

September 28, 2023

Conrad City Council,

I am respectfully submitting this document as an official grievance against City of Conrad Mayor Jamie Miller. This grievance will show retaliatory behavior and actions committed by Mayor Miller in lieu of the recent Legal Opinion given at the request of Mayor Miller by Conrad City Attorney Daniel Jones. There has been a definitive pattern of retaliatory behavioral change and action from the Mayor since the day of the conversation regarding compensatory compensation.

On September 25, 2023, Mayor Jamie Miller requested a meeting with me to occur at 2:30 PM. I advised that I was already at the office and shortly after 1:15 PM and Miller responded with a thumb's up emoji via Teams. At 4:41 PM Miller entered my office at shut the door placing my time sheet on my desk. Miller then stated that we have to talk about my overtime hours claimed for the month of September. Miller stated that none of the hours were pre-approved and we had to come up with a solution to fix it. Miller stated that there was also "on call time" claimed without further comment, this is standard for all officers and the Chief since I have worked for the City of Conrad. I stated that the hours I claimed resulted from 4 hours of overtime on September 5<sup>th</sup> where I was required to attend the monthly City Council Meeting that she herself attended. One hour was claimed the following day on September 6<sup>th</sup> when Miller requested to discuss city events in her office, to mostly discuss the Mosley residence that she wanted demolished due to it being unsafe and unsightly, as she stated it was an "eyesore". One hour was claimed on September 7<sup>th</sup> when I briefed with Officer Karlik concerning a current case as well as briefed with the Conrad Fire Chief Kevin Moritz regarding a conversation he had with Deputy State Fire Marshall Bob Wiench concerning the Mosley property. The last two hours resulted from casework that required conducting four child forensic interviews and one adult criminal interview in Great Falls that concluded at 6:00 PM before the drive time home. I advised Miller that I would not be available for the Wednesday Department Head Meeting due to these interviews. I explained to Miller that 7 of the 8 hours of claimed overtime were at the knowledge of the Mayor.

Miller asked what would I do if I was in her shoes, and asked what she should tell people on why she has to pay me overtime. I stated that she should follow the policy, as well as the law. Miller stated that she has to continually hear City Works Director David Zimbleman complain about my wages and why I get overtime and he does not. I replied that I really didn't care who complained and don't care to be involved in the interoffice drama. I stated the Fair Labor Standards Act (FLSA) had a requirement more specifically directed at law enforcement and fire fighters that was enacted because the City of Conrad, as well as the State of Montana do not have provisions for my specific and unique situation as the Chief of Police. Miller stated that she did not know when she appointed me that this scenario would happen. Miller stated that she did not know what compensatory time meant. I then replied that when she appointed me, she explicitly advised me to keep track of the hours and stated they could be used when needed at later dates, more specifically citing doctor appointments as an example. I stated that until she decided that she no longer agreed to compensatory time, when I needed to take leave from work due to a work-related injury, that this was advantages to the City as those hours would have been paid in straight time instead of time and a half as required by FLSA. Miller advised that she appointed me to the Chief position and did not have expectation of overtime compensation when doing so. I stated that I was appointed Conrad Police Chief in 2021 and was compensated with overtime as such. I stated that as she was advised earlier in the investigation concerning my compensation, in which she requested, that the previous Chief Gary

Dent was paid \$15,000.00 overtime the year before retirement according to payroll records. Dent was paid on many years overtime compensation without alarm. Miller did not respond to that statement.

Miller then stated that she could take further action concerning the City Attorney's, Daniel Jones, Legal Opinion. This opinion resulted from her request to seek the proper procedure and legal direction for my overtime compensation. Miller stated that she disagrees with Attorney Jones Legal Opinion and he was wrong. Miller stated that there was plenty of case law contradicting Attorney Jones Legal Opinion and that she could take action against it. Miller stated that she knew what the answer would be prior to the Legal Opinion being submitted by Attorney Jones. Miller stated that Jones was using me and could not recall the statement that she said was made to her in a previous meeting between us in her office. Miller specifically expressed that I'm not to trust Jones because she believes he is using me. I stated that as I had told her before and also expressed to City of Conrad Payroll Clerk Patti Hutton, whatever decision came from the investigation, I would stand with it and move on. It is with great concern that I have a Mayor instructing me not to trust the City Attorney as all of the city business is trusted with the legal advice of that office. More importantly all questions on the Conrad City Charter, City of Conrad Policy, City Code, Conrad Police Department Policy, criminal and legal advice are directed to the Office of the City Attorney Jones.

