaints, what information to document, and when to escalate a complaint that is beyond their scope of authority.” (Id.)
20. “Departmental personnel officers, with elevated responsibilities, are not specifically given clear instructions on how to initiate an investigation, what questions to ask of the parties involved, or what manner of discipline is warranted.” (Id.)
21. “Finally, the policy does not address what should or could occur in the aftermath of the case, such as following up with the complainant or providing him or her with procedures to follow in the event of retaliation.” (Id.)
22. “As a result, misunderstandings and miscommunication could prevent victims of sexual harassment from coming forward with their complaints.” (Id.)
23. “Many of the issues discussed here arise from misconceptions created by the Sexual Harassment Prevention Policy itself. We found that, generally, departments were unclear about, or were not following, on average six of seventeen specific policy statements selected for testing. This is a city-wide problem, as every department failed to implement some part of the policy.” (Id.)
24. “Many of the procedures cite inaccurate or outdated information that could confuse and frustrate complainants or discourage employees from coming forward with their concerns.” (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3125.)
25. “Foremost, we noted that the Sexual Harassment Prevention Policy incorrectly identifies OHR as the primary contact point for guidance, making complaints, and submitting documentation. An unnecessary barrier is immediately presented for employees trying to voice their concerns, as the policy misrepresents the department that is responsible for overseeing the process” (Id. at 3126.)

26. “Furthermore, employees needing guidance when reporting sexual misconduct are encouraged to consult with their “departmental personnel officer/EEO Officer”. This statement implies that a departmental personnel officer and an EEO Officer could be the same person as the job titles are used interchangeably. However, this is misleading as the departmental personnel officer is not a class title in the city’s current job class specifications. This function is most commonly performed by departmental human resource officers.” (Id. at 3126.)
27. “In 45 of the 50 departments tested, there was also inadequate communication about the role of the EEO Officer. This leaves employees in 90% of city departments without a clear path to address sexual misconduct.” (Id.)
28. “The policy also requires that contact information for the departmental EEO Officer be clearly posted in a location where all employees can see it. For the 37 departments that have established an EEO officer, 32 did not display contact information in a prominent location.” (Id.)
29. The Philadelphia Police Department (“PPD”) does not display this information. (Ex. B, MacDonald Dep., 62:16-21.)
30. The Sexual Harassment Prevention Policy also states that “it is the responsibility of each Appointing Authority to ensure that all employees, both current and new hires, receive and sign for a copy of this policy”. While departmental personnel officers or EEO Officers reported providing employees with a copy of the sexual harassment policy at the time they were hired or as part of an employee handbook distributed during an employee’s first days of employment, this may be the only time employees receive information regarding prohibited sexual misconduct. (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3125.)
31. The Controller’s audit findings state “Frequent discussion and consistent dissemination of the policy better informs employees of the types of conduct they are expected to adhere to, and employees dealing with harassment are better informed about the options available to address the concerns.” (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3126.)
32. “In the process of filing a complaint, employees may not be aware that they have several options available to resolve their concerns. The Sexual Harassment Prevention Policy states that employees may have their concerns addressed through either an informal or formal resolution process.” (Id. at 3127.)
33. “In an informal complaint, an employee could directly confront the alleged harasser about the inappropriate behavior. However, including this in the policy puts the onus for correcting the behavior back on the complainant. The policy does not subsequently

instruct the complainant to document and submit their actions to their departmental personnel officer. This undermines the possibility for identifying repeat offenders.” (Id.)

34. “The complaint process is also compromised when all available options are not presented to employees.” (Id. at 3127.)
35. “Departmental personnel officers and EEO Officers from 30 departments reported not using the “informal” process for addressing complaints of sexual harassment. . . . A properly handled informal complaint could be addressed by an employee’s supervisor, or manager, in a conversation with the alleged offender or, if necessary, the entire unit about appropriate behavior. After addressing the incident, and documenting it, the supervisor or manager would provide this documentation to the departmental personnel officer. This approach will seek to curtail misconduct, set the appropriate tone, and provide evidence of earlier offenses should the behavior continue.” (Id.)
36. “Ambiguity exists in the formal complaint process when the type of the complaint is not explicitly discussed with the employee filing the complaint. In circumstances shared with the Controller’s Office, some employees spoke of making complaints to their supervisor or departmental personnel officer believing that they had addressed their grievances formally. However, the supervisor or departmental personnel officer receiving the complaint handled it informally, resulting in no discipline to the harasser, no documentation, and no closure for the complainant.” (Id.)
37. “Lastly, while the city’s EEO staff have expertise in handling complaints of sexual misconduct, employees may be unaware of the Employee Relations Unit and not understand that they may make a complaint outside of their department. Having an external resource for filing a complaint is especially important . . .” (Id.)
38. “Once a supervisor or manager receives a sexual misconduct complaint, the city’s Sexual Harassment Prevention Policy fails to offer any specific procedures or guidelines for helping them address and document the allegations.” (Id.)
39. “Additionally, the policy does not provide written procedures regarding the type and format of information required in either a formal or informal report, or specifically how the supervisor or manager should address the complaint. It also fails to address other valid considerations that supervisors may have, such as, whether it’s necessary to meet with an employee privately or in the presence of a manager, and when to have union representation present. It also neglects to specify when it’s best to speak with the entire unit regarding employee conduct versus speaking solely with the alleged harasser.” (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3128.)
40. “The next steps in the Sexual Harassment Prevention Policy, conducting investigations, apply only to formal complaints, and constitute a substantial part of the complaint process. Supervisors or EEO Officers receiving a complaint of sexual harassment are required to take the details of the complaint in writing and have the complainant sign it.

While this statement appears to be relatively clear, it is not. A supervisor is unlikely to be the person responsible for documenting the details of the complaint when a formal complaint is made. This action is usually performed by the departmental EEO Officer or departmental personnel officer.” (Id.)

41. “The policy continues by instructing the investigator to secure statements from all participants in, and witnesses to, the alleged incident, but it lacks guidance to assist the investigator in this endeavor. Specifically, it does not reference other sources to consult for questions to be asked during an investigation. It would be beneficial for an investigator to have specific questions to ask, to help ensure that the process is performed accurately, completely, and consistently. Questions for the complainant could include when, and how often the offending behavior occurred, the employee’s relationship with the alleged harasser, what type of documentation is available to support the allegation, and whether there is a fear of retaliation.” (Id.)
42. “Questions for the alleged harasser could include his or her recollection of the incident, what is their response to the complaint, and whether there is other relevant information that could refute the allegation. Investigators would also know to ask witnesses how they became familiar with the incident, what they personally saw or heard, and how the alleged harasser treats others in the workplace.” (Id.)
43. “Addressing complaints timely is the next component of the investigatory process. The Sexual Harassment Prevention Policy states that the investigation should be completed within sixty (60) days from the filing of the complaint. This requirement applies regardless of whether the investigation is performed by the departmental personnel officer or the city’s EEO officer and his staff. Review of the MOLR Employee Relations Unit’s sexual harassment case files indicated that the city’s EEO officer often takes between 90 days and six months to complete an investigation.” (Id. at 3129.)
44. “Allowing time to lapse between a complaint and completion of an investigation could result in a failure to adequately support a complainant’s allegation of employee misconduct, inaccurate reports from witnesses, and repeated occurrences of misconduct.” (Id.)
45. “The Sexual Harassment Prevention Policy continues with the requirement that the investigation report should be sent to the department head for review within 15 days after the completion of an investigation. At this stage of the process, the department head is responsible for determining whether the facts and findings revealed in the investigation result in the allegation being substantiated or unsubstantiated. However, the policy does not specifically provide department heads with the knowledge necessary to evaluate the validity of the complaint.” (Id.)
46. At the PPD, investigations take significantly longer than 90 days. (Conway Dep., 37:08-38:18; Rhyhart Dep., 97:24-98:15.)

47. “Proper oversight from the department head is crucial to ensure that the policy is being implemented fairly, correctly, and consistently. . . . Most of the responsibility for handling complaints of sexual misconduct and determining substantiation is delegated to the departmental personnel officer or EEO official.” (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3129.)
48. The Controller’s audit also found that “The policy also omits information regarding actions that should, or could, occur after discipline is determined. Departmental personnel or supervisors addressing a complaint of sexual misconduct are not required to follow up with the complainant to ensure that the resolution was effective.” (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3131.)
49. “Failing to follow up with employees who have made complaints could leave them feeling unprotected in the workplace.” (Id.)
50. “Additionally, it does not adequately explain how, or to whom, employees should make a subsequent complaint of retaliation. Retaliation is mentioned at the end of the definitions of prohibited conduct, but there are no further instructions for an employee who feels as though they are being subjected to it.” (Id.)
51. The audit found that the City “does not have an overarching code of conduct for employees. . . . There is no published city-wide policy addressing consequences of inappropriate behavior that could damage the reputation of a city department, create a potential liability for the city, or injure the public. Inappropriate conduct that falls outside the scope of sexual harassment includes, but is not limited to, sexual relationships between managers and subordinates, overtly sexual banter, or sexual acts while working or within the workplace. Such behavior raises concerns relating to abuse of authority, conflicts of interests, favoritism, and unfair treatment. Some of the incidents we reviewed started with these types of inappropriate workplace behaviors and later evolved into cases of sexual misconduct.” (Id.)
52. The audit further determined that “discipline is not commensurate with offenses.” (Id. at 3134.)
53. Departments are not compliant with required employee training. (Id. at 3135.)
54. In the PPD, trainings are not conducted as mandated, and supervisors frequently forge attendance sheets at “mandatory” sexual harassment trainings. (Ex. D., Plaintiffs’ Verified Second Amended Complaint<sup>1</sup>, at ¶¶ 88-95; Ex. E., Forged Attendance Sheet, McCowan-Allen 0001-0006.)

---

<sup>1</sup> When the Complaint is verified, the Court treats specific, factual allegations in the Complaint that are based on personal knowledge as if they were made in an affidavit or declaration. See Parkell v. Danberg, 833 F.3d 313, 320 n.2 (3d Cir. 2016) (“Because [statements in verified complaint] were signed under penalty of perjury in accordance with 28 U.S.C. § 1746, we consider them as equivalent to statements in an affidavit.”); Reese v. Sparks, 760 F.2d



55. Training is not tailored to employee rank and responsibilities. ((Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3136.)
56. At the conclusion of the audit, the Office of the City Controller stated: “lack of a clear, comprehensive and centralized sexual harassment policy, in concert with an inadequate training program, that is poorly attended, created the perfect union of circumstances to expose employees to sexual harassment.” (Id. at 3137.)
57. The audit found that the PPD had the most reported cases of sexual harassment out of all City departments due to internal cultural issues that need to change. (Id. at 3133; Ex. F., Ryhnhart Dep., 46:11-12, 48:23-49:12.)
58. Even though the PPD had the most reported cases of sexual harassment, of the cases that were reported, the PPD had more unsubstantiated cases than substantiated. (Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3133.)
59. At the conclusion of the audit, the Controller issued the following recommendations to fix the City’s broken policies and procedures for reporting and investigating sexual harassment:
- Remove investigations from a department’s purview to ensure that the standards of the investigation are consistent for all cases and to mitigate the possibility of bias from the investigator in favor of, or against, the complainant or the alleged harasser.
  - Centralize the process for investigating sexual harassment complaints under one department or unit, which would oversee cases from the initial formally documented complaint to its final resolution. Creating a centralized unit devoted to handling employee complaints would be better prepared to compile clear and consistent documentation and provide for improved historical record of incidents. Centralization would also reduce the arbitrary variation in corrective action between and within departments, conceivably by establishing disciplinary guidelines for consistent and fair discipline that is proportionally responsive to the level of misconduct.
  - Establish an effective policy to properly address complaints of sexual harassment and suitably train its workforce.

---

64, 67 (3d Cir. 1985) (treating verified complaint as an affidavit in opposition to a motion for summary judgment); Boomer v. Lewis, 2009 WL 2900778, at \*14 (M.D. Pa. Sept. 9, 2009) (“A verified complaint may be treated as an affidavit in support of or in opposition to a motion for summary judgment if the allegations are specific and based on personal knowledge.”), aff’d 541 F.App’x 186, 193 (3d Cir. 2013).



- Remove procedures that are no longer applicable, especially those that refer to OHR and OHR units that no longer exist or claim no involvement in the process.
- Ensure that all job titles or other information used in the policy reflects current city positions and relevant terminology.
- Create separate sections of the policy to address the needs of each of the levels of involvement, i.e. the complainant, the supervisor or manager, the departmental personnel officer and the appointing authority, if applicable. These policy sections should include information for how rank and file employees report misconduct, and what to expect by way of a response from the administration. The section for supervisors and managers should include explicit instructions for how to address complaints, specific information to document, and when to escalate a complaint that is beyond their purview. A third set of standards could be written to provide departmental personnel officers (or the centralized unit) with a clear understanding of their elevated responsibilities.
- Create recommended discipline guidelines that would ensure that victims receive closure and clearly egregious instances of misconduct are dealt with fairly and consistently.
- Establish procedures advising employees as to the resolution of their complaint and the procedures to follow if they are subject to retaliation.
- Include consequences for supervisory or executive-level staff who fail to address a complaint involving sexual harassment.
- Consider creating a city-wide employee code of conduct, which would reinforce positive behavior and prohibit inappropriate actions that could create a hostile work environment or cause a liability to the city.
- Require that each department has an assigned EEO Officer, or someone in authority who has received adequate training in addressing the Sexual Harassment Prevention Policy. Their contact information should also be posted in a prominent location.
- Ensure that all employees attend sexual harassment prevention training in accordance with City Council Bill No. 171109-A.
- Ensure that all employees receive a copy of the Sexual Harassment Prevention Policy and are aware of what constitutes inappropriate office behavior and how to make a complaint if they are subjected to, or become aware of sexual harassment or misconduct in their workplace. This policy should also be posted prominently.

- Instruct employees on the options available for making a complaint, i.e. informally or formally, and assist them in deciding what is appropriate for their circumstances.
- Send ALL complaints of sexual harassment and misconduct to the centralized department or unit chosen to investigate and/or oversee these allegations.
- Require that departments, or a centralized unit, adhere to an established timeline for documenting and investigating employee complaints to ensure that the matter is addressed in a timely manner.
- Enforce the policy requirement that all reported instances of sexual misconduct be communicated to the department head to ensure their knowledge of and involvement in resolving employee complaints.
- Develop or obtain responsive on-line training courses that would allow employees with limited ability to attend live classes to meet the mandatory requirements at a time and location that suits their scheduling needs.
- Tailor any revisions to the content of the training classes to the specific needs of the audience, i.e. rank and file employees, supervisory and executive personnel, or departmental personnel officers.
- Research and consider incorporating best practices employed by private industry or other government entities, such as the U.S. EPA's Procedures for Addressing Allegations of Workplace Harassment, when revising the city's Sexual Harassment Prevention Policy.

(Ex. A, Report on the Effectiveness of and Compliance with Sexual Harassment Policies and Procedures July 2012 to April 2018, at McCowan-Allen 3137-3140.)

60. On March 18, 2019, City Controller Rebecca Rhynhart stated, "I'm disappointed at the progress the administration has made on these recommendations. It has completely neglected a disciplinary schedule, and the changes it has made toward centralization fall woefully short." (Ex. G, Rebecca Rhynhart, Where is the City's Centralized Process for Handling Sexual Misconduct Claims, at McCowan-Allen 3156.)
61. Controller Rhynhart testified that the audit recommendations "were not actually being implemented" by the City. (Ex. F., Rhynhart Dep., 67:11-14.)
62. Controller Rhynhart testified "there was no real movement on centralization. . . [T]he administration made a decision at some point . . . not to do it." (Id. at 67:20-21.)
63. On August 20, 2019, the Mayor Kenney issued a public statement stating, "Last summer, the City implemented a new sexual harassment prevention policy and a series of internal reforms designed to prevent workplace discrimination and harassment throughout the

government. While rolling out a new policy understandably takes time, I do not believe the Police Department has taken the necessary actions to address the underlying cultural issues that too often negatively impact women . . .” (Ex. H: Mayor Announces Resignation of PPD Commissioner Richard Ross, Jr., McCowan-Allen 3159-3160.)

