

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

**BEFORE THE CITY OF SEATTLE  
PUBLIC SAFETY CIVIL SERVICE COMMISSION**

**TODD NOVISEDLAK,**  
Appellant

v.

**SEATTLE POLICE DEPARTMENT,**  
Respondent

**FINDINGS OF FACT,  
DECISION AND ORDER**

**PSCSC No. 20-01-011**

**I. INTRODUCTION**

On February 21, 2020, Seattle Police Officer Todd Novisedlak timely appealed his employment termination following sustained allegations of violations of the following four sections of the Seattle Police Department (SPD) Manual:

- 5.001 - Standards and Duties 19. Employees Shall Strive to be Professional at all Times (Effective Date 4/1/2015);
- 5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Effective Date 4/1/2015);
- 5.170 - Alcohol and Substance Use 7. No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority (Effective Date 11/21/2012); and

- 1           • 5.140 - Bias Free Policing 2. Officers Will Not Engage in Bias-Based Policing (Effective  
2           Date 7/15/2018).

3           The Commission held a full evidentiary hearing on January 19, 20, 22, and 25, 2021, which  
4 included testimony by 17 witnesses and approximately two thousand pages of exhibits admitted  
5 into the record. Due to the COVID-19 public health emergency and pursuant to the Governor's  
6 Proclamation 20-28 (as extended), the hearing was conducted remotely with attendance by WebEx.  
7 This case was heard by Commissioner *pro tem* Terrence Carroll (as presiding officer), as well as  
8 Commissioner Stacy Connole, and Commissioner Dorothy Leggett. Attorney Dan Thenell  
9 represented Officer Novisedlak, and City of Seattle Assistant City Attorney Sarah Lee represented  
10 SPD. The parties submitted post-hearing briefs on February 8, 2021 and the Commission took the  
11 case under advisement on that date.

12           Having considered applicable portions of the SPD Police Manual, the evidence presented,  
13 and arguments of the parties and their representatives, the undersigned Commissioners find and  
14 conclude, based on "just cause" and the clear and convincing evidence standard for termination, that  
15 the decision to terminate Officer Novisedlak's employment was "in good faith for cause," subject to  
16 the modification discussed below. The Commission hereby enters the following Findings of Fact,  
17 Decision and Order.

18

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

**II. STANDARD OF REVIEW AND BURDEN OF PROOF**

The Department has the burden to prove that the decision to terminate Officer Novisedlak’s employment was, "in good faith for cause," which means just cause, i.e., "for a fair and honest cause or reason, regulated by good faith on the part of the employer."<sup>1</sup> SPD must make a showing of substantial evidence to support its decision.

The Commission has historically considered whether the following seven factors were present: (1) the employee had notice that his conduct would result in discipline; (2) the rules were reasonable; (3) the employer investigated; (4) the investigation was fair; (5) the decision-maker had substantial evidence that the rule was violated; (6) the employer applied its rules evenhandedly; and (7) the discipline administered was fair in relation to the nature of the offense and imposed with regard to the employee’s past work record.

Officer Novisedlak argues that because the City terminated him based on the Office of Police Accountability (OPA)'s investigation and recommendation, and Director Myerberg testified that OPA applies a preponderance standard, SPD Chief Carmen Best must have applied the same standard when she sustained the allegations. Officer Novisedlak concludes, therefore, that Chief Best did not have "just cause" to terminate his employment. The Commission disagrees.

---

<sup>1</sup> PSCSC Rule 6.11. See also *Baldwin v. Sisters of Providence*, 112 Wn.2d 127, 139 (1989).

1 Although Chief Best considered OPA's findings and recommendations, she also considered  
2 the investigatory record, including Officer Novisedlak's text messages; Officer Novisedlak's  
3 *Loudermill* statements, including questions he raised about the credibility and motives of the  
4 complainants, Michele and William Walker; comparative disciplinary cases; Officer Novisedlak's  
5 employment record and disciplinary history; and whether she thought that Officer Novisedlak could  
6 successfully return to his duties as a Police Officer. Furthermore, Chief Best testified that that she  
7 applied the clear and convincing standard of proof in termination cases like this one, and that OPA's  
8 recommendation was only one of the several categories of information that went into her decision  
9 to sustain the allegations against Officer Novisedlak, and her determination of what discipline to  
10 impose. It was evident to the Commission that Chief Best took this case very seriously and weighed  
11 all the available information before coming to her final determination.

### 12 III. FINDINGS OF FACT

#### 13 A. Novisedlak's employment and disciplinary history

- 14 1. Officer Todd Novisedlak was employed as a Police Officer for the Seattle Police Department  
15 from May 28, 1993 until his termination from employment on February 13, 2020. He was most  
16 recently assigned to the Patrol unit out of the Southwest Precinct. Prior to becoming a police  
17 officer, he was a medical specialist in the U.S. Army, and worked as an EKG technician at a  
18 hospital.