I then stated that I thought this was behind us now and realized that it may not be advising Miller that Billing Clerk Hutton brought up an incident where she believed that I had no legal right to sign official documents when I was on Workman's Compensation Pay. I advised her to speak with MMIA Representative Maria Gonzalez, as Gonzalez had advised me that as long as I was only compensated by Workman's Compensation and not the City, I could continue Administrative Duties without violating any procedures. I stated that Gonzalez advised that I follow Dr. instructions and protocols as well. I explained to Miller that Hutton was not in my chain of command and as such should act accordingly. Miller responded with Patti was assisting her with HR issues. I advised Miller that she should read the City of Conrad Personnel Policy because it states the Mayor is my supervisor. And on this afternoon, the due date of timesheets, several months after being paid according to law, I am being questioned of why I should be paid the legal requirement for compensation of hours worked.

Miller then requested that I assist her in re-writing the job description for the Chief of Police for the City of Conrad. I construed this statement as the Mayor threatening me about replacement of my position on the heels of requesting council to change an ordinance giving the Mayor authority to terminate employees without council approval. Miller stated that she wanted the job description to be changed for the "next person" to be hired. Miller asked that I define the time differential in administrative duties and patrol which again were both a description of my current duties as per City of Conrad Personnel Policy.

This retaliatory behavior has not ceased since Mayor Miller instructed City Attorney Jones to prepare a legal opinion regarding compensation for hours worked beyond my normal tour of duty. After a meeting was requested by Mayor Miller, to include City Attorney Jones and myself, we were to discuss the submission of future hours beyond normal tour of duty. The conclusion was clear that the Mayor was asking an unreasonable request to myself in that she requested I pre-approve all overtime hours directly to her. After conversation with many administrators in law enforcement in Montana this is an unreasonable request in my position, I cannot predict emergency situations and the urgency in response would not allow for a phone call or text requesting permission receive overtime to provide an emergency response to our community. This is also further depicted in the City of Conrad Personnel Policy Manual as stated that I manage personnel schedule to cover all shifts and fill in where needed during staffing shortages. Furthermore, I am responsible for being administrative as well as patrol, meaning daily responsibilities change and evolve with calls for service. The Policy states that I must perform the duties of subordinate

police personnel as needed. I was hired as a Chief of Police to direct a department that until Mayor Miller recanted her position on compensatory time has had no problems in any manner until Mayor Miller has recently created them. When I asked Miller what the problem was with the Conrad Police Department at this time her only response was my compensation regarding overtime.

While on medical leave in July, I was contacted by Chamber of Commerce President Barbie Killion. Killion was concerned after receiving a phone call from City of Conrad Billing Clerk Patti Hutton requesting all correspondence between the Chamber and I regarding National Night Out (NNO). Killion had contacted me concerned that something was wrong as I have always been in contact with her. I explained to Killion that everything was set and all agencies had confirmed to participate. I advised Killion that I would not be able to make it and if she needed any assistance, Sgt. Smith would be available. Killion responded to Hutton that there was no correspondence as I always organized the event with agency contacts. Killion then stated that Miller then emailed her personally requesting the correspondence. Killion responded that there was no correspondence due to me always coordinating the event. Killion stated to me that NNO would not be able to have the kids rides due to the city raising the insurance amount to 1.5 million. I was not notified or included in any of this correspondence that is directly the responsibility of my office.

On August 3<sup>rd</sup>, I was contacted by Sgt. Smith who advised me that Miller requested access to the Conrad Police Department surveillance systems. Miller has been advised several times that the system contains Criminal Justice Information that she is not cleared to access. A recent conversation resulted in me advising her to purchase a separate system for her request. Smith stated that Miller had an altercation with Council Member Karla Breeding and stated that she was disrespected by Breeding and wanted the recording. Miller was declined access by Smith due to his inability to give permission. This request was not made to me during this time frame in any manner. Upon return from Medical Leave, Miller requested that I download the confrontation for her records.

On August 4<sup>th</sup>, I was contacted by Officer Karlik concerned about a request made by the billing clerk to sign a Catering License requested by Dustys Bar for an event in Conrad. I stated that Officer Karlik could bring the license to my residence for signature. Karlik advised me a short time later that the Mayor and Hutton stated that he could not bring the license to me, stating that it would violate my workman's compensation benefits. This decision made by the Mayor and Billing Clerk is a direct contradiction to MMIA's Representative Maria Gonzalez conversation with me. Gonzalez stated that as long as I was not being compensated by the City while receiving Workman's Compensation wages, that I could conduct business as usual while adhering to medical protocols. This is a direct function under my authority and should not have been addressed without my knowledge. I never received a communication from other than Officer Karlik regarding this incident. Due to the fact that the event was held at the Pondera Shooting Sports Building, I advised Karlik that the license would have to be approved by Pondera County and not the City.