64. On August 21, 2019, the Office of the City Controller issued a public statement describing “a concerning picture of issues we know to be deeply engrained cultural problems in the City, and specifically within the Police Department. . . . [T]he issues of sexual misconduct have been well known and reported on for years: a commander is still on the force despite a \$1.25 million payout of taxpayer dollars in a case against him for sexual assault of a subordinate officer, and within the last year, a commander accused of sexual harassment by at least four female officers and a member of the public was promoted to oversee the Special Victims Unit. . . . Failure in reporting, investigating and administering discipline are why my office conducted an audit of the City’s sexual misconduct policies and procedures last year and made recommendations . . . for how to improve the process moving forward. . . . One of the most important recommendations from my audit—full centralization of the reporting process—has not been implemented. A centralized process would mean that a single office, independent from all other departments, would be charged with accepting and documenting sexual misconduct allegations, investigating those allegations, compiling a report with a finding about the claim, and ensuring appropriate discipline was administered. This is still what the City needs to do to ensure that victims are heard, perpetrators are dealt with appropriately, and supervisors take action to protect their subordinates and are held accountable when they don’t.” (Ex. I, City Controller Rhynhart Releases Statement on Police Commissioner Resignation, McCowan-Allen 3158.)
65. Controller Rhynhart testified, “this isn’t something that just happened to appear overnight. This is a problem that we’ve known about and that needs to be dealt with in a serious way.” (Ex. F., Rhynhart Dep., 71:13-18.)
66. Controller Rhynhart further testified: “These were issued that continued to, were allowed to fester—this wasn’t . . . this one-off instance that just occurred; the police commissioner will resign and everything will be good again.” (Id. at 73:02-07.)
67. “[T]his was an issue across the City.” (Id. at 73:10-11.)
68. At the PPD, the procedures whereby sexual harassment complaints are handled internally by Internal Affairs results in interdepartmental issues, such as problems reporting up the chain-of-command, that can be prevented by pulling investigations outside the department. (Id. at 92:20-93:13; 99:20-100:02.)

**B. Internal Affairs’ investigative process is seriously deficient**

69. The Internal Affairs Division of the PPD has a squad that is responsibly for EEO investigations. When EEO investigations are sustained they are then forwarded to the Police Board of Inquiry. (Id. at 20:13-24; 165:01-07; 175:19-22)

70. The investigations involve members of the Philadelphia Police Department investigating other members of the Philadelphia Police Department. (Id.; Ex. F., Rhyhart Dep., 99:20-100:02.)
71. Sergeant Brent Conway is an investigator at Internal Affairs. (Ex. C., Conway Dep., 06:21-22.)
72. Sergeant Conway is assigned to investigate complaints against police submitted by members of the police department. (Id. at 09:10-14.)
73. There is no specific process for investigating EEO complaints—Internal Affairs follows the same process for investigating EEO complaints as it does for other investigations of police misconduct. (Id. at 22:23-23:05.)
74. The Internal Affairs investigation process begins with scheduling interviews of the complainant, witnesses and target. (Id. at 23:06-23:04.)
75. Once the interviews are completed, the interview notes and any evidence collected is transferred into the Police Commissioner’s Memorandum. The Police Commissioner’s memorandum includes a summary of the investigation in a section called the “conclusion.” (Id. at 24:22-25:11.)
76. The investigator writes the Police Commissioner’s Memorandum and conclusions. (Id. at 25:17-26:01.)
77. The investigator is responsible to report to the captain, and the captain is responsible for general oversight of the investigation. (Id. at 25:12-16.)
78. While the inspector is responsible for signing off on the conclusions, the investigators “are all aware of exactly what the inspectors would want in their conclusions.” So the investigators “know exactly how [the inspectors] want things worded and how they would want the conclusion to read after they sign.” (Id. at 26:02-24; 94:02-15.)
79. The investigator is allowed to make subjective interpretations of the policy and issue arbitrary penalties. (Id. at 101:06 – 103:03.)
80. Once the inspector signs the conclusions, the investigation is forwarded to the chief inspector for his review. (Id. at 27:10-12.)
81. Once the chief inspector approves the investigation, the investigation is then forwarded to the deputy commissioner’s office and then to the police commissioner’s office.
82. If disciplinary action is required, the investigation is forwarded to PBI to determine what charges will be applied to the individuals involved. (Id. at 28:22-29:04.)

83. One possible result from an investigation is “unfounded.” That means that the allegations were not found to be EEO violations. (Id. at 55:12-16.)
84. Another possible result is “not sustained.” That is where the allegations cannot be proven or disproven. (Id. at 55:07-11.)
85. If there are no witnesses to an alleged event and no documentary evidence, the investigative finding will always be, “not sustained.” (Id. at 120:23-121:20.)
86. If the situation is purely he said/she said, then the finding will always be “not sustained.” (Id.)
87. Nothing is done by the department to ascertain whether an assigned investigator has any bias, such as where the investigator has been named in an EEOC charge or in a lawsuit involving the complainant. (Id. at 51:07-15.)
88. Under PPD policy, an EEO investigator can continue investigating a complaint, even if they are the subject of the complaint. (Ex. D., Plaintiffs’ Verified Second Amended Complaint, at ¶¶ 23-24; Ex. J., Plaintiff McCowan EEOC Charge, at McCowan-Allen 0227; Ex. K., Plaintiff Allen EEOC Charge, at McCowan-Allen 0153; Ex. F., Rhynhart Dep., 98:16-99:19; Ex. C., Conway Dep., 76:14-21.)
89. The PPD distributes inconsistent and outdated versions of Directive 8.7 (the PPD’s policy and procedures for reporting workplace discrimination and harassment) to its employees. (Compare Ex. L, Directive 8.7 Effective October 21, 2011, CITY 1571-1577 to Ex. M, Directive 8.7 Effective January 2020, CITY 3138-3149.)
90. Under PPD policy, a supervisor cannot be sexually harassed by their subordinate. (Ex. N, EEO Investigative Conclusions, at CITY 2516).
91. Under PPD policy, a supervisor does not have any rights under the department’s anti-harassment policies if the harasser is their subordinate. (Id. at CITY 2518)
92. Under PPD policy, if a supervisor files a sexual harassment complaint against a subordinate, the supervisor is subject to discipline for “failure to supervise” their harasser. (Id. at CITY 2516-18.)
93. “Failure to supervise” could result in the complainant being given a multi-day suspension. (Ex. C, Conway Dep., 166:06-21.)
94. A complainant will not be provided legal representation or union representation if they are charged with a departmental violation during the course of an investigation. (Id. at 194:11-18, 195:12-196:01.)
95. Under PPD policy, a supervisor will be faulted if they are sexually harassed. (Ex. F, Rhynhart Dep., 93:24-94:16.)

96. Under PPD policy, an employee cannot be sexually harassed if they outrank the harasser. (Ex. N, EEO Investigative Conclusions, at CITY 2516-18; Rhynhart Dep., 96:16-07:14.)
97. The PPD tells employees they should not file an EEO complaint if they are a victim. (Ex. N, EEO Investigative Conclusions, at CITY 2516-18; Ex. F, Rhynhart Dep., 95:09-14; 95:15-23.)
98. It is Sergeant Conway's practice to shred documents created during the investigative process. (Ex C, Conway Dep., 63:01-08) ("I always shred those things when I get them, because I don't feel like there's things that I want left around, so I immediately dispose of them. So I don't have a copy.")
- Q. Why do you shred those documents?
- A. Prior to this, I never really thought it was something I needed to keep. (Id. at 63:06-07.)
99. Defendant Conway frequently makes typographical errors with regard to important dates and it is not his practice to correct them before submitting an investigation for approval by the police commissioner. (Id. at 80:11-13, 84:04-20, 87:18-89:04, 90:06-91:23; 126:08-14.)

**C. Plaintiff McCowan's Stellar Employment History with the PPD**

100. Plaintiff McCowan is a 38-year-old Black female. She is the mother of two children, ages 18 and 14. She is married to Keith Brown, who is a PPD Sergeant. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 36.)
101. Prior to the events of this case, Ms. McCowan was employed as a sworn member of the PPD for over 15 years—her final rank was Corporal. Prior to the events of this case, Ms. McCowan's employment history with the City was as follows:
- On March 1, 2004, 20-year-old Audra McCowan entered the Philadelphia Police Academy.
  - In October 2004, the City assigned her to the 23<sup>rd</sup> District, where she worked for four years.
  - In October 2008, the City transferred Ms. McCowan to the Police Board of Inquiry.
  - In March 2015, the City transferred her to work at the Philadelphia Police Academy as an instructor, where she worked for most of the year.
  - In December 2015, the City transferred Ms. McCowan to the Internal Affairs Bureau, where she worked for a little under two years.

- In March 2018, Ms. McCowan started working in the PPD’s Real Time Crime Center (“RTCC”), a special unit in the City’s Delaware Valley Intelligence Center (“DVIC”)—a multi-agency facility located in South Philadelphia, tasked with identifying emerging crime, terrorism and potentially dangerous weather events in Southeastern Pennsylvania, Southern New Jersey, Northern Delaware and Northeastern Maryland, and sharing that information with law enforcement agencies across the region.

(Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 37.)

102. Defendant Conway described Ms. McCowan as “an excellent employee, an excellent person.” (Ex. C, Conway Dep., 258:02-03.)

103. Plaintiff McCowan was a consistently excellent, extremely professional, highly regarded and highly valued Police Officer and Corporal during her employment, as evidenced by her performance reviews. (Ex. O, McCowan Performance Reviews, CITY 0001-15.)

104. Comments on Plaintiff’s performance reviews included the following:

- “Audra, you . . . have performed exceptionally . . . you hit the ground running and quickly established what was required to get the job done. Your ambition, self-motivation and exceptional organizational skills were exactly what were required. . . . I have learned that I can rely on you to watch my back and keep covered things that I may have missed. Loyalty, as you probably know, is a rare find in this line of work. I do appreciate your loyalty and will surely miss it when you promote to corporal in the near future.” (CITY 0001)
- “Audra, while I was a witness of your excellent work ethic during your assignment with the Department Advocate section of our unit, you have far exceeded my expectations since your assignment to the Charging Unit. . . . Your hard work and dedication . . . have greatly contributed to the considerable energy that is an integral part of the successful operation of the Charging Unit. Effective communications and strong working relationships maintained and/or developed, along with a sound knowledge of Departmental policies and procedures, have made you a much sought after expert in this disciplinary process. I especially appreciate your insight and focus in examining the circumstances of investigations that this office is tasked with reviewing. It truly has been a pleasure to work with you. Thank you for your service.” (CITY 0002.)
- “You have performed your duties in a commendable manner. You require little to no supervision and always have a positive attitude. You have great work ethic and perform new tasks with ease. You would be a valuable asset in any unit within the Philadelphia Police Department.” (CITY 0003)
- “Audra, you are very knowledgeable of the functionality of this Unit. Your work is always done neatly, accurately and efficiently. Because of the above mentioned



qualities, you are a very beneficial and invaluable asset to this Unit. Thank you for doing a great job, and for remaining so conscientious about your work!!!!!!” (CITY 0004)

- “Audra, you are very knowledgeable. Your work is done accurately and efficiently, and you know where every piece of paper that we handle should go, making you quite an asset to this Unit.” (CITY 0005)
- Audra, . . . I can honestly say that you are VERY knowledgeable about the operations of the Unit. You are helpful, dependable, and reliable. . . . Thank you for doing an outstanding job, and for being so conscientious about your work. Keep up the good work. It is a pleasure working with you. (CITY 0006)

**D. Plaintiff Allen’s Stellar Employment History with the PPD**

105. Plaintiff Allen is a 40-year-old Black Hispanic female. She is the mother of three children, ages 19, 15, and 3. She is married to Edward Allen, who is also a Philadelphia police officer. Prior to the events of this case, Ms. Allen was employed as a police officer in Philadelphia for over fifteen years—her rank was Police Officer. Prior to the events of this case, her employment history with the City is as follows:

- On March 1, 2004, at 23-years-old, Ms. Allen entered the Philadelphia Police Academy.
- In October 2004, upon graduating from the police academy, the City assigned her to Philadelphia’s 12<sup>th</sup> District in Southwest Philadelphia.
- She was assigned to the 12th district until December 2010, when the City transferred her to the PPD’s Juvenile Enforcement Team (JET)—a small tactical unit comprised of Philadelphia Police and Juvenile Probation Officers that conducts warrant service and probation searches on high risk, gang associated and violent juveniles who are on probation. Ms. Allen worked in the JET unit for over eight (8) years.
- Ms. Allen worked in the PPD’s special Analysis and Investigations (A&I) unit within the DVIC.

(Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 39.)

106. Plaintiff Allen was a consistently excellent, extremely professional, highly regarded and highly valued Police Officer during her employment, as evidenced by her performance reviews. (Ex. P, Allen Performance Reviews, CITY 0132-0140.)

107. Comments on Plaintiff’s performance reviews included the following:

- “Officer Allen . . . readily performs the expected duties of her as a police officer with minimal supervision. She is very professional to the public and holds the high respect of her supervisor and peers. She is very dependable and an asset to the police department.” (CITY 0132)

- Officer [Allen] completes all tasks given to her without issue and in a timely manner. She requires very little supervision. Officer [Allen] always engages the public with courtesy and respect.” (CITY 0134)
- Officer [Allen] is a very dependable officer who always demonstrates good judgment and tact in the field. She carries a professional appearance and has the respect of her peers and supervisor.” (CITY 0135)
- “I view you as one of my most reliable officers. You are well organized, your quantity of work is good, and your reports are always done accurately. You work well on a solo car or as a two-person team. Your knowledge of crime patterns and known criminals in the 12<sup>th</sup> District has been an extreme asset to 2-Squad. Your paperwork is well done and you are always willing to learn more about the job. I have confidence that a proper decision will be made regarding any situation you face while working street patrol. Continue to keep up the good work.” (CITY 0136.)
- “I have called on you numerous times to handle different situations and each time you handle the assignment the way it is supposed to be done. Your knowledge on policing is commendable. You are an aggressive and intelligent officer. You always display a professional attitude towards your peers and the citizens of Philadelphia. You are respected by your supervisors. You interact very well with one you come in contact with. Your response time to radio calls are appreciated. You are the type of officer that can respond to a job and calm the situation down. You are always ready to take on new challenges. Your job performance speaks for itself. Keep up the good work. (CITY 0139.)
- “Jen, during a large portion of this rating period you have been assigned to various non-patrol assignments. Nevertheless, I can’t forget the elevated level of energy and dedication you . . . demonstrated on a daily basis. . . . Congratulations on entering motherhood, and I anticipate your return, only of course after a much needed maternity leave of absence, so that you may enjoy the new addition to your family. Good luck!” (CITY 0140.)

**E. The PPD’s grossly sexist culture in which male employees who engage in sexually harassing conduct are protected**

108. A 2018 audit of the City’s implementation of its sexual misconduct policies determined that the City has “a broken system for reporting, investigating and resolving sexual misconduct complaints.” (Ex. G, Rebecca Rhynhart, Where is the City’s Centralized Process for Handling Sexual Misconduct Claims, at McCowan-Allen 3156.)
109. Over the course of Plaintiffs’ employment with the City, these experienced and hard-working public servants have suffered continuous and ongoing sexual harassment and discrimination by both coworkers and supervisors. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 42.)

110. In 2012, Ms. Allen was unwittingly grabbed and groped on two occasions by her immediate supervisor, Sergeant Bradford Williams, while on duty. The first incident occurred in the basement of a Philadelphia residence while Ms. Allen and Sergeant Williams were conducting a probation search of the house. On their way back upstairs, Ms. Allen was walking in front of Sergeant Williams and he reached out his hand and squeezed her butt. Knowing full well the futility of reporting the incident and the risks inherent in doing so, Ms. Allen kept quiet. The second incident occurred a few weeks later under similar circumstances: Sergeant Williams again grabbed Ms. Allen's butt after they had finished serving a warrant. Immediately after the second incident, Ms. Allen reported both assaults to her partner, Officer William Giulian and asked him to accompany her to confront Sergeant Williams in his office later that day. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 43.)

