

As sexual harassment lawsuits pile up, Concord prepares for court fight

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CONCORD — The lawsuits paint an ugly picture of the Concord Police Department. But the city isn't buying it.

The lawsuits say sexism runs rampant. They also contend the chief and his right-hand man do not tolerate dissent, that anyone who crosses them is berated, harassed and pushed aside, while the chief's allies break rules with impunity.

But unlike past sexual harassment cases that were settled out-of-court, a July trial date has been set for the oldest of the three active lawsuits.

"We don't think any of these cases have enough merits" for the city to be worried about losing at trial, said City Manager Dan Keen.

The allegations also have political implications. Concord police Chief David Livingston will appear on the ballot in June, running for Contra Costa County sheriff.

In the past two decades, plaintiffs' lawyer Stan Casper has won settlements in numerous sexual harassment cases, including two against the Concord Police Department and more than a half dozen others against agencies from Hayward to Walnut Creek to Solano County. Not one such case went to trial.

"The Concord Police Department, as it relates to its treatment of female law enforcement officers, is as dysfunctional a department as I have ever encountered," Casper said. "It is a problem that is created at the very top."

Casper is simply trying to "extract" another settlement from Concord, Keen said. Perhaps the only point Casper and Keen agree

on is that this time the city has not tried to settle.

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Many of the slights that make up the suits are complicated and hard to substantiate. Lt. Robin Heinemann's lawsuit says she was passed over for a promotion she should have gotten. Officer Lisa Capocci's lawsuit says she was investigated and punished for minor violations while other officers who committed more serious offenses went unpunished.

In the most recent suit, filed earlier this month, Lt. Tim Runyon says he was moved to a worse job in February 2009 after he questioned the chief's decision not to promote Heinemann.

He raised the question at a staff meeting. Livingston immediately launched a "profane tirade" against Runyon, according to the suit, in which Livingston said he could not trust Runyon because he had "gone over to the other side."

Runyon interpreted that comment as a reference to the information he had given the city's attorneys about Capocci case, according to the suit.

The next day, when Livingston announced several management changes, Runyon found himself transferred to a desk in the property room with no phone line, in a job that had never existed before.

Then Runyon was investigated by the department's Internal Affairs division on accusations of sexually harassing another officer — the wife of Livingston's right-hand man, Capt. Dan Siri, according to the lawsuit. Runyon was ordered to serve 100 hours of unpaid suspension, according to the suit.

The lawsuit says Siri and his wife cooked up the complaint to continue retaliating against Runyon.

That was not the first sexual harassment allegation leveled against Runyon. A previous, already-settled lawsuit against the department — in which Casper was the attorney — said Runyon had harassed a different female officer.

Capocci case

In Capocci's suit, filed in July, the court file now runs several inches thick.

The only time Livingston's voice appears in Capocci's suit is in comments she says she overheard through a locker-room wall, according to her deposition. She says she heard Livingston and police union president Officer Ron Bruckert talking for a few seconds about how anyone who sued the department would be open for retaliation.

The sexually harassing comments came from then-Corporal Michael Hansen, who sent her inappropriate and harassing messages through her squad-car computer, according to the lawsuit and Capocci's deposition.

But Hansen was not named as a defendant; only Livingston and the city were.

"The real problem was the department's reaction to her legitimate complaint," Casper said.

Capocci's deposition lays out her problems with Livingston. He did not handle the problems with Hansen, he initiated Internal Affairs investigations against her, he went against usual practice by barring any officers from doing Capocci the courtesy of serving her restraining order on her ex-husband, and he ordered her to have a checkup to see if she was fit for duty.

Hansen was "minimally disciplined" for sending her inappropriate messages, according to the suit.

In the Internal Affairs investigation, a female sergeant found that Capocci had violated department policy, the suit says. The fitness for duty evaluation came after she had taken several days of "stress leave," the suit says. She was found fit for duty.

Heinemann case

Heinemann was one of the women who won a sexual harassment settlement from the department a decade ago. Her suit, filed late last year, is full of allegations that officers favored by Livingston and Siri get free rein.

Bruckert, the union president, assaulted a golf course patron while off duty, and Siri canceled an investigation that had found evidence Bruckert committed timecard fraud, according to the lawsuit. It also says a department SWAT team spent \$1,000 on a steak dinner, and that an off-duty officer threatened to shoot a woman for taking his parking space.

What finally led Heinemann to sue, Casper said, was that she was told by a retired captain that Siri had used a sexual phrase to say he was blocking Heinemann's promotion. The captain said he complained to the city, while still on the job, about Siri's comments — to no avail, according to the suit.

The captain was Stuart Roloson, according to a person familiar with the case who was not authorized to publicly name him. Roloson was the only other finalist up against Livingston for the chief's job in 2005; he has endorsed Livingston's opponent in the Sheriff's race.

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