On August 8<sup>th</sup>, Sgt. Smith stated he was questioned by the Mayor regarding information on budget items such as ammunition, shields, and uniform allowance which by policy are all duties and the responsibilities of the Chief of Police. During this time frame the Mayor had already received these answers from me during her request for budget information. This was not a duty or function of my Sergeant and appeared nefarious to Sgt. Smith.

On August 10<sup>th</sup>, Sgt. Smith contacted me stating the Mayor was questioning him about his hours worked. Smith stated that Miller wanted to know how many hours were spent on administrative work versus being

on patrol. With the knowledge of the recent investigation regarding my pay Smith felt that this was suspicious behavior.

On August 15, 2023, Sgt. Smith advised me that Officer Konen reported concerns resulting from a recent conversation with Montana Highway Patrol Trooper Kurt Miller. Konen was asked questions by Trooper Miller in regards to department firearms qualifications, ammunition usage, training duration and frequency. Officer Konen was also asked by Trooper Miller if the Chief spoke about running for the Sheriff's Office. The questions were mostly based on recent information requested and submitted to the Mayor on the budget preparation. It is apparent that the Mayor was using her spouse to fact check my responses that were sent via email at the time of the request. This conversation concerned my officer as this was not normal topic among them and the conversation made Officer Konen uncomfortable and suspicious.

It is well known among the council that during budget presentation that documents were submitted without my knowledge or approval. City of Conrad Personnel Policy Manual clearly states that the Chief of Police is to supervise and coordinate the preparation and presentation of an annual budget for the department, direct implementation of the department's budget, plans for and reviews specifications for new and replaced equipment. The Mayor attempted to facilitate a budget in contradiction of the policy with no regard to adhering to the policy. Documents were requested throughout the process by me in order to prepare a budget with the answer from Hutton and the Mayor of "we cannot find or access the documents". It seems that in searching for information or documents it has been customarily easy to recover or find documents until after reception of City Attorney's Legal Opinion. I provided all documentation requested while on Medical Leave for the budget request from home.

During a 3-hour meeting upon my return with Mayor Miller, she disclosed to me that my officers approached her with concerns and information regarding the above statements. A department meeting with all officers resulted in all of the officers stating that they felt uncomfortable with questioning and contacts with the Mayor suspecting ulterior motives. I stated to the Mayor I would not address this with the officers because I did not want to disrupt my department or city workplace relationships. My officers ultimately came to me with their concerns. During the same 3-hour meeting Mayor Miller voiced her concern that City Attorney Jones is "using" me and that I should not trust him and tried to elicit a response. My response was that "I don't trust anyone". Mayor Miller voiced her concerns about council "holding a position" for Karla Breeding and stated that she would not let that happen. I reminded her that it had happened once before with David Cates. Miller change the context of the conversation to the three candidates that were prospective and continued with other business.

On September 11, Miller asked me to access an email account belonging to Daniel Jones. I stated that in my role as an administrator for city emails that I did not have this ability. I stated to Miller that I only had the ability to require a password change or remove the account. Miller stated that she wanted to access the account as well as create a new account for Jones. I stated that I could not access the account and knowing the official capacity of Jones advised against accessing the account because there may be Criminal Justice Information or material of confidential nature. A conversation ensued between Miller and Jones via email stating that they had discussed the contents and the last access of that account. After receiving emails from Miller to DIS I learned that while I was on Medical Leave, Miller had requested and been given administrative access to city emails. I asked Miller if she had assigned herself an administrative role in the email system and she replied yes. Emails then resumed with DIS and Miller as

she wanted the password changed on Jones account so that she could access the content. Miller requested that this new password be emailed directly to her Mayoral email.

In conclusion, I will no longer be threatened in my position with payroll threats, threats of termination without cause in peripheral context, harassed about rewriting policy for my “replacement”, threats of going after the City Attorney or myself regarding his legal opinion. I will not be undermined or micromanaged by someone without the capacity, knowledge or experience to run the Conrad Police Department or any law enforcement agency. As you are all well aware I have taken what used to be a diminished agency and built a respectable police department that our community trust and compliments since my Chief tenure started in 2021. I will no longer be retaliated against in any fashion by Mayor Miller. I strongly suggest that the Council renders a decision or implement a mechanism to stop this behavior in order to better serve our community and avoid a lawsuit that would impact our government at the hands of Mayor.

Respectfully

Chief Ernest Padilla