111. In Summer 2015, Ms. McCowan filed a complaint against a coworker, Officer Patrick Fisher, describing multiple counts of sexual harassment that occurred while they were working together at the police academy, including inappropriate sexual comments such as, "you're giving me action in my pants," and "bend over like that again," as well as unwanted physical touching, including trying to kiss her and slapping her butt. Ms. McCowan's 2015 complaint was corroborated by a written statement from an eyewitness supervisor, Lieutenant Karyn Baldini, but the internal affairs investigator assigned to the case—Sergeant Conway—declined to punish Officer Fisher and Ms. McCowan was forced to continue working with him. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 44; Ex. Q, McCowan 2015 Complaint, McCowan-Allen 0258-0261.)

112. On April 22, 2016, Ms. Allen was groped by another cop in the JET unit, Officer James Williams, who slapped her on the rear end on his last day at work before retiring from the PPD. Ms. Allen confronted Officer Williams in a text message:

Ms. Allen: I am absolutely in disbelief. I cannot believe someone I considered a friend would violate me. The moment you grabbed my butt is the moment I completely lost respect for you. Especially because you knew exactly how I felt when Sgt. [Williams] did that to me. I'm not sure why you would ever think it was ok to disrespect me like that. But just know you have a daughter, and you would never want someone to do that to her. Very disrespectful...And in extreme violation of my body.

Officer Williams: Jen I am so sorry! No I didn't think it would cause you to feel this way. I do understand you feeling this way especially considering you went through it with Sgt. [Williams]. I didn't think about that. I was only thinking of myself. Please forgive me. I cherish your friendship and would never knowingly do anything to disrespect you. I see I've messed that up but if you could ever forgive me I'm here.

I wish there was a way to undo what I did. A way to somehow make things right. I won't bother you again but I wish there was something I could do to get our friendship back and reverse the damage and hurt I've done.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 44; Ex. R, Text Messages with Officer Williams, McCowan-Allen 0187-89.)

113. The City produced more than seventy investigative memorandums comprising every internal investigation of sexual harassment and/or gender discrimination conducted over the last six years. (See ECF Doc. No. 156, Defendants' Motion to Seal, at p. 10 of 17.) Out of more than seventy cases, less than ten resulted in a "sustained" finding of and none resulted in any discipline. (Ex. S, Memorandum Re: Outcome of Requested EEO Cases, McCowan\_MMWR\_013427-28.)
114. For example, EEO #17-0013 was sustained for hostile work environment, however no discipline resulted as the "case is still open at PBI due to [offending officer] being out Injured on Duty and then receiving a disability pension." (*Id.* at 013427 ¶ 2.)
115. By way of further example, EEO #17-0027 was sustained for sexual and verbal harassment, however no discipline resulted because [the offending lieutenant] retired with a non-service connected disability pension" and "the PBI case never went before a trial board." (*Id.* at ¶ 3.)
116. By way of further example, EEO #17-0039 was sustained for Abuse of Authority however no discipline resulted because "[the offending lieutenant] retired and the PBI case never went before a trial board." (*Id.* at ¶ 4.)
117. By way of further example, EEO # 18-0005 was sustained for hostile work environment, however no discipline resulted because" [the offender] retired and the PBI case never went before a trial board."
118. By way of further example, EEO #18-0009 was sustained for sexual and verbal harassment, however no discipline resulted because [the offending lieutenant] retired with a non-service connected disability pension" and "the PBI case never went before a trail board." (*Id.* at ¶ 6.)
119. By way of further example, EEO #18-0033 was sustained for posting a letter in the workplace that contained inappropriate language. The offending detective was found guilty and the Board recommended a 10 day suspension with a transfer from the Homicide Unit. However no discipline resulted because the offending detective "filed a grievance and . . . the transfer was rescinded and he was ordered to receive \$54,974.23 of back pay for the loss of overtime." (*Id.* at ¶ 7.)
120. By way of further example, EEO #18-0036 was sustained for retaliation, however no discipline resulted because "[the offending lieutenant] retired . . . with a non-service

connected disability pension” and “the PBI case never went before a trial board.” (*Id.* at ¶ 9.)

121. By way of further example, EEO #19-0010 was sustained against Defendant Younger for two charges of verbal abuse—Derogatory Offensive Language, however no discipline resulted because “the case against P/O Younger is still open at PBI.” (*Id.* at ¶ 10.) Defendant Younger confirmed he was not disciplined. (Ex. T, Younger Dep., 75:11-13.) Plaintiff McCowan was also charged with “failure to supervise” Defendant Younger. (Ex. S, McCowan\_MMWR\_013428.)

**F. In Spring 2014, Plaintiff Allen rejected the first of many unrelenting inappropriate sexual advances from Defendant Younger.**

122. In Spring 2014, Ms. Allen and her husband Edward were cleaning their garage, when Ms. Allen received a text message on her personal cell phone from Officer Younger asking if she was available to talk. She said yes thinking it was work-related. Officer Younger called and said, “I have a crush on you,” “I like you,” and “I’m interested in you.” Ms. Allen and Mr. Allen told Officer Younger not to call back. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 46.)

123. Defendant Younger later admitted during the EEO investigation to telling McCowan he had a crush on her. (Ex. N, EEO Investigation Conclusions, CITY 2516-2520)

**G. Beginning in Fall 2018, Plaintiffs were denied equal employment opportunity in their duty stations in the DVIC.**

*i. Plaintiff Allen was denied career-advancing training and job assignments because of her status as a black female.*

124. Ms. Allen went out of work on maternity leave in Spring 2018 and was due to return to work on October 22, 2018. Before going out on maternity leave, Ms. Allen put in a request to transfer from her assignment in JET (where she worked rotating day and night shifts for eight years) to the A&I unit in the DVIC—a plainclothes, daytime position that would be more suitable for caring for her newborn child, and would also provide her training necessary to pursue her goal of becoming a police detective. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 47.)

125. Defendant MacDonald confirmed that Plaintiff Allen did put in a transfer request. (Ex. B, MacDonald Dep., 38:22-39:01; Ex. FFF, Text from Sgt. Williams, McCowan-Allen 0190.)

126. On October 12, 2018, Officer Tonetta Dawson, Aide to Chief Inspector MacDonald—the Commander in the DVIC—told Ms. Allen her transfer request was granted. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 48; Ex. U, Text from Dawson, McCowan-Allen 0191.)

127. On October 21, 2018, Ms. Allen texted Officer Dawson to confirm if she should report to JET or A&I the next day. Officer Dawson said to call Sergeant Williford, a supervisor in A&I, who told Ms. Allen she would need special training before she could transfer to the unit, and instructed her to continue following her current schedule of rotating day and night shifts in JET. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 49.)
128. On November 15, 2018 Officer Dawson texted Ms. Allen saying she would be detailed to A&I on days when JET was on night work. Although this arrangement would temporarily accommodate her request for a shift change, rotating between two different units is an uncommon practice in the PPD and, as demonstrated below, Ms. Allen's request for permanent transfer to A&I was denied solely because she is a black female. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 50.)
129. Defendant McHugh testified that rotating between two units is not common in the PPD, nor has he "ever heard of that." (Ex. V, McHugh Dep., 40:12-21.)
130. In late-November 2018, Ms. Allen continued to express interest in career advancement, work opportunities and training for a position in A&I to Sergeant Williford, who said he would send her information on the training she needed, but never did. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 51; Ex. W, Text from Williford, McCowan-Allen 0192.)
131. In December, when Ms. Allen followed up with Sergeant Williford about training opportunities, he said he was "working on it" but that Inspector McCarrick, a white male commander in the DVIC, did not want her to get the A&I position. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 52.)
132. On December 7, 2018, Officer Julius Caesar texted Ms. Allen saying "Sergeant Williford said 'I hope Tonetta is not selling Jen a dream because she is never going to be an analyst.'" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 53.)
- ii. Plaintiff McCowan was also denied career-advancing job opportunities and training because of her status as a black female.*
133. On November 30, 2018, Ms. McCowan was promoted to Corporal and transferred from RTCC to the High Intensity Drug Trafficking Area ("HIDTA") unit in the DVIC. (Plaintiffs' Verified Second Amended Complaint, at ¶ 54.)
134. Upon arriving to her new position, she was not given a workstation. Inspector McCarrick was supposed to meet with her to discuss her assignment but never did. (Plaintiffs' Verified Second Amended Complaint, at ¶ 55.)
135. Around December 10, 2018, Chief Inspector MacDonald told Ms. McCowan that her transfer to HIDTA "was a mistake," and that she was being moved so the PPD could give her job to Corporal Neal Wilson, a less-qualified male counterpart. Sergeant Williford said, "If you fight the HIDTA issue you'll be labeled a troublemaker." (Ex. D,



Plaintiffs' Verified Second Amended Complaint, at ¶ 56; Ex. X, McCowan DARs – Transfer from HIDTA, McCowan-Allen 0262.)

136. She was not trained or given any work to do. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 57.)

137. Plaintiff McCowan was given a tiny “desk” outside of Defendant MacDonald's office, which had a small note on it that said “CPL AUDY'S DESK.” (Ex. Y, Photo of Desk, McCowan-Allen 1655-1656.)

**H. In December 2018, Plaintiffs complained to Defendant Williford about the denial of equal employment opportunity in the DVIC, which he agreed was motivated by their race and gender.**

138. In early-December 2018, Ms. Allen and Ms. McCowan told Chief Inspector MacDonald's aide, Officer Dawson, that they had been denied work opportunities that were given to their male and white female counterparts. Officer Dawson said that the reason for the difference in treatment was “race-related and also us being women.” A few minutes later, Plaintiffs overheard Officer Dawson and Sergeant Williford screaming loudly in his office about Plaintiffs' reports of discrimination. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 58.)

139. Sergeant Williford texted Ms. Allen asking Plaintiffs to meet him in his office. He said, “I don't want you to think I'm not helping you. Tonetta was just in here yelling at me about white bosses (Inspector McCarrick and Chief Inspector MacDonald) looking out for their own, and she said I should help you when I can.” He agreed that Plaintiffs' male and white female counterparts would have received training and job assignments by now and promised to talk to Inspector McCarrick, who “was supposed to talk to you about your job duties but went to a luncheon instead.” (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 59.)

140. Later, Sergeant Williford told Ms. Allen, “Per the Chief, starting Monday, December 10<sup>th</sup>, you'll begin training without having to rotate between two units.” The training Ms. Allen was promised did not occur. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 60; Ex. Z, Text from Williford, McCowan-Allen 0193.)

**I. The severity of Defendant Younger's inappropriate and unwelcome sexual verbal conduct toward Plaintiff Allen escalated.**

141. During the week of December 10, 2018, Officer Younger, who was working in A&I, told Ms. Allen that after he called her in Spring 2014 he “was going to come to her house and handle her husband because nobody talks to me that way.” (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 61.)

142. Officer Younger made other hostile sex- and gender-based comments to Ms. Allen such as, “My daughter is gay, and I don't like her girlfriend. I purposely hit her in



the head with a tailgate and we got into an argument.” (Ex D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 62.)

143. A few weeks later, Officer Younger told Ms. Allen she is “one sexy motherfucker.” She asked Officer Younger to please focus on work. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 63.)

**J. Plaintiff McCowan rejected similar inappropriate advances from Defendant Younger.**

144. On January 3, 2019, Ms. McCowan and Officer Younger were exchanging work-related text messages about a coworker, Officer Chan, who had been in a car accident. Officer Younger asked Ms. McCowan if he could call her and she said yes, assuming he had an update on Officer Chan’s condition. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 64.)

145. Officer Younger called and said, “You know I have a crush on you?” Ms. McCowan responded, “Well, thank you for the update on Chan, I have to finish making dinner for my husband and my family,” and hung up. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 65.)

146. The next day, Officer Younger asked Ms. McCowan “what she cooked for dinner last night,” and she told him he was out of line and directed him not to make similar comments in the future. Ms. McCowan reported Officer Younger’s inappropriate advances to her supervisor, Lieutenant McHugh. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 66.)

147. Defendant McHugh testified that he failed to take action in response to Ms. McCowan’s complaint about Defendant Younger because Ms. McCowan is a supervisor. (Ex. V, McHugh Dep., 91:11-92:23.)

148. Defendant McHugh testified that because Plaintiff is a supervisor, Younger’s sexually harassing remarks were “not an EEO matter.” (Ex. V, McHugh Dep., 89:17-19.)

149. Officer Younger ignored Ms. McCowan’s orders and his unwelcome sexually harassing conduct toward her increased in severity over the next several weeks. For example, Officer Younger made statements such as, “Damn, you sexy,” and “You gonna have to stay away from me,” as well as sexually suggestive sounds like “Mmm, Mmm, Mmm.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 67.)

150. Some of Officer Younger’s inappropriate comments were made in the presence of his supervisors. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 68.)

151. During the week of January 7, 2019, while Ms. McCowan was using the C75 copy machine near Sergeant Kyler's office, Officer Younger approached her and asked: "Are you sure there's no room for me to slide in." (EEO Investigative Conclusions, CITY 2516-2520) (finding that "Office Younger asked Corporal McCowan if there was any 'wobble room' for anyone to get into the relationship and she said, 'No.')" Ms. McCowan tried to ignore Officer Younger, who then asked, "Do I have any chance with you?" Ms. McCowan shook her head "no" and said, "You have no chance." Officer Younger then stood with his back against the wall and hands at his sides, and said: "Well, if you ever change your mind, just break the glass." Throughout the rest of the day, Officer Younger kept muttering "remember, just break the glass," in passing. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 69.)

**K. Defendants continued to deny Plaintiffs equal employment opportunity in the DVIC through January 2019.**

152. In January 2019, Sergeant O'Brien, a supervisor in A&I, told Ms. Allen to "sit with Ta'Nea Jones," a black female civilian who worked in the unit. Ms. Jones told Ms. Allen, "I'm limited in what I can show you because you need access to so many different programs that you haven't been trained on, such as Facial Recognition, the Police System, and the Leads System, and you'll need a desk and a computer if you're going to be producing any work product." She also said she didn't have time to train Ms. Allen because she was bombarded with work. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 70.)

153. Ms. Allen asked Defendant McHugh about getting access to a computer and he said she was "still in JET and wouldn't need a desk." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 71.)

154. Around January 8, 2019, Ms. McCowan noticed that her payroll code was changed from 7407 (the HIDTA payroll code) to 9853 (the Intelligence Bureau payroll code) in violation of PPD policy and her collective bargaining agreement. She was transferred to A&I and her HIDTA job was given to Corporal Wilson. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 72; Ex. X, McCowan DARs – Transfer from HIDTA, McCowan-Allen 0262.)

155. Upon transfer to A&I, Ms. McCowan was the only black female supervisor in the unit. (Ex. V, McHugh Dep., 27:09-11.)

156. Despite Ms. McCowan's status as a supervisor, her male counterparts excluded her from all unit-specific supervisory meetings. A white male subordinate, Officer Shawn Hagan, was invited to attend the meetings in her place. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 73.)

157. Ms. McCowan was also excluded from important inter-office emails and memoranda that she should have received in her role as a supervisor. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 74.)

158. Her name was omitted from an internal contact sheet that listed the names of the other unit supervisors including Lieutenant McHugh and Sergeant O'Brien. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 75; Ex. AA, Internal Contact Sheet, McCowan-Allen 0263.)

159. Ms. McCowan's colleagues (specifically, Ms. Jones and Renee Collier) frequently asked why she was excluded from supervisor meetings and not included as a recipient on important emails and inter-office memoranda. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 76.)

160. On January 9, 2019, Sergeant Williford sent Ms. McCowan a text message saying:

Sergeant Williford: Had to keep reminding them supervisors includes Cpl [McCowan] and not Sean!