- 1        2. In 2015, Officer Novisedlak was suspended for five days and disciplinarily transferred from  
2        the Vice Unit to Patrol for violating SPD's professionalism and Equal Employment  
3        Opportunity (EEO) policies. SPD found that he had harassed a female civilian coworker at a  
4        work conference by sending her 219 text messages, sending an unsolicited drink to her hotel  
5        room, and visiting her hotel room demanding to see her. SPD also found that Officer  
6        Novisedlak violated SPD's professionalism policy in how he treated a female detective (who  
7        he perceived supported the civilian coworker) by not speaking to her, behaving dismissively  
8        towards her, and sending her a bottle of wine with a white rag and a note that read, "White  
9        flag, not a Molotov." Chief Kathleen O'Toole wrote that Novisedlak's actions left the  
10        detective feeling "unsafe and without adequate backup during undercover operations," and  
11        that his treatment of the two had created a "hostile, difficult and discourteous work  
12        environment for two female colleagues."
- 13       3. Officer Novisedlak's personnel file contained numerous positive performance evaluations  
14       going back to 2010<sup>2</sup>, as well as commendations for instances of good police work.

18       

---

<sup>2</sup> The record did not contain Officer Novisedlak's performance evaluations prior to 2010.

1 **B. Allegation No. 1, Insubordination (OPA-171326)**

2 4. In December 2017, Officer Novisedlak did not provide his chain of command with an Activity  
3 Prescription Form (APF), which is required when an officer returns to work after seeing a  
4 medical provider for a work-related injury. His sergeant instructed Officer Novisedlak to go  
5 home until he was able to provide the form.

6 5. Officer Novisedlak became agitated, and shouted at his sergeant, "I'm not a fucking idiot,"  
7 and "I'm not your fucking dog." He pointed his finger at his sergeant and attempted to  
8 engage others as witnesses. The sergeant attempted to calm Officer Novisedlak down, but  
9 a witness reported that he heard Officer Novisedlak yell at the sergeant and that he was  
10 uncomfortable leaving the two of them alone. Officer Novisedlak denied raising his voice or  
11 using profanity.

12 6. OPA certified its investigation of OPA-171326 to SPD on June 19, 2018.

13 7. Chief Best sustained the Professionalism allegation after a combined *Loudermill* hearing in  
14 February 2020, which included additional sustained allegations related to a second  
15 investigation, described below.

16 **C. The second OPA investigation, OPA 18-0874**

17 8. On or around September 6, 2018, William Walker, who is the son of Officer Novisedlak's  
18 former girlfriend Michele Walker, sent Officer Novisedlak's former sergeant a letter. The

1 letter alleged that Officer Novisedlak had physically abused his mother, smoked marijuana,  
2 and made frequent racist and misogynistic comments and slurs about coworkers in Mr.  
3 Walker's presence. The letter accompanied printed copies of text messages between  
4 Michele Walker and Officer Novisedlak, in support of the allegations.

5 9. The same day (September 6, 2018), SPD placed Officer Novisedlak on administrative leave.

6 10. OPA opened Case No. 2018 OPA-0874 and, in accordance with the collective bargaining  
7 agreement between the Seattle Police Officers' Guild and the City of Seattle, referred the  
8 matter to SPD for criminal investigation. SPD investigated and sent the matter to the Pierce  
9 County Prosecutor's Office for review. Pierce County indicated that they would not file  
10 charges, as the incidents alleged were misdemeanors and outside the statute of limitations.

11 11. OPA reopened its investigation on or around November 7, 2018, after the criminal review  
12 concluded.

13 12. On or around November 6, 2018, Officer Novisedlak's former sergeant received another  
14 letter of complaint in the mail regarding Officer Novisedlak's off-duty conduct. The second  
15 letter was from Officer Novisedlak's former girlfriend, Michele Walker, with enclosures. The  
16 sergeant forwarded the package to OPA. Ms. Walker's letter claimed that Officer Novisedlak  
17 was retaliating against her son for making the September 2018 complaint, that she was  
18

1 worried that he would also retaliate against her. The enclosures were copies of additional  
2 text messages between Ms. Walker and Mr. Novisedlak, in support of the allegations.

3 13. On March 27, 2019, OPA completed its investigation and Director Myerberg sent a Director's  
4 Certification Memo to SPD, recommending that several allegations be sustained against  
5 Officer Novisedlak.

6 14. Officer Novisedlak was notified of his right to a *Loudermill* hearing and that the  
7 recommended discipline was termination.

8 15. At Officer Novisedlak's June 7, 2019 *Loudermill* hearing, he and his union representative  
9 raised questions about the completeness of OPA's investigation. They argued that OPA had  
10 not explored the Walkers' financial or other motives to lie about him. He also alleged that he  
11 made allegations of domestic violence against Ms. Walker and that there was a  
12 contemporaneous police report. Chief Best asked OPA to investigate Officer Novisedlak's  
13 contention that he informed others, including filing a police report, about Ms. Walker  
14 assaulting him, and also to review the concerns Officer Novisedlak raised about Ms. Walker's  
15 and Mr. Walker's credibility. Chief Best requested OPA continue its investigation.