Ms. McCowan: Thank you. It's getting a little old.

Sergeant Williford: Yes.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 77; BB Williford Text, McCowan-Allen 0264)

161. On January 10, 2019, Sergeant Williford texted Ms. McCowan asking:

Sergeant Williford: Hey are you going to the meeting?

Ms. McCowan: What meeting?

Sergeant Williford: Exactly! I hear there is a meeting.

Ms. McCowan: News to me.

(Plaintiffs' Verified Second Amended Complaint, at ¶ 78; Ex. CCC, Williford Text, McCowan-Allen 0265.)

162. When Ms. McCowan went into the conference room the persons in attendance at the meeting were all white males: Kevin Thomas, John Grasso, Lieutenant McHugh, Sergeant O'Brien, and Officer Hagan (her subordinate). After this, they started holding supervisor meetings in secret in Kevin Thomas's office without notifying her. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 79.)

**L. Plaintiffs' work environment became increasingly sexually hostile when Defendant Williford joked about Plaintiff Allen's breast milk being stolen from the refrigerator in the break room in the DVIC.**

163. There is no designated lactation space in the DVIC—nursing mothers are forced to pump in the women's bathroom/locker room. (Ex. B, MacDonald Dep., 72:21-22.)

164. On January 10, 2019, at approximately 11:30 am, Ms. Allen went to the women's locker room in the DVIC to breast pump as she was still nursing her baby. She expressed five ounces of milk into a 150ml Medela breast milk bottle with a yellow lid. She sealed the bottle tight, placed it upright in small all-black milk bag, and zippered the bag completely closed. She walked the bag to the cafeteria and placed it in the full-sized refrigerator in the middle of the top shelf. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 80.)

165. At 4:00 pm, at the end of her shift, Ms. Allen walked to the cafeteria to retrieve her milk from the refrigerator to bring home. At the time, her son was exclusively fed by nursing or expressed milk. When Ms. Allen opened the refrigerator, she noticed that the small black milk bag was sitting on the bottom shelf—not where she had placed it earlier that day. Ms. Allen also noticed that the bag was partially-unzippered—not how she had left it. When she removed the milk bag from the refrigerator and opened it, she noticed that 4 ounces of expressed milk were gone; and only 1 ounce of milk was left. There were no signs that the bottle had spilled (the bag was not wet, nor was there any liquid inside the bag); it appeared to have been tampered with. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 81.)

166. Ms. Allen immediately reported the incident to Lieutenant McHugh. She showed him the nearly-empty bottle of milk and said, “This is a major violation of both me and my infant son.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 82.)

167. That night, Ms. Allen purchased a refrigerator from Walmart for \$96.10 so she could store the milk at her desk. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 83.)

168. The next day, Sergeant Williford said, “I heard your milk was stolen from the refrigerator,” and promised to “write an email to address it,” but never sent such an email and otherwise failed to take action. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 84.)

169. Over the next several weeks, whenever Sergeant Williford saw Ms. Allen carrying her milk bag from the locker room to her refrigerator he laughed and joked about her milk being stolen and made comments about “wanting chocolate milk” or “needing milk.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 85.)

**M. Defendant Younger’s sexual harassment of Plaintiff Allen escalated from verbal conduct to physical touching.**

170. Around mid-January, Ms. Allen attended a daily prayer circle in the cafeteria. Officer Younger was present, along with several witnesses, one of whom later stopped attending the morning meetings because of how Officer Younger treated and talked about women. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 86.)

171. After each morning prayer, those in attendance customarily hugged and said, “God bless you.” Officer Younger turned to Ms. Allen, placed his hands around her waist, and said, “You’re so small!” And picked her up off the ground in an embrace. Ms. Allen ordered Office Younger to put her down. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 87.)

**N. Plaintiffs observed officers and supervisors forge attendance sheets at a mandatory sexual harassment training.**

172. Around January 17, 2019, Plaintiffs attended an annual mandatory MPO training course on workplace sexual harassment. Officer Dawson, Aide to Chief Inspector MacDonald, sat to the immediate right of Ms. Allen. Officer Dawson asked Ms. Allen to borrow her black pen (Officer Dawson also had a blue pen), and Ms. Allen watched Officer Dawson mark officers who were absent as “present” on the attendance sheet, alternating between black and blue pens for each name. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 88; Ex. E, Forged Attendance Sheet, McCowan-Allen 0001-0006)
173. During the class, Officer Dawson showed Ms. Allen a text message from Sergeant Whittle with his payroll number, which Officer Dawson used to sign the attendance sheet and submit a test on his behalf. When Ms. Allen looked at the attendance sheet, she also noticed that Officer Shawn Hagan was signed in, but was not in attendance. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 89; Ex. E, Forged Attendance Sheet, McCowan-Allen 0001-0006)
174. Officer Dawson also submitted tests for absentees (the tests were a required part of the class). Officer Dawson asked Ms. Allen to complete a blank test for one of the absent officers, but she declined. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 90; Ex. E, Forged Attendance Sheet, McCowan-Allen 0001-0006)
175. Lieutenant McHugh and Sergeant O’Brien were present and knew that the attendance sheet was forged because Shawn Hagan’s name was signed between Lieutenant McHugh and Sergeant O’Brien. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 91; Ex. E, Forged Attendance Sheet, McCowan-Allen 0001-0006)
176. After the sexual harassment class, Officer Younger told Ms. Allen, “That class was bullshit!” His statement was witnessed by Officer Burnett. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 92; Ex. E, Forged Attendance Sheet, McCowan-Allen 0001-0006)
177. Officer Younger later pointed to Ms. Allen’s breasts and said, “It looks like you need to go pump because they are looking big.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 93; Ex. E, Forged Attendance Sheet, McCowan-Allen 0001-0006)
178. A few days later, around January 23, 2019, Officer Younger told Ms. Allen, “You lost your ass after having the baby.” His statement was witnessed by Detective Robert Richardson. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 94.)
179. Later in January 2019, Officer Younger told Ms. Allen, “If you gained 15 more pounds you would be on point.” His statement was witnessed by Officers Caesar and Rozier. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 95.)

180. The PPD has conducted an investigation into the forging of attendance sheets for the aforementioned MPO training and found that Plaintiffs' reports about the forged attendance sheets are meritorious. (Ex. B, MacDonald Dep., 74:03-08.)

**O. Defendant Younger's sexual harassment of Plaintiff McCowan also escalated from verbal conduct to physical touching.**

181. On January 21, 2019, Officer Younger said, "Hey, babe" to Ms. McCowan who responded, "You mean Corporal?" This exchange was witnessed by Lieutenant McHugh and Ms. Allen. Ms. McCowan looked at Ms. Allen and said, "You heard me, right?" Ms. Allen responded, "Yes" and shook her head in disbelief. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 96.)

182. On January 28, 2019, Officer Younger approached Ms. McCowan and started picking up and making inappropriate comments about the family photographs on her desk. He commented on her "smile," and "big forehead," and pointed to a wedding photo and asked, "Are you pregnant in that picture?" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 97.)

183. Referencing several photographs of Ms. McCowan's husband, Officer Younger said, "You have pictures of this motherfucker all over your desk. My wife doesn't have pictures like this on her desk." Ms. McCowan responded, "That's between y'all." Officer Younger said, "Oh, I forgot, y'all are still wet. It's still new." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 98.) Defendant Younger admitted to making this statement during the EEO investigation. (Ex. N, EEO Investigative Conclusions, CITY 2516-2520)

184. Officer Younger suddenly reached out and gripped Ms. McCowan's left hand and forcibly tried to remove her wedding band from her finger. She screamed: "Stop! They don't come off!" Officer Younger laughed and asked, "You don't take them off when you sleep?" Ms. McCowan repeated "No! My rings don't come off!" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 99.)

185. Officer Younger continued making inappropriate comments all day and repeatedly asked Ms. McCowan if she was "sure he had zero chance." She responded, "In how many different languages do I need to say no?" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 100.)

186. These incidents were witnessed by Civilian Renee Collier who was sitting nearby. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 101.)

187. Civilian Collier later told Defendant Conway during the EEO investigation that she has heard Officer Younger state to Corporal McCowan "Hey Babe." (Ex. CC, Collier Interview, CITY 2557-2563)

188. Civilian Collier also told Defendant Conway she saw Defendant Younger reach for Plaintiff McCowan's hand. (Ex. CC, Collier Interview, CITY 2557-2563)



189. Civilian Collier also told Defendant Conway she heard Defendant Younger call Plaintiff McCowan “fat.” (Ex. CC, Collier Interview, CITY 2557-2563)

190. The sexual harassment was so open and obvious that several of Ms. McCowan’s coworkers left notes and cards on her desk expressing sympathy. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 102; Ex. DD, Sympathy Cards from Coworkers, McCowan-Allen 0266-67.)

191. On January 29, 2019, Ms. McCowan called out sick and made an appointment with her family doctor to whom she described Officer Younger’s verbal and physical advances in detail, which caused her to feel depressed, anxious and fearful about returning to work. Her physician wrote her a sick note, and strongly recommended she seek mental health counseling. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 103.)

**P. Plaintiffs complained to Defendant Williford about ongoing sex- and race-based discrimination at the DVIC.**

192. Around the end of January, Chief Inspector MacDonald told Ms. Allen he was going to give her a certain training packet that had previously been given to all the other analysts in A&I but never gave it to her. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 104.)

193. On January 29, 2019, Ms. Allen again asked Sergeant Williford about her continued lack of training and work opportunities in A&I. He said, “It seems race related,” and promised to talk to Chief Inspector MacDonald. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 105.)

**Q. Defendant Williford tried to stop Plaintiffs from reporting Defendant Younger’s workplace sexual harassment to Defendant MacDonald.**

194. On January 29, 2019, Ms. Allen called Ms. McCowan (who was out of the office) and reported that she had been harassed by Officer Younger. Ms. McCowan described to Officer Allen similar verbal and physical harassment that she had been enduring from Officer Younger. Ms. McCowan told Ms. Allen to document everything in a memo and promised to personally deliver both written complaints to Chief Inspector MacDonald immediately upon her return to work the next morning. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 106.)

195. Ms. Allen and Ms. McCowan typed separate EEO complaints against Officer Younger and printed them for hand delivery to Chief Inspector MacDonald. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 107.)

196. On January 30, 2019, Sergeant Allen (Ms. Allen’s direct supervisor) walked in on Ms. Allen crying in the locker room and asked why she was crying. Ms. Allen said, “I’m requesting a meeting with Chief Inspector MacDonald regarding an EEO matter.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 108.)



197. At 8:00 am the same day, immediately upon Ms. McCowan's arrival to work, she told Officer Dawson (Chief Inspector MacDonald's aide) that she needed to personally speak to Chief Inspector MacDonald about two harassment complaints involving employees under his command. Officer Dawson said, "I'll tell you when the Chief arrives." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 109.)
198. A few minutes later, Ms. McCowan received a text message from Sergeant Williford encouraging her not to deliver Plaintiffs' complaints of unlawful sexual harassment to Chief Inspector MacDonald: "Please see me before you submit those memos . . . let me handle it." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 110; Ex. EE, Text Messages from Williford to McCowan, McCowan-Allen 2674.)
199. Ms. McCowan texted back saying, "What I have to talk about should go directly to the boss. It's bigger than what you may think. It also involves Jen." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 111.)
200. Sergeant Williford arrived at Ms. McCowan's desk and told her to follow him to the conference room where she repeated her request to speak directly to Chief Inspector MacDonald, who had previously told her that he "wanted to know about situations like this before they left the building." Sergeant Williford said, "As a supervisor you have to learn that there are other supervisors you can go to—you have to go to Inspector McCarrick before MacDonald." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 112.)
201. Ms. McCowan responded, "It's my understanding that the chain of command doesn't apply when reporting an EEO complaint or misconduct within the Department. I need to speak with Chief Inspector MacDonald about an EEO complaint." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 113.)
202. Sergeant Williford said, "Although the Chief has an 'open-door policy,' he kind of doesn't; and you're on probation—you don't want to be labeled a troublemaker." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 114.)
203. Defendant Williford had no authority to deem Plaintiffs' complaint a non-EEO matter. (Ex. C, Conway Dep., 16:20-24.)
204. After her unsuccessful attempt at meeting with Chief Inspector MacDonald, Ms. McCowan met Ms. Allen and Sergeant Allen in the women's locker room, where Plaintiffs reported their EEO complaints to Sergeant Allen. Sergeant Allen then wrote a memo addressed to Captain Heizenroth detailing the sex- and race-based discrimination that the two women had been experiencing at the DVIC but omitted Plaintiff's reports of sexual harassment/hostile work environment. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 115.)
205. Word got out quick: at 1:30 pm, Sergeant O'Brien called Ms. McCowan and asked, "Is there something going on with Jen? Inspector McCarrick had a meeting and

said Jen filed an EEO complaint and told all of us to be careful. Am I a part of it?” Ms. McCowan said, “Jen’s sergeant is handling it,” and then she thanked Sergeant O’Brien for calling and hung up the phone. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 116.)

206. Ms. Allen had an anxiety attack at work and left early. She saw her primary care doctor, who took her out of work until February 4, 2019. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 117.)

207. Despite Plaintiffs’ multiple requests through various channels to speak with Chief Inspector MacDonald, he did not meet with them. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 118.)

**R. Plaintiff McCowan emailed Plaintiffs’ complaints directly to Defendant MacDonald, and texted a summary of their complaints to Defendant Ross; thus initiating a cascade of retaliatory employment actions against Plaintiffs.**

*i. Report to Defendant MacDonald*

208. At 9:58 am, having been blocked from delivering their EEO complaints to Chief Inspector MacDonald in person, Ms. McCowan sent them to him in an email with the subject line “EEOC Complaint”:

Good Morning Sir, Myself and Officer Jennifer Allen have a situation that we would like for you to be made aware of. We tried to meet with you yesterday, but our attempt was unsuccessful. I have attached two memorandums, one that Officer Allen wrote and another that I wrote. Thank you for taking the time to read this email and our memos.

Respectfully,

Corporal Audra McCowan #8194

(Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 119; Email from McCowan to MacDonald Enclosing Sexual Harassment Complaints, McCowan-Allen 1657-1661.)

209. The same day, Ms. Allen received a text message from her former JET partner, Officer Berthesi, who was confused as to why Ms. Allen was being placed back out on the streets in the JET unit: “I heard you are back with us on day work?” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 120; Ex. GG, Text from Berthesi, McCowan-Allen 0204)

210. From February 1<sup>st</sup> to 6<sup>th</sup>, 2019, Ms. McCowan’s family doctor took her out of work on sick leave. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 121.)

211. On February 4, 2019, at approximately 8:52 am, Sergeant Allen told Ms. Allen that her desk was being moved from the A&I section. Ms. Allen asked where the order to

move her desk was coming from, and Sergeant Allen responded that the order was coming from Chief Inspector MacDonald and Inspector McCarrick. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 122.)

212. On February 5, 2019, Sergeant Allen texted Ms. Allen saying, "call me," apologized for "passing on bad information," and told Ms. Allen to remain at her desk, unless she felt "uncomfortable," in which case she should "write a memo." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 123.)

213. On February 6, 2019, Ms. McCowan returned to work from sick leave and was informed by Lieutenant McHugh that, while she was out sick, Inspector McCarrick met with each analyst except Officer Allen. He also said, "Inspector McCarrick asked me what your duties are, and I told him I don't know exactly what McCowan does. He also asked what Jen's duties are and I said I didn't know." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 124.)

214. During this conversation, Ms. McCowan told Lieutenant McHugh that, a few days earlier, on January 21st, Officer Hagan (her subordinate), asked her to review a work product. She questioned why she had not been trained to produce work product, while her subordinate had received the training he needed to do so. Ms. McCowan also told Lieutenant McHugh about having asked Civilian Supervisor Grasso three times for training and sample work product to review, which she never received. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 125.)

*ii. Report to Defendant Ross*

215. In early- to mid-February 2019, Ms. McCowan texted and called Commissioner Ross on his personal cell phone to inform him that she had been experiencing sexual harassment and a hostile work environment in the DVIC, and that she had been punished for reporting same. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 126; Ex. HH, Ross Dep., 116:20-117:08.)

216. Commissioner Ross asked, "Who is it against?" Ms. McCowan responded, "P/O Curtis Younger." Commissioner Ross declined to act on her report, and instead suggested, "So why don't you just order his dumb ass to go sit down and get out of your face 'Officer.'" Ms. McCowan responded, "Think about how you would feel if it was your daughter. Would it matter if it was someone that works for her or not? If she told the person to repeatedly stop, that doesn't matter?" Commissioner Ross stated, "I know you don't like for me to be straight with you, largely because 'two rams always seem to butt heads' . . . but I want to offer you some sage advice as a friend." Ms. McCowan asked Commissioner Ross to share his advice and he responded, "No, not the time based on your frame of mind." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 127; Ex. HH, Ross Dep., 117:17-120:09.)

217. During these conversations, Commissioner Ross also stated he was going to "school" Ms. McCowan on sexual harassment and indicated that he continues to be upset

with her and was getting in the way of redressing her complaints in retribution for her breaking off their two-year affair, which lasted from 2009 to 2011. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 128; Ex. HH, Ross Dep., 74:08-17.)

218. Defendant Ross admitted to having extra-marital sexual intercourse with a subordinate while on duty. (Ex. HH, Ross Dep., 07:05-16.)
219. The City Controller testified that the City does not have a policy for what it deems to be inappropriate workplace behavior, such as sexual relations between a supervisor and subordinate. (Rhynhart Dep., 40:13-41:01.) The City Controller further testified that such relationships "raise concerns relating to favoritism, unfair treatment, abuse of authority." (Rhynhart Dep., 41:02-04.) The City Controller further testified that the best practice for consensual relations between a supervisor and subordinate are—such relationships "shouldn't be allowed to continue. That's a clear issue. . . . Because it's a power structure. There's a power structure when you have a manager and a subordinate. . . . I don't know how to say it more firmly. But there's a power issue and that can lead to a variety of other factors, that the person as the manager over their employee and sexual relations should not be allowed in the workplace. No." (Ex. F, Rhynhart Dep., 41:10-42:09.)
220. Defendant Ross testified: "If your client would have just stayed in focus and dealt with one person, instead of fishing for answers all over the place and assuming people had some ill will against her, all of this would have probably been resolved in a way that was acceptable to everyone." (Ex. HH, Ross Dep., 97:07-13.)
221. Defendant Ross testified: I don't think she should have even set up the perception of being a perpetual victim. Because I think she's stronger than that and better than that." (Ex. HH, Ross Dep., 74:08-21.)
222. Defendant Ross testified:
- Q. Do you admit or deny that Ms. McCowan responded saying, "Think about how you would feel if it was your daughter. Would it matter if it was someone that works for her or not? She told the person repeatedly to stop. That doesn't matter?"?
- A. I remember something to that effect. But I remember she was upset. But since she brought my daughter into it, my daughter doesn't take crap off of people. She would have told him to get out of her face, and she probably would have written him up herself without any additional intervention required.
- (Ex. HH, Ross Dep., 119:17-120:09.)
223. Defendant Ross testified:
- Q. Do you admit that . . . you said, "So why don't you just order his dumb ass to go sit down and get out of your face, officer"?
- A. . . . I may have in some way made some statement in paraphrasing that sentiment. She was the corporal. She was the person in charge. She had filed previous

complaints, so I knew she knew how to do that. In addition to which, she had an obligation to ensure that she told this individual and order him to, basically, cease and desist his inappropriate conduct.

(Ex. HH, Ross Dep., 71:11-72:03.)

224. Defendant Ross testified:

Q. Do you admit or deny that you suggested, “So why don’t you just order his dumb ass to sit down and get out of your face, officer”?

A. Well, to the best of my recollection, I paraphrased something to that effect, int hat she should assert herself, as I’ve said to you probably three or four times now, and not be a perpetual victim.

(Ex. HH, Ross Dep., 119:05-13)

**S. Defendant Conway failed to conduct a prompt, thorough and impartial investigation of Plaintiffs’ internal discrimination complaints; failed to take appropriate disciplinary and corrective measures where necessary to resolve the problems and prevent harassment from happening again; and retaliated against Plaintiff McCowan by sustaining departmental violations against her for “failure to supervise” Defendant Younger**

225. On February 6, 2019, at 9:00 am, Ms. Allen was interviewed by Sergeant Conway at the Internal Affairs Building about the sexual harassment complaint she filed against Officer Younger. Sergeant Conway started the interview by telling Ms. Allen that “he knows Audra [McCowan],” from when they used to work together. Sergeant Conway also said, “I’m married to an African American woman” and, “I have an autistic son.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 129.)

226. Sergeant Conway made references to other sexual harassment and assault allegations made by other female cops (against Inspector Anthony Washington and Chief Inspector Carl Holmes) and expressed his opinion that, “In those cases, the females were lying.” He asked Ms. Allen why she “waited so long to speak up.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 130.)

227. Sergeant Conway typed his interpretation of Ms. Allen’s answers to his questions, which he asked her to review and correct but rushed her to sign the document. He also instructed her to write that she wanted to be separated from Officer Younger. She said she didn’t want to be moved from her position and he responded, “They can’t do that because that would be a lawsuit. And if they do it, I’ll tell them they can’t.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 131.)

228. On February 8, 2019, Sergeant Conway summoned Ms. McCowan to Internal Affairs. He said, “The Philadelphia Police Department has the highest payouts in lawsuits out of all the City agencies, so these interview questions are worded to assist the City in defending against a lawsuit in case you and Officer Allen decide to sue. Basically the questions are worded to determine that you didn’t do what you were supposed to do.” He further explained his opinion that, “You can’t be sexually harassed because you are a

supervisor.” He also said, “You failed to timely report your complaints against Officer Younger because you didn’t submit them on the Philadelphia Police Department Intranet.” He also said, “You may be held liable for failing to properly report this because the City is tired of paying out settlement money.” He also said, “Chief Flacco suggested that telling your husband about Officer Younger should be considered reporting to a supervisor.” Sergeant Conway also said, “My wife is Black.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 132.)

229. After their interviews at Internal Affairs, the men in Plaintiffs’ unit started acting differently toward them. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 133.)

230. Chief Inspector MacDonald told Ms. McCowan that “Officer Younger is working on a taskforce project in addition to his daily duties, and he is doing a great job.” (Plaintiffs’ Verified Second Amended Complaint, at ¶ 134.)

231. Sergeant O’Brien and Lieutenant McHugh asked Ms. Allen “what unit she was in.” Ms. Allen responded, “I should be asking you.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 135.)

232. Civilian Jones texted Ms. Allen, saying, “They weird as hell in here,” regarding the behavior of the males in their unit. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 136; Ex. II, Text from Jones, McCowan-Allen 0205.)

233. The same day, Ms. Allen received a supportive text message from Officer Lillian Figueroa who noticed Ms. Allen looked distressed due to her ongoing mistreatment at work: “You look so stressed!!!” Ms. Allen responded, “I absolutely am. You have no idea.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 137; Ex. JJ, Text from Figueroa, McCowan-Allen 0206.)

234. Ms. McCowan took her blood pressure, which was 176/86. One hour later, it was 129/91, and then 123/91. Ms. McCowan never had a problem with her blood pressure until now. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 138.)

235. On February 11, 2019, Sergeant Allen told Ms. Allen she would be working on the street. Ms. Allen stated that she was supposed to be training with Civilian Jones for an analyst job. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 139.)

236. Sergeant Allen walked away for a few minutes, then returned and informed Ms. Allen she would be “working inside and not out on the street” that day. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 140.)

237. Later that afternoon, Sergeant Allen approached Ms. Allen in the locker room and told her to “go back out on the street.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 141.)



238. At 3:50 pm, Sergeant Allen again approached Ms. Allen and said she would be “working inside the next day.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 142.)
239. On February 12, 2019, Ms. Allen had an appointment with her family doctor, who took her out of work on sick leave until February 15, 2019. Ms. Allen’s weight was 109 pounds. Ms. McCowan told Lieutenant McHugh that “Jen and Lil (a Hispanic woman in the unit) are out sick,” and he rolled his eyes. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 143.)
240. Ms. McCowan overheard Sergeant O’Brien and Lieutenant McHugh say, “How does Jen get 3 weeks of vacation around the holidays?” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 144.)
241. Ms. McCowan overheard Sergeant O’Brien and Lieutenant McHugh talking about Officer Ferguson, another black female who had been temporarily detailed to A&I, asking, “Why does she have to be in this unit? She has family in South Philly who are into criminal activity—it’s a conflict for her to work here. She can’t work here.” Ms. McCowan overheard Sergeant O’Brien call the Safety Office to ask if Officer Ferguson could be “sent back to the 1<sup>st</sup> District for the rest of her restricted duty time.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 145.)
242. On February 13, 2019, Ms. McCowan was standing in the conference room next to Inspector McCarrick’s office when Officer Younger walked by and stared at her with a look of disgust. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 146.)
243. On February 14, 2019, Sergeant Williford emailed Ms. Allen through the city email instructing her to sign up for training scheduled for February 26<sup>th</sup>. Ms. Allen signed up for it, but it was later taken away from her by Lieutenant McHugh, who approached Ms. McCowan and said, “We’re not sending Jen to the training on the 26<sup>th</sup>.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 147.)
244. Instead of training, Sergeant Allen told Ms. Allen to “report to work at 3:00 pm on the 26<sup>th</sup> to start back night work.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 148.)
245. On February 18, 2019, between 12:00 pm and 1:00 pm, Sergeant Allen interrupted Ms. Allen twice to “check on her” while she was breast pumping in the women’s locker room. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 149.)
246. On February 19, 2019, Sergeant Allen texted Ms. Allen saying, “Meet me at 20<sup>th</sup> and Pattison.” Sergeant Allen told Ms. Allen that she “could see the disappointment” in Ms. Allen’s face at work, and that she appeared to be “trying to hide her disappointment from her coworkers.” Sergeant Allen told Ms. Allen, “Just relax and fall back, I’m telling



you.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 150; Ex. KK, Text from Sgt. Allen, McCowan-Allen 0208.)

247. The same day, Ms. Allen was breast pumping in the women’s locker room in the DVIC when Sergeant Allen interrupted her and asked, “Are you almost done?” This was witnessed by Corporal Linder, Ms. McCowan, and Officer Victoria Ayers. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 151.)
248. On February 20, 2019, Ms. Allen went to a meeting with Inspector McCarrick and Sergeant Allen. Inspector McCarrick told Ms. Allen that he “got a call from Dungan Road,” and said, “In your EEO complaint you asked not to work with Curtis Younger, correct?” Ms. Allen attempted to clarify she didn’t want to be moved but Inspector McCarrick interrupted: “Captain Abrams called and said to have you go back to working with JET. Don’t go back to A&I.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 152.)
249. On February 21, 2019, at 12:45 and 1:28 pm, Sergeant Allen interrupted Ms. Allen when she was breast pumping in the women’s locker room on her break. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 153.)
250. On February 22, 2019 at 10:46 am, Officer Younger said in the presence of Ms. McCowan “I have some meatballs for you” in reference to his genitals. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 154.)
251. Directive 8.7 provides that: “Upon completion of the investigation, the supervising IAD Captain will review and forward to the Administrative Inspector, IAD for approval. Upon approval, the Administrative Inspector will forward the completed copy of the investigative report to the Deputy Commissioner, Office of Professional Responsibility no later than seventy-five (75) days after the receipt of the complaint.” (Ex. L, Directive 8.7, Effective October 2011, at CITY 1575.)
252. Defendant Conway failed to complete the investigation within 75 days. (Ex. C, Conway Dep., 37:11-13; 38:14-18; 77:06-08.)
253. Directive 8.7 provides that “The completed investigation will be forwarded through the chain of command, to the Police Commissioner for final disposition.” (Ex. L, Directive 8.7, Effective October 2011, at CITY 1575.)
254. Defendant Ross’s final disposition was to sustain departmental violations against Plaintiff McCowan for “failure to supervise” Defendant Younger. (Ex. LL, Complaint Investigation Worksheet, CITY 3215; Ex. C, Conway Dep., 27:15-18.)
255. The sustained violations against Plaintiff McCowan were sent for formal disciplinary action to the Police Board of Inquiry, which charged Plaintiff McCowan with “failure to supervise” Defendant Younger. (Ex. MM, McCowan PBI Records, PBI No. 19-0616, CITY 3221-22.)

256. The charges specify that “Corporal Audra McCowan failed to properly supervise when she failed to take appropriate action related to the inappropriate behavior she described in her EEO complaint against Officer Curtis Younger. Corporal McCowan stated that Officer Younger made several inappropriate comments to her and/or about her during the month of January 2019. An investigation into Corporal McCowan’s complaint revealed that officer Younger did make several of the comments she alleged in her complaint. . . . While some of Officer Younger’s comments were made outside the earshot of any other witnesses and were denied by Officer Younger, if made they would have been in violation of Directive #8.7, Employment Discrimination/Equal Employment Opportunity (EEO) – Responsibilities and How to File a Complaint. As a supervisor, Corporal McCowan was responsible for ensuring Officer Younger’s conduct was such that it was in accordance with the guidelines set forth in Directive #8.7. Corporal McCowan was also responsible for taking appropriate actions against Officer Younger each time she believed he violated any section of the directive.” (Ex. MM, McCowan PBI Records, PBI No. 19-0616, CITY 3221-22.)

257. Directive 8.6 “Disciplinary Procedure” provides that the Police Commissioner “has the authority to withdrawn disciplinary charges.” (Ex. Directive 8.6, Disciplinary Procedure, at CITY 1556.)

258. Defendant Ross testified: “If your client would have just stayed in focus and dealt with one person, instead of fishing for answers all over the place and assuming people had some ill will against her, all of this would have probably been resolved in a way that was acceptable to everyone.” (Ex. HH, Ross Dep., 97:07-13.)

259. Defendants declined to find that Defendant Younger sexually harassed McCowan or Allen. (Ex. N, EEO Investigation Conclusions, CITY 2516-2520.)

260. Defendants declined to sustain departmental violations against MacDonald, Williford, McCarrick, McHugh or O’Brien for failing to supervise Defendant Younger. (Ex. C, Conway Dep., 198:19-199:10.)

**T. Defendants continued to deny Plaintiff Allen her rights as a nursing mother.**

261. On February 22, 2019, Ms. Allen used a personal day and scheduled an appointment with a mental health therapist. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 155.)

262. Sergeant Allen texted Ms. Allen then called and said that effective immediately her schedule would be rotating between day and night shifts. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 156.)

263. On February 25, 2019, Ms. Allen sought counseling from a therapist. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 157.)

264. On February 26, 2019, at 3:15 pm, Sergeant Allen told Ms. Allen that the vacation request she had made back in December 2018 was partially denied. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 158.)
265. That night, Ms. Allen texted Sergeant saying she was heading home on her one-hour break to pump. Sergeant Allen texted back, "Ok." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 159.)
266. When Ms. Allen returned to the DVIC, Sergeant Allen said, "I thought you were going to pump in the DVIC bathroom." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 160.)
267. Sergeant Allen then stated she would no longer be able to accommodate Ms. Allen going home to pump and threatened to "take time away" from Ms. Allen "if she ever went home to pump again." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 161.)
268. Sergeant Allen insisted Ms. Allen pump in the locker room at work because "women nurse in front of women all the time." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 162.)
269. At 11:04 pm, Ms. Allen received a text message from Officer Caesar asking, "Yo what's up with you on nights?" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 163; Ex. OO, Text from Caesar, McCowan-Allen 0211.)
270. On February 27, 2019, Sergeant Allen told Ms. Allen that if she didn't want to use the DVIC bathroom to pump then to "use the interview room" and sign the key out from the male officer working at the RTCC, who told Ms. Allen he "didn't know anything about it and wasn't familiar with the keys." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 164.)
271. It took nearly 30 minutes to find help to get into the interview room, which is located on the exterior of the building near the entrance. In the middle of winter, the room was freezing inside because it is unheated. It also had a large window, which meant that anyone who walked by would be able to see her pumping. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 165.)
272. Officer Caesar saw Ms. Allen and asked, "what's been going on?" Lieutenant Gonzalez saw her and said she "had not been herself lately." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 166.)
273. Ms. Allen was unable to pump that night. She texted Sergeant Allen and asked her to carry her sick for the remainder of her tour and also said she had a doctor's appointment the following day at 3:00 pm. Sergeant Allen told Ms. Allen to meet her at her desk and said:

Sergeant Allen: What happened tonight?  
Ms. Allen: What do you mean what happened?

Sergeant Allen: Did you pump?  
Ms. Allen: No.  
Sergeant Allen: Why?  
Ms. Allen: Because the room was too cold and has a window.  
Sergeant Allen: Well that's the only room we have so what are you going do?  
Ms. Allen: What do you mean what am I going to do?  
Sergeant Allen: There is no other room for you to pump.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 167.)

274. Ms. Allen said "ok" and had to take sick leave to pump at home. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 168.)

275. At 8:23 pm, Officer Caesar texted Ms. Allen asking, "What happened are you good?" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 169.)

**U. Plaintiff McCowan filed another complaint and Defendants said she would be punished for doing so.**

276. On February 25, 2019, Sergeant O'Brien delivered to Ms. McCowan two court notices for Civilian Renee Collier and Officer Nathan Ramos, who were to be interviewed as witnesses in Ms. McCowan's EEO investigation, and he instructed her to deliver them. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 170.)

277. Shortly thereafter, at 1:40 pm, Ms. McCowan received a text message from Ms. Collier asking, "Can you meet me in the ladies' room? Wanna talk real quick?" Ms. McCowan responded "Yes." In the women's locker room, Ms. Collier told Ms. McCowan that she had spoken with the EEO investigator, who asked if she "may have witnessed something," or if she was "around when something was said." Ms. Collier told Ms. McCowan that she "didn't want to be involved in nobody's mess." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 171.)

278. At 3:00 pm, as Ms. McCowan was walking from her locker back to her desk, she walked past Officer Julius Caesar and Sergeant Williford, who were having a conversation. She excused herself and kept walking past them. Officer Caesar (who is friends with Ms. McCowan) caught up to her and they started talking. Officer Caesar made a joke about her wavy hair (the two always joke about her hair) and briefly nudged her shoulder with his elbow. They both laughed, and Ms. McCowan went to her cubicle. There was nothing inappropriate about the conversation. But a few minutes later, at 3:32 pm, Sergeant Williford appeared at Ms. McCowan's desk:

Sergeant Williford: Apparently that was inappropriate touching.  
Ms. McCowan: What was?  
Sergeant Williford: When Caesar put his arm around you.

Ms. McCowan: You're joking right? He didn't put his arm around me, he nudged my shoulder with his elbow, and we're friends. Who is this coming from?

Sergeant Williford: Inspector McCarrick.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 172.)

279. Sergeant Williford also said that when he asked Inspector McCarrick "who put their arm around McCowan," Inspector McCarrick said "the guy with the afro." Sergeant Williford said he asked, "which one," and Inspector McCarrick kept incorrectly saying "Rozier" in reference to Officer Caesar. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 173.)

280. On March 6, 2019, Ms. McCowan wrote a second EEO memo, titled: "REQUEST TO BE DETAILED OUT," and submitted it to the Deputy Commissioner of Organizational Services. She stated in her memo:

- i. On January 30, 2019, I submitted a memorandum detailing some of the ongoing sexual harassment and hostile work environment practices within the Delaware Valley Intelligence Center. As a result. the accused officer has not been moved, creating for me, more of a hostile work environment.
- ii. I respectfully request to be detailed out of the building, to a unit in my current chain of command under Deputy Commissioner Christine Coulter; pending the adjudication of my complaint.
- iii. Any consideration in this matter will be greatly appreciated.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 174; Ex. PP. March 6, 2019 Memo Re: Request to be Detailed Out, McCowan-Allen 2116.)

281. On March 7, 2019, Ms. McCowan had a follow-up appointment with her primary care doctor where she reported chest pain, neck pain, and numbness on the right side of her face. Her doctor opined that these were physical manifestations of stress related to the negative work events described above, and prescribed Effexor XR 37.5, an antidepressant, Lorazepam 0.5, an antianxiety medication, and Prednisone, a steroid to treat the tension in her neck. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 175.)

282. On March 8, 2019, Ms. McCowan took another sick day. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 176.)

283. On March 9, 2019, Ms. McCowan went to the emergency room at Riddle Hospital complaining of severe pain in her lower back that was radiating down to her legs. The ER

doctor diagnosed Ms. McCowan's physical symptoms as being caused by her stress at work. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 177.)

284. Internal Affairs notified Ms. McCowan via email that she was scheduled for another interview with Sergeant Conway on March 12, 2019 regarding the memo she submitted on March 6, 2019. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 178.)
285. A few days before the interview, Ms. McCowan contacted Roosevelt Poplar, the FOP Lodge 5 Vice President, to ask how she could obtain representation for the interview. Mr. Poplar asked if she "knows Tim Strange," an attorney who works with the City, and suggested she "try calling him and see if he will do you a favor and sit in on the interview. Just tell him that you feel like you're being treated as the defendant." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 179.)
286. Ms. McCowan then called Mr. Strange's cell phone but he did not return her call. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 180.)
287. On March 11, 2019, Lieutenant McHugh called Ms. McCowan and said he "needed her to go in the room with the new Bureau hires and review the outline of today's training." To date, Ms. McCowan had not received the same training that she was being asked to review with the new transfers. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 181.)
288. At 8:25 am, she texted him back saying "before you start this training I would like to speak to you." Lieutenant McHugh responded, "Ok I'm here. I'm heading in a meeting." Ms. McCowan said "Okay. Is anyone going to speak to me about my memo about being detailed out during the EEO investigation? I am requesting to go to EAP (Employee Assistance Program) right now." Lt. McHugh did not respond. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 182.)
289. At 8:55 am, Lieutenant McHugh told Ms. McCowan, "As far as I know, you'll be out of here in a couple days." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 183.)
290. At 10:00 am, Ms. McCowan reported to EAP to obtain mental health counseling. At EAP, Ms. McCowan met with Corporal Beard, who expressed "utter shock" at Ms. McCowan's story and repeatedly said she was "dumfounded" and "astounded" by Defendants' actions. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 184.)
291. On March 12, 2019, at 11:00 am, Ms. McCowan went to her second Internal Affairs interview with Sergeant Conway, who interrogated her for nearly two more hours. At the start of the interview, Sergeant Conway said, "Attorney Tim Strange wants to talk to you off the record." Mr. Strange then entered the room, and Sergeant Conway left. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 185.)

292. Mr. Strange said he could not represent her because he was representing Officer Younger, and said, “You’re a supervisor now, so you’re going to have to take a hit.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 186.)

293. Sergeant Conway returned and made the following statements:

- “I talked to the guy who wrote the sexual harassment policy for the City and he said that a supervisor can’t be sexually harassed by a subordinate.”
- “I don’t understand why Jen didn’t have a problem breast pumping in the DVIC for months, then all of a sudden she did, it’s kind of suspicious that she had an issue during her first night of night work.”
- “I told Chief MacDonald that he made a bad decision by giving Jen a day work position when she came back from having the baby.”
- “Giving Jen the job was setting a bad precedent.”
- “How did you get promoted?”
- “Do you know of anyone else who went to a special unit as a result of being promoted? I never heard of such a thing.”
- “Chief Flacco has caused the City to lose lawsuits because he refuses to be EEO trained.”
- “What special training do you have that qualified you to work in HIDTA?”
- “If there had not been a second party (Ms. Allen) on your complaint, the complaint would have been dismissed from the very beginning.”
- “We have been exploring the possibility that you are making all this up just to get out of your current position.”
- “Some officers (such as Officer Younger) could use favoritism to wield power over their supervisors,” which he compared to “trying to discipline Chief Flacco’s aide. Even though she is a lower rank, she holds power because of her proximity to the Chief.”
- “If you knew there was a hostile work environment in the DVIC, why would you want to work there as a new promote?”
- “They aren’t going to move you because it would set a bad precedent.”
- “Chief Flacco was questioning how does a new promote get transferred to a special unit?”



(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 187.)

294. Ms. McCowan's interview ended at 12:55 pm, almost two hours after it started. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 188.)

**V. Defendants detailed Plaintiff McCowan to Police Radio as punishment for her complaints.**

295. On March 12, 2019, at 3:58 pm (the same day as Ms. McCowan's second Internal Affairs interview with Sergeant Conway), as Ms. McCowan was preparing to leave at the end of her shift, Lieutenant McHugh called her from across the room. When she turned around, he said sarcastically, "Hold on a minute, let me get my glasses, I have a text message from Kevin Thomas (the building Civilian Director) that has your name on it!" He read the text: "Effective tomorrow you will be detailed to Police Radio!" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 189.)

296. Defendant Coulter took Plaintiff's memorandum to the morning meeting of the Executive Team—comprised of "[Defendant Coulter], Dennis Wilson, Deputy Wimberly, Deputy Sullivan, Deputy Patterson, and Police Commissioner Ross"—which is "where the decision came to move her to Police Radio." (Ex. QQ, Coulter Dep., 51:03 – 52:02.) By way of further response, Defendant Coulter testified:

Q. Have you had any conversations with former Police Commissioner Richard Ross about Audra McCowan?

A. Just a conversation when I got her memo. I brought it up at the morning meeting . . . which is our executive team meeting . . . I believe Commissioner Ross was at the table that day.

(Ex. QQ, Coulter Dep., 27:02-21.)

297. Police Radio is an extremely busy and hectic place to work. There is a perception within the PPD that assignment to Police Radio is a punishment. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 190.)

298. Moreover, Ms. McCowan's daywork/weekends-off schedule, which she held for the past 11 years, would change immediately to alternating day and night shifts with alternating days off. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 191.)

299. Ms. McCowan's desk was moved to the tape room at Police Radio, an unheated room among the building's computer servers. The temperature in the room drops below 50 degrees, requiring a winter coat to stay warm. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 192.)

300. On March 12, 2019, Ms. McCowan complained again to Defendant Ross informing him "I am being detailed to Radio 1 squad. You and I both know this is a punishment. This is exactly why people don't speak up when there's any type of harassment going on within an organization." (Ex. RR, Text from McCowan to Ross)

Dated March 12, 2019, McCowan-Allen 2117.) Defendant Ross declined to act on Plaintiff's complaint of retaliation and allowed the retaliation to continue. (Id.)

301. On March 13, 2019, at 7:00 am, Ms. McCowan reported to work at Police Radio, and spoke with Lieutenant Watkins. He said that he "didn't have any information" regarding her new assignment, and that she would "have to wait until I talk with the Captain at 8:00 am." He further stated that "each squad in the unit has all the supervisors they need, so whatever squad you go to, you will be an extra supervisor, and you won't count on their manpower projection." Lieutenant Watkins also said that Ms. McCowan "can't work on the dispatch floor without proper training by the state." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 193.)
302. After Lieutenant Watkins spoke with Captain Deacon at Police Radio, he informed Ms. McCowan that she would "basically be a rotating administrative corporal handling any extra work that the Captain or Lieutenant or Inspector have." Lieutenant Watkins also confirmed that she would be "working rotating shifts in Squad 1, Platoon D." Lieutenant Watkins also said, "The Captain is being told where to put you." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 194.)
303. At 8:00 am, Ms. McCowan was greeted by one dispatcher who said, "Welcome to hell." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 195.)
304. At 10:00 am, Ms. McCowan spoke again with Captain Deacon, who said he "still doesn't have any assignments for her." He also said, "Inspector Gillespie asked if he could have you in 5 Squad (steady day work) but was told 'no' by Deputy Coulter's Office." He said he asked Deputy Coulter's office if Ms. McCowan "could get Pennsylvania Emergency Management Agency (PEMA) training so she could at least help out on the radio floor, and they said no." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 196.)
305. Ms. McCowan asked if she could at least be placed on the overnight "last out" shift (working steady hours from 10:00 pm to 6:00 am every night), which would ensure that either she or her husband, Keith, would be at home at night with their children before they went to bed. At 1:47 pm, Lieutenant Watkins called Ms. McCowan into his office. When she arrived, Lieutenant Ezekiel Williams was present. Lieutenant Williams told her: "They said you can't work overnight either." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 197.)
306. Ms. McCowan's sudden shift change from steady day work to rotating day and night shifts was a violation of standard operating procedure. Normally, when someone is detailed to a different unit—they keep their shift. And if they must be moved to either a new unit or a new shift, they are given reasonable notice (30 days)—she was given less than 24 hours. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 198.)

307. Since being detailed to Police Radio, Ms. McCowan was not given any work assignments—she has been forced to sit, without work, for 8 hours every day. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 199.)
308. On March 15, 2019, Ms. McCowan sought treatment from a psychologist. She had another appointment later in March. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 200.)
309. On March 20, 2019, Ms. McCowan checked in with Corporal “Lou” at Police Radio to make sure her time was properly documented for payroll. Corporal Lou said they forgot to put her time in. Ms. McCowan also noted that her time wasn’t properly inputted March 13, 2019 either. She also noted that on March 19, 2019, she was put in the daily attendance record as a “9,” which is civilian pay. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 201.)
310. From March 26 to March 27, 2019, Ms. McCowan went out of work on sick leave due to ongoing emotional distress from the work events described above. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 202.)
311. On April 4, 2019, Ms. McCowan was again forced to take sick leave. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 203.)
312. On April 11, 2019, she checked her time for that pay period and again found that she had been put in the system as a civilian for April 8<sup>th</sup> and 9<sup>th</sup>. Each time she noticed that her payroll records were incorrectly inputted, she had to email Melissa Lumpkin in finance to have her pay fixed. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 204.)
313. From April 20 through April 28, 2019, Ms. McCowan was again forced to take sick leave. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 205.)
314. On April 29, 2019, at 6:57 am, Ms. McCowan had the following dialogue with Corporal Smith:
- Ms. McCowan: Good morning. Here’s my sick note. My payroll number is at the top.
- Cpl. Smith: What’s this?
- Ms. McCowan: My sick note from last Saturday to today.
- Cpl. Smith: I don’t know if they put you in because they don’t know what’s going on.
- Ms. McCowan: I don’t know how they don’t know what’s going on I called in.
- Cpl. Smith: I’ll see.
- (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 206.)

315. Because of the repeated mistakes with her payroll, Ms. McCowan typed a memo asking for access to DARS (the payroll system), which she is supposed to already have access to as a supervisor. Ms. McCowan also typed a hardship memo regarding her shift change. She handed the two memos to Sergeant Laskowski who he spoke to Captain Deacon who denied her request for access to DARS and promised to “speak to the chief” about her hardship memo. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 207; Ex. SS, Memo Dated April 29, 2019 Re: Access to the DARS, McCowan-Allen 2105; Ex. TT, Memo Dated May 5, 2019 Re: Hardship, McCowan-Allen 2120.)
316. Officer Janean Brown sent Ms. McCowan a text message stating that Sergeant Conway asked, “Audra’s down here right?” Officer Brown responded, “Yeah she’s upstairs,” and Sergeant Conway said, “That was the worst job position (working at Police Radio).” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 208.)
317. On April 30, 2019, around 9:00 am, Ms. McCowan spoke with a civilian worker in Police Headquarters named Maria who works in Deputy Commissioner Coulter’s office. Maria said, “They talk openly about your situation in Deputy Coulter’s office, it’s so unprofessional.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 209.)
318. Ms. McCowan went immediately to the Safety Office and spoke with Molly O’Neil who told her to contact Joe Shrank from FOP about filing a union grievance. Mr. Shrank passed Ms. McCowan’s message along to John McGrody, FOP Vice President, who filed a grievance on her behalf. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 210; Ex. UU, Union Grievance)
319. Sergeant Laskowski told Plaintiff to change the address on Plaintiff’s Hardship memo from Captain Deacon to the Deputy Commissioner for Organizational Services: Defendant Coulter. (Ex. VV, Text Message from Sgt. Laskowski, McCowan-Allen 0071.)
320. On May 5, 2019, Plaintiff sent the same memorandum to Defendant Coulter. (Ex. TT, Hardship Memo, McCowan-Allen 2120.)
321. Plaintiff then emailed FOP Vice President John McGrody confirming she had changed the address on the memorandum and resubmitted it to Defendant Coulter. (Ex. WW, Emails with FOP, May 7, 2019 Email to John McGrody, at McCowan-Allen 0044.)
322. Mr. McGrody confirmed he would “make sure [Defendant Coulter] gets a copy of it.” (Ex. WW, May 7, 2019 Email from McGrody to McCowan, McCowan-Allen 0045.)
323. On May 8, 2019, Mr. McGrody emailed Plaintiff stating “I’m not sure where your memo is but I provided a copy of Coulter and I spoke to her last night after working hours. She says the Hardship memo will be discussed at the morning meeting with the Deputies and the Commissioner [Defendant Ross].” (Ex. WW, May 8, 2019 Email from McGrody to McCowan, at McCowan-Allen 0047.)

324. On May 9, 2019, Mr. McGrody emailed Plaintiff McCowan stating “The Dist/Unit captain can make the call, but if they don’t approve it at their level the memo goes to the P/C [Police Commissioner]” (Defendant Ross). (Ex. WW, May 9, 2019 Email from McGrody to McCowan, at McCowan-Allen 0053.)
325. On May 13, 2019, Lieutenant Watkins informed Ms. McCowan that she would not be allowed to get PEMA training necessary to perform any work in the Radio unit; therefore, she would be sitting indefinitely at a dispatch console without the use of a computer. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 211.)
326. At 4:45 pm, Sergeant Laskowski handed Ms. McCowan her hardship memo stating her request to be placed back on her previous daytime work schedule was denied. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 212.)
327. On May 14, 2019, Ms. McCowan received call from John McGrody at FOP stating, “Deputy Coulter said that there was a meeting on Friday, May 10, 2019, with Commissioner Ross, 1<sup>st</sup> Deputy Patterson, and Deputy Coulter, and they all decided to disapprove your hardship memo.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 213; Ex. TT, Hardship Memo Stamped “Disapproved,” McCowan-Allen 2120)
328. Defendants Ross and Coulter denied Plaintiff’s Hardship Memo. (Ex. QQ, Coulter Dep., 99:15-21.) Defendant Coulter was asked at her deposition whether Defendant Ross told her to disapprove Plaintiff’s hardship memo, Defendant Coulter testified, “I think if he was at the table, he would have offered whether he thought it was or not.” (Ex. QQ, Coulter Dep., 99:15-21.) Moreover, the Collective Bargaining Agreement states that hardships have to be approved or disapproved by the Police Commissioner. (Ex. XX, McCowan Dep., 52:17-20; see also Ex. WW at McCowan-Allen 0053, May 9, 2019 Email from McGrody to McCowan, which states “The Dist/Unit captain can make the call, but if they don’t approve it at their level the memo goes to the P/C”).
329. Defendant Ross acknowledged that Plaintiff had a legitimate hardship due to the deterioration of her physical and mental health as a result of her sudden schedule change. (Ex. HH, Ross Dep., 104:14-105:08.)
330. Moreover, there was no basis to disapprove Plaintiff’s Hardship Memo because there was no operational need for Plaintiff in Police Radio—Plaintiff sat in the hallway at Police Headquarters for over 800 hours. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 221; Ex. XX, McCowan Dep. 273:17 – 274:10.)
331. On May 15, 2019, the FOP filed a grievance on Plaintiff’s behalf. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 210; Ex. UU, Grievance). In the grievance, the FOP Vice President, John McGrody, wrote:

**Statement of Grievance**

The city is violating numerous provisions of the collective bargaining agreement by:

**CORPORAL AUDRA McCOWAN Payroll Number 250998**

Member Has Her Schedule And Hours of Work Changed in Violation Of The Collective Bargaining Agreement And Without Sufficient Notice.

(Ex. UU, Union Grievance.)

332. After the FOP filed the grievance, Mr. McGrody emailed Plaintiff on May 19, 2019 stating that “John [McNesby] told me to file a grievance. A grievance is an allegation that the city violated the contract. The next step is a meeting with the Commissioner’s representative, it’s been D/C Coulter for the last several years.” (Ex. WW, Emails with FOP, May 19, 2019 Email from McGrody to McCowan, at McCowan-Allen 0067.)
333. From May 21 through May 28, 2019, Ms. McCowan was again forced to take sick leave. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 214.)
334. On May 29, 2019, at approximately 1:00 pm, Civilian Maria from Deputy Commissioner Coulter’s office said she saw Sergeant Jann from the Commissioner’s office go into Deputy Coulter’s office with a memo in her hand, mention Ms. McCowan’s name, and say, “Well that’s what happens when you have a reputation.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 215.)
335. On June 5, 2019, Ms. McCowan presented to the office of Sergeant Brent Conway for a third Internal Affairs interview about her complaints. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 216.)
336. On June 7, 2019, Ms. McCowan reported to her nightwork shift and dispatchers were using the console at her seat. Sergeant Laskowski told her to “sit out in the hallway.” After 4 hours of sitting in the hallway without any work assignments, Ms. McCowan used 4 hours of sick time. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 217.)
337. On June 8, 2019, Ms. McCowan was informed that she would be expected to sit in the hallway without work indefinitely. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 218.)
338. On June 12, 2019, Staff Inspector Bailey Davis walked by Ms. McCowan sitting in the hallway and asked if she was okay because she “looked sad.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 219.)
339. On June 21, 2019, John McGrody from FOP called Ms. McCowan to tell her that FOP and PPD had a First Step Meeting on June 19, 2019 and that the PPD denied her request for shift change. Mr. McGrody said, “You worked in the building long enough to know how it works. Once you’re out of the clique they ostracize you. Between you and me, this is all coming from Commissioner Ross, who he said he was mad because he



thinks you're making all this up.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 220.)

340. By now, Ms. McCowan had had spent over 800 hours (100 days since March 13, 2019) sitting around all day at Police Radio without having been given any work opportunities. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 221.)
341. From June 24 to June 26, 2019, Ms. McCowan was again forced to use sick time to attend to the stress and anxiety related to the negative work events described above. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 222.)
342. On June 26, 2019, Ms. McCowan notified Ms. Heather McCaffrey and Ms. Patricia Sullivan in the police personnel office, stating she was exercising her rights under the FMLA to take time off from work to treat a qualifying medical condition for which she was under the care of a physician. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 223.)
343. On July 1, 2019, Ms. McCowan’s physicians submitted the executed forms and certifications necessary to take Ms. McCowan out of work on FMLA leave. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 224.)
344. On July 10, 2019, Sergeant Laskowski texted Ms. McCowan, “No one seems to know anything about your FMLA status. Checked with personnel and they don’t have anything.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 225.)
345. On July 11, 2019, Ms. Sullivan at police personnel left a voicemail for Ms. McCowan stating she received her FMLA paperwork but that her FMLA paperwork would not be processed “unless she submitted a formal memo requesting FMLA leave.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 226.)
346. Upon information and belief, to date, Ms. McCowan’s FMLA paperwork has not been processed. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 227.)

**W. Plaintiff Allen was also forced to take extended medical leave to treat her severe emotional distress, and she was punished for doing so immediately upon returning to work.**

*i. Plaintiff Allen’s doctor took her out of work for four weeks.*

347. On February 28, 2019, at 3:00 pm, Ms. Allen went to a follow-up appointment with her primary care doctor. She weighed 102 pounds—she had lost 7 pounds in 2 weeks since her last appointment on February 12, 2019. Ms. Allen’s doctor was concerned about her rapid weight loss, anxiety, headaches, inability to sleep, and low milk supply and took her out of work for four weeks. Upon notifying Defendants about her need to go out of work regarding her aforementioned medical issues, Defendants failed to notify Ms. Allen of her FMLA rights and she was forced to use her remaining sick time. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 228.)
348. On March 4, 2019, Ms. Allen had another appointment with her therapist. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 229.)

349. On March 25, 2019, Ms. Allen had a follow-up appointment with her family doctor, and discussed returning to work in a few days pending examination and approval by the City doctor located at the City of Philadelphia Employee Medical Services building at 19<sup>th</sup> and Fairmount. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 230.)
350. Having had time away from the negative work events described above, Ms. Allen had regained two pounds since her last doctor's visit. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 231.)
351. On March 26, 2019, Ms. Allen had an appointment with City doctor's office. This was a prerequisite to her returning to work the next day. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 232.)
352. At 8:04 am, Ms. Allen texted Sergeant Allen stating that she was at the City doctor. Sergeant Allen did not respond. At the City doctor's office, Ms. Allen was seen by a certified nurse practitioner named Dinon, who asked Ms. Allen about her anxiety and whether she was on anti-anxiety medication. Ms. Allen said, "No, because I'm breastfeeding." The nurse practitioner then asked Ms. Allen, "is that something that was a problem at work?" And Ms. Allen said "yes." The nurse practitioner was shocked by this and suggested Ms. Allen return to work on Restricted Duty status to address her anxiety and so she could successfully breast pump at work without interference. She told Ms. Allen to call and advise her primary care doctor. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 233.)
353. City of Philadelphia Employee Medical Services provided Ms. Allen with a Restricted Duty Certification dated March 26, 2019. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 234; Ex. YY, Restricted Duty Certification, McCowan-Allen 0218.)
354. After her visit with the City doctor, Ms. Allen called her family doctor as instructed. Her doctor's office agreed that it was in Ms. Allen's best interest to return to work on Restricted Duty and they wrote a note stating same. Ms. Allen was also told to seek counseling from a therapist if she had not done so already. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 235.)
355. Ms. Allen took the Restricted Duty note to the PPD's Safety Office, where she was given Restricted Duty Instructions and assigned a plainclothes daywork shift in the Criminal Intelligence Unit in the DVIC. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 236; Exhibit ZZ, Restricted Duty Instructions)
- ii. *Defendants punished Plaintiff Allen for reporting and seeking medical treatment for unlawful workplace discrimination and harassment.*

356. On March 27, 2019, at 8:05 am, Ms. Allen reported to the supervisors at the Criminal Intelligence Unit in the DVIC and presented them with her Restricted Duty Instructions. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 237.)

357. At 8:20 am, Ms. Allen was talking to a group of police officers when Sergeant Allen called her from across the room and ordered her to "meet me at my desk," and said, "What are you doing?" Ms. Allen explained that she was placed on Restricted Duty and assigned to the Criminal Intelligence Unit, and handed Sergeant Allen her Restricted Duty instructions. Sergeant Allen asked, "Will they be putting your time in (referring to her hours for payroll)?" Ms. Allen's Restricted Duty instructions clearly describe the procedure for posting her attendance, but Sergeant Allen said, "Well, tell them to put it in for you!" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 238.)

358. A few minutes later, Sergeant Allen called Ms. Allen back over to her desk and said:

Sergeant Allen: Who put you out restricted?  
Ms. Allen: My doctor put me out restricted.  
Sergeant Allen: Who did you speak to in the Safety Office, and what was said to you?  
Ms. Allen: In reference to what?  
Sergeant Allen: In reference to your assignment. I need to know who put you in Criminal Intelligence because I can't take it at face value.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 239.)

359. Several police officers witnessed the above interaction, including Officer Cortes, Officer Sneed, Officer Ho, Officer Hailey and Officer Swisher. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 240.)

360. Officer Hailey asked Ms. Allen, "What was that about with the Sergeant? She was talking to you wrong. You should ask what her issue is with you, because by the way she was talking to you, I can tell she doesn't like you." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 241.)

361. At 8:50 am, Sergeant Allen told Ms. Allen to follow her to the Captain's office, where they met with Lieutenant Muller and Lieutenant McHugh. Sergeant Allen said, "You will report to me and you will still be working under me." Ms. Allen said, "Ok, no problem." Sergeant Allen then said, "You are to sit at my desk and I will give you your work assignment." Ms. Allen said, "Ok, no problem." Sergeant Allen then said, "You are to remove all of your things from your desk over in A&I." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 242.)

362. At around 3:20 pm, Sergeant Allen approached Ms. Allen while she was talking to Officer Mendez and Officer Haskins. Sergeant Allen said, "Come here." Ms. Allen followed her to a conference room. Corporal Linder also entered the room. Ms. Allen sat

directly across from Sergeant Allen; Corporal Linder was seated at the head of the table. Sergeant Allen handed Ms. Allen a piece of paper and said, “This is what occurred earlier.” Ms. Allen read the paper—a counseling memo for insubordination instituting a progressive discipline plan. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 243; Ex. AAA, Counseling Form, McCowan-Allen 0221-0222)

363. Ms. Allen said, in her usual respectful tone and manner, “That did not occur.” Sergeant Allen stated she “wasn’t going back and forth,” and told Ms. Allen that if she “wanted to say anything then write it down.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 244.)
364. While Ms. Allen was writing, Sergeant Allen said, “What you’re writing—does that pertain to what happened today?” Ms. Allen said “yes,” and continued writing for a moment. Sergeant Allen interrupted again: “Well I have more things to address. I need a sick note from you.” Ms. Allen started to say, “I provided the sick note to…” but Sergeant Allen interrupted, “I’m not going back and forth with you.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 245.)
365. Ms. Allen tried to clarify that she had already given her sick note to the Safety Office at 19<sup>th</sup> and Fairmount, but Sergeant Allen said in a hostile tone of voice, “Do they put your time in? I provided you with the directive to refer to when you were out sick.” Ms. Allen asked for a copy of said directive, which she had not received. Sergeant Allen said, “No. Read it on your own time.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 246.)
366. Sergeant Allen then said, “Effective tomorrow (March 28, 2019), you will be detailed to the Neighborhood Services Unit (NSU). Report there at 9:00 am.” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 247.)
367. Ms. Allen continued to write her statement on Sergeant Allen’s discipline memo and Sergeant Allen said, “I’m only giving you a few more minutes.” Ms. Allen started to sign the back of the memo underneath her written explanation of the facts and Sergeant Allen interrupted again: “Don’t sign your name there, sign it on the front.” Ms. Allen signed her name and noted the time, “*Jennifer Allen, 3:43p.*” She flipped the paper over and signed on the front as well, and then handed the paper back to Sergeant Allen. Sergeant Allen read Ms. Allen’s statement of the facts and laughed out loud. Ms. Allen asked for a copy. Sergeant Allen said she “wasn’t coming back in here” and told Ms. Allen to meet her at her desk if she wanted a copy. (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 248.)
368. At 3:53 pm, Corporal Linder, who witnessed the interaction, texted Ms. Allen in response to Sergeant Allen’s behavior: “What the HELL????!!!!!!” (Ex. D, Plaintiffs’ Verified Second Amended Complaint, at ¶ 249; Ex. BBB, Text from Linder, McCowan-Allen 0223)

369. At 3:54 pm, Ms. Allen asked Corporal Linder if they could talk after she picked up her copies of Sergeant Allen's disciplinary memo, and Corporal Linder said "ok." At 3:55 pm (approximately 10 minutes after the meeting), Ms. Allen went to Sergeant Allen's desk to retrieve copies of the memo:

Ms. Allen: Can I have my copy?  
Sergeant Allen: Hold on, I'm doing something.  
Ms. Allen: Ok.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 250.)

370. Ms. Allen waited. Sergeant Allen finally said, "here it is," and placed it on a cabinet, instead of in Ms. Allen's hand like a professional. Ms. Allen looked at the copy and noticed that it was only the front side of the memo and did not include the back page with her continued explanation of the facts and signature:

Ms. Allen: Sergeant, this doesn't have both sides.  
Sergeant Allen: Oh, it doesn't? (in a sarcastic tone of voice)  
Ms. Allen: The other side is blank.  
Sergeant Allen: You're going to have to wait.  
Ms. Allen: Ok.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 251.)

371. Ms. Allen then waved at Corporal Linder and gestured for her to come over. Corporal Linder walked over and Ms. Allen said, "I'm waiting on another copy." Corporal Linder said, "Ok. See me after you get it." Ms. Allen said "ok." Ms. Allen continued to wait for Sergeant Allen to return with a copy of the second page of the memo. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 252.)

372. At 4:02 pm, she looked down at her watch and waited a few more minutes. Sergeant Allen stood up and walked to the copy machine. She returned and placed Ms. Allen's copy on a cabinet right beside the copy machine (instead of handing it to her), and said, "There it is," and walked away. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 253.)

373. Ms. Allen met with Corporal Linder who instructed Ms. Allen to "write down everything that happened," and advised Ms. Allen to "file complaints for the breast pumping incidents" as well as the retaliatory discipline by Sergeant Allen. Corporal Linder told Ms. Allen that she would "get a memo from Officer Hailey" who was also a witness. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 254.)

**X. Defendants continued to deny Plaintiff Allen her rights as a nursing mother.**

374. When Ms. Allen arrived to NSU, her new supervisor, Sergeant Herbert Gibbons, told her to "pump in in Officer John Whipple's office" because Officer Whipple was out of the office at that time. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 255.)

375. Defendant Gibbons has never received training on the City's lactation support policy. (Ex. DDD, Gibbons Dep., 46:18-47:04; 80:05-07.)
376. Defendant Gibbons has been disciplined for sexual harassment in the past. (Ex. DDD, Gibbons Dep., 60:05-61:10)
377. In early-April 2019, Ms. Allen was in the lunch room placing her expressed milk in the refrigerator when Officer MaryAnn Darden asked if she had been "notified that you have to start pumping in Mary's (a civilian coworker) office." Ms. Allen said she had not been notified, and asked Officer Darden where she heard this. Officer Darden did not specify, but said, "The same person also said you and Officer Newsome (another nursing mother) should pump at the same time in the same room." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 256.)
378. Officer Newsome and her mother, Officer Richardson, walked in on the conversation between Ms. Allen and Officer Darden. Officer Richardson asked, "Who was the person who had an issue with where they pump? And why was it being discussed with an officer who had nothing to do with the situation?" (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 257.)
379. Officer Richardson, Officer Newsome and Ms. Allen together approached Sergeant Gibbons and told him what transpired. Ms. Allen asked, "Where do you want me to pump?" Sergeant Gibbons responded, "The office that I told you to pump in before." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 258.)
380. Between April 8 and April 17, 2019, Officer Martin told Ms. Allen that "people need to get into the office you're pumping in during the time that you pump (12:00 pm to 1:00 pm)," and directed Ms. Allen to "pump in Mary's office from now on." Mary was on vacation during this time and her office was available. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 259.)
381. The next day, April 18, 2019, Sergeant Gibbons called Ms. Allen and Officer Newsome into his office. Sergeant Gibbons stated, "You are to put the sign (which they hung on the door while they were pumping) back in my office after each use." He said he "didn't want to hear Mary making a big fuss about the sign being stored in her bin at her office door" and that he wanted "to avoid hearing her mouth." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 260.)
382. Employers are responsible for alerting employees about the employer's worksite lactation support program, and for negotiating policies and practices that will help facilitate each employee's infant feeding goals. Employers should know exactly how to support employees like Ms. Allen and Officer Newsome, including educating all staff about the importance of respecting a coworker's privacy while pumping and providing coverage during lactation breaks. Employers are expected to ensure that all employees



will assist in providing a positive atmosphere of support for breastfeeding employees. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 261.)

383. Breastfeeding and working takes a lot of time, coordination, and dedication from a mother—it's not easy. A lactation space is necessary because in order to begin the flow of milk, mothers must be able to sit down and be relaxed and not stressed. Mothers who are in an open or uncomfortable space, or who are worried about hostility from coworkers may not be able to pump milk or may not be able to pump milk as quickly. However, these recent conversations demonstrated that supporting breastfeeding moms at work is of little importance to the City or the PPD. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 262.)
384. Officer Richardson took Ms. Allen and Officer Newsome into the break room and tried comforting them because they were both crying. Officer Richardson then called Sergeant Gibbons into the room and told him that "this was the fifth time collectively that Janelle and Jen were being talked to about their pumping situations." She further stated that "it's a law for breastfeeding mothers, and you need to understand that and address anyone who has an issue with it." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 263.)
385. Sergeant Gibbons responded, "I won't address anyone because I would be kicked out the unit. Anytime I have spoken up before I was backstabbed and given 18's (disciplined)." (Gibbons Dep., 64:16-65:09.) Officer Richardson said, "This is bigger than 18's. Look at how this is making them feel." Officer Newsome said, "I do not feel comfortable with the procedure of getting the sign from you, because I have to walk into an office with three male officers and ask them for the sign, and then walk back into the same office to return it to them. It makes me feel uncomfortable, and that's why I leave the sign stored in the bin in Mary's office." Ms. Allen agreed. Sergeant Gibbons said, "You can keep the sign between the both of you and don't have to get it from me anymore." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 264.)
386. Approximately 10 minutes later, Ms. Allen observed Sergeant Gibbons and Captain Vann walk out of the office together. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 265.)
387. About 5 minutes after that, Ms. Allen was called into the break room again by Sergeant Gibbons. Officer Newsome and Officer Richardson were also present. Once inside the break room, Sergeant Gibbons said, "Effective immediately you will pump in Mary's office, a permanent sign will be made that will hang on the door, and you will each have keys to the office. You can pump whenever you want to." He also told them to notify him if anyone has a problem with that arrangement. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 266.)
388. On April 22, 2019, Mary was back at work. Ms. Allen asked Sergeant Gibbons if Mary had been notified that she was to pump in Mary's office, and Sergeant Gibbons said "yes." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 267.)

389. Ms. Allen, accompanied by another female officer, then went to Mary's office and asked to use it to pump. Mary responded, "For what? I have work to do, use another office." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 268.)

390. Ms. Allen went to Sergeant Gibbons and said, "Mary said I can't use her office." Sergeant Gibbons responded, "She has to," but took no further action. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 269.)

391. On April 29, 2019, Ms. Allen and Officer Newsome were instructed to pump in the building's lunch room during lunch hour (between 12:00pm and 2:30pm). That afternoon, when Ms. Allen and Officer Newsome were pumping in the lunch room, people started gathering outside and knocking on the door asking "what was going on inside." One employee who was waiting outside said, "finally," and groaned before entering the lunch room. The employee then asked Ms. Allen if she could "come in while you're pumping because I'm a woman." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 270.)

392. Ms. Allen stopped pumping at work. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 271.)

393. Defendant Ross testified:

Q. During your time as Police Commissioner, did the Police Department have a work site lactation support program?

A. I don't recall.

Q. During your time as Police Commissioner, did you take any action to implement a work site lactation support policy?

A. Because I don't recall, the answer would be no.

(Ex. HH, Ross Dep., 29:02-10.)

**Y. After Plaintiffs filed this lawsuit, Defendants retaliated by significantly changing Plaintiff Allen's job assignment and hours of work and taking adverse action against Plaintiff Allen's husband for accompanying her to her deposition on his day off.**

*i. Change in Plaintiff Allen's job assignment and hours of work*

394. On July 29, 2019, at approximately 4:00 pm, Plaintiffs filed their Verified Complaint in the U.S. District Court for the Eastern District of Pennsylvania thus initiating this lawsuit. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 276.)

395. The same day, Plaintiffs effected service of process upon Defendants. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 277.)

396. On July 30, 2019, the morning after Defendants became aware of this lawsuit, Defendants again changed Plaintiff Allen's job assignment, schedule and hours of work in retaliation for participating in this case. At approximately 12:15 pm, Ms. Allen was notified by her supervisor, Lieutenant Joseph Waters, that "effective immediately" Ms. Allen was reassigned to the PPD's "Police Tow Squad" and her hours of work were being changed from:

- A. Ms. Allen's current schedule of steady Monday-Friday daytime work (8:30 am to 4:30pm) with weekends-off to
- B. A completely different schedule rotating between daytime and nighttime shifts (7:00 am to 3:00 pm, 3:00 pm to 11:00 pm) with rotating days off.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 278.)

397. Lieutenant Waters instructed Ms. Allen to report to Tow Squad, which is in a different geographic location than NSU, "at 6:30 am tomorrow (July 31, 2019)." He handed her a yellow sticky note with the details of her new assignment: "Tow Sq./7-31-19 6:30 am 2-G Schedule Supervisor George Bullick 685-9134." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 279.)

398. Lieutenant Waters told Ms. Allen that her reassignment "came from the Safety Office." Ms. Allen called the PPD's Safety Office and spoke with Molly O'Neil, a civilian supervisor, who told Ms. Allen that the order to change her assignment and hours of work "came from the Deputy Commissioner's office." It is unheard of for a Deputy Commissioner to call the Safety Office in reference to manpower. Upon learning of Defendants' most recent retaliatory adverse employment action against her, Ms. Allen was forced to take 4 hours of sick leave and went home for the day. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 280.)

399. On August 2, 2019, Ms. Allen's family doctor prescribed Prozac 20 mg to treat Ms. Allen's increased anxiety and emotional distress related to the negative work events described above. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 281.)

*ii. Retaliatory adverse employment actions against Plaintiff Allen's husband*

400. At 10:30 am on August 14, 2019, Plaintiffs presented to the office of the City of Philadelphia Solicitor at 1515 Arch Street, 16<sup>th</sup> Floor, Philadelphia, PA 19102 for depositions. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 282.)

401. Plaintiff Allen was accompanied by her husband, Officer Edward Allen, who had taken a vacation day (which he had requested and received approval for several days in advance) to support his wife at her deposition. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 283.)

402. Edward Allen wore plain clothes (a black polo shirt and gray dress pants) and waited patiently in the lobby with Ms. McCowan while Ms. Allen was sitting for her deposition. Mr. Allen did not have his police radio because he was on vacation. (Ex. D,

Plaintiffs' Verified Second Amended Complaint, at ¶ 284; Ex. EEE, Photo of Edward Allen at City Solicitor's Office Dated August 14, 2019, McCowan 0094.)

403. At 11:05 am, Mr. Allen received a call on his cell phone from Officer Sanchez, the Inspector's Aide, who asked, "Where are you?" Mr. Allen responded, "I am on vacation." Officer Sanchez asked, "Are you sure you're on vacation?" Mr. Allen said "yes," and Officer Sanchez said, "Ok have a good day." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 285; Ex. EEE, Photo of Edward Allen at City Solicitor's Office Dated August 14, 2019, McCowan 0094.)
404. At 11:12 am, Mr. Allen received another phone call from his immediate supervisor, Sergeant Harper (who was the person who approved Mr. Allen's vacation day several days prior), asking "Where are you?" Mr. Allen did not want to speak about this lawsuit, so he told Sergeant Harper he was at a doctor's appointment. Sergeant Harper responded, "Are you sure you are at a doctor's appointment and not at a deposition?" Mr. Allen asked, "How do you know I'm at a deposition?" Sergeant Harper responded, "The Captain of the 22<sup>nd</sup> District was called, the Lieutenant from the 22<sup>nd</sup> District was called, and the Inspector of Central Division was called. The Inspector of Central Division contacted me and stated that the Office of Human Resources of Philadelphia contacted Inspector Healy. Inspector Healy's office stated that you are in full uniform with your police radio up loud causing a disturbance at your wife's deposition, and that they had to tell you several times to turn your police radio down. They want to know why you are there and in full uniform." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 286; Ex. EEE, Photo of Edward Allen at City Solicitor's Office Dated August 14, 2019, McCowan 0094.)
405. Mr. Allen stated, "You approved my vacation. You know I'm on vacation. I am not in full uniform. I am in plain clothes. I do not have a police radio and I am not in the deposition. I am in the lobby with Corporal McCowan. I am not here testifying. I am not a witness. I am just here to support my wife." Sergeant Harper responded, "Ok, I was just calling to check on you to make sure none of that was going on because they contacted us." Mr. Allen thanked Sergeant Harper for calling and they hung up the phone. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 287; Ex. EEE, Photo of Edward Allen at City Solicitor's Office Dated August 14, 2019, McCowan 0094.)
406. On August 15, 2019, Mr. Allen spoke with Sergeant Harper about the above incident. Sergeant Harper said, "Everything I told you was relayed to me. The Captain of the 22<sup>nd</sup> District also asked for an evaluation of your job performance." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 288.)
407. Sergeant Harper then read Mr. Allen an email from the Captain of the 22<sup>nd</sup> District, which stated, "Is this the officer that was at the deposition today without permission to be there." Sergeant Harper then told Mr. Allen, "I don't know of a police directive that says you needed permission to support your wife at a deposition." (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 289.)

408. Plaintiffs anticipate Defendants and their agents will continue retaliating against them and their husbands (who are also sworn members of the PPD) for participating in this lawsuit. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 290.)

**Z. As a result of Plaintiffs' Complaints, Defendant Ross—who oversaw and took part in the discrimination and retaliation that Plaintiffs suffered—resigned from his position as Philadelphia Police Commissioner.**

409. On August 20, 2019 Philadelphia Mayor Jim Kenney announced the abrupt resignation of Police Commissioner Richard Ross Jr. amid Plaintiffs' reports of discrimination within the police department:

Last summer, the City implemented a new sexual harassment prevention policy and a series of internal reforms designed to prevent workplace discrimination and harassment throughout the government. While rolling out a new policy understandably takes time, I do not believe the Police Department has taken the necessary actions to address the underlying cultural issues that too often negatively impact women—especially women of color.

(Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 291; Ex. H, Kenney Press Release, McCowan 3159-3160; Ex. HH, Ross Dep., 21:18-22)

**AA. Defendants' retaliation against Plaintiffs has continued; and Plaintiffs were constructively terminated.**

410. On October 2, 2019, Ms. McCowan was forced to resign from employment pursuant to her doctor's orders due to the detrimental impact that Defendants' ongoing retaliation was having on her physical and mental health. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 292.)

411. At the time of her resignation, Ms. McCowan had been employed by the PPD for approximately 15 years, had received consistent promotions throughout her tenure including achieving the rank of Corporal, and was earning approximately \$85,000.00 per year. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 293.)

412. After her resignation, Ms. McCowan took a job at the Clerk of Courts in Chester County, Pennsylvania, where she has been employed for approximately 2 months as a "MJ Clerk 1" working full time earning only \$28,000.00 per year. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 294.)

413. Ms. Allen continued to suffer retaliatory hostility from Defendants on a regular basis. Examples of Defendants' continued hostility toward Ms. Allen include Ms. Allen receiving a phone call from the PPD claiming it had not received the paperwork for her restricted duty status and that she would have to begin using her own time (Ms. Allen did in fact submit the proper paperwork and this type of situation has been a constant

experience since speaking out). (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 295.)

414. Additionally, Ms. Allen went to the City's doctor at Employee Medical Services and was forced to wait in a separate waiting room for over 2 hours and overheard a City doctor saying "I'm not seeing her." Ms. Allen was seen by a different City doctor who recommended she be kept on restricted duty. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 296.)
415. Other retaliatory hostile comments and conduct by Defendants against Ms. Allen include coworkers and supervisors calling her "troublemaker" at work; and Ms. Allen's supervisors refusing to place her pay stub in her hand when she reaches for it. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 297.)
416. Both Plaintiffs continue to receive mental health counseling and treatment. (Ex. D, Plaintiffs' Verified Second Amended Complaint, at ¶ 298.)
417. Plaintiff Allen was forced to resign on July 7, 2020. (Ex. GGG, July 7, 2020 Resignation Letter, Allen 0284)

Respectfully submitted,

/s/ Ian M. Bryson, Esquire  
Ian M. Bryson, Esquire  
Derek Smith Law Group, PLLC  
1835 Market Street, Suite 2950  
Philadelphia, PA 19103

Dated: September 10, 2021