16 16. OPA conducted additional investigation as requested by Chief Best. OPA issued a follow up  
17 case summary. The summary acknowledged concerns as to the Walkers' credibility and  
18 motivations. According to the summary, there were no such questions as to witness Megan



1 Hillman's testimony about having witnessed Officer Novisedlak's assault on Ms. Walker and  
2 his drug use. In addition, Officer Novisedlak never contested the authenticity of the text  
3 messages provided by the Walkers. Officer Novisedlak did call his own veracity and  
4 credibility into question by making contradictory statements to Pierce County police about  
5 the assault around the time it occurred.

6 **D. Allegation No. 2, Domestic violence, assault (OPA 18-0874)**

7 17. Ms. Walker testified at the hearing that Officer Novisedlak assaulted her in 2015 by kicking  
8 her on the back side of her body as she walked away from him and up the stairs of their  
9 home.

10 18. Ms. Walker's daughter, Megan Hillman, provided a statement to SPD Detective Christiansen  
11 on September 25, 2018, during the criminal investigation (2018-342471), affirming that she  
12 witnessed Officer Novisedlak kicking Ms. Walker and that she asked him to stop hurting her  
13 mother. On October 30, 2019, OPA Investigator Sergeant Stephen Corbin contacted Ms.  
14 Hillman to discuss OPA's investigation. Ms. Hillman declined to be recorded or provide  
15 additional information but confirmed that her original statement to Detective Christiansen  
16 was true and accurate to the best of her knowledge and belief. Ms. Hillman told Sergeant  
17 Corbin she did not want to get either Michele Walker or Officer Novisedlak in trouble.

18

1 19. OPA and Chief Best relied on Ms. Hillman's statements to sustain the allegation that Officer  
2 Novisedlak committed domestic violence assault against Ms. Walker.

3 20. Officer Novisedlak has repeatedly denied kicking or otherwise intentionally harming his  
4 former girlfriend at any time. He argued that it was she who had been abusive to him, that  
5 her complaints were revenge, and that she was trying to gain the upper hand in a legal and  
6 financial dispute with Officer Novisedlak.

7 **E. Allegation No. 3, Use or possession of a controlled substance**

8 21. In her statement to Detective Christiansen during the criminal investigation, Ms. Hillman  
9 stated that she "absolutely" smoked marijuana with Office Novisedlak and that he admitted  
10 to smoking it several times per week to help him sleep.

11 22. As summarized in the Director's Certification Memo dated March 27, 2019, Ms. Hillman told  
12 OPA that she and Officer Novisedlak smoked marijuana together on multiple occasions while  
13 he was a Seattle Police Officer.

14 23. Ms. Hillman also told OPA that Officer Novisedlak smoked marijuana several times a week,  
15 and that Officer Novisedlak purchased marijuana.

16 24. Mr. Myerberg testified that OPA found Ms. Hillman's testimony to be significant and credible  
17 in light of her detailed statement to Detective Christiansen during the criminal investigation  
18

1 and her having the least motive to fabricate testimony because she was critical of Ms.  
2 Walker and did not want to get Officer Novisedlak in trouble.

3 25. Ms. Walker also testified that she observed Officer Novisedlak using marijuana.

4 26. Officer Novisedlak testified that although he uses a vape pen with flavor and nicotine, he  
5 denied using marijuana while employed by SPD.

6 **F. Allegation No. 4, Communications involving racial, sexual orientation, and gender bias**

7 27. While he was employed by SPD, Officer Novisedlak sent numerous text messages to his  
8 then-girlfriend (Ms. Walker) expressing racist, discriminatory, and negative views towards  
9 women, lesbians, and people of color.

10 28. In one text, he referenced a female sergeant's reputation for promiscuity among officers as  
11 stating that she looked "like if Wendy Lou Who became a whore."

12 29. In another text, he wrote, "Well, we got our replacement for [an officer] ... An angry black  
13 lesbian."

14 30. In another text message, he referred to "that crazy SPD whore." He referred to women as  
15 "whores" in multiple texts. He also texted, "You know I don't have much regard for female  
16 cops."

17 31. During the underlying investigation and at the hearing, Officer Novisedlak admitted to  
18 authoring and sending the text messages but argued that they were intended to be private

1 and were either not offensive, or that the texts only seem offensive out of the context of  
2 the situation and/or in isolation from other texts in the conversations. He stated that he did  
3 not act in a racist or otherwise discriminatory manner while working as a police officer.

4 32. Chief Best testified that at his *Loudermill* hearing, Officer Novisedlak did not provide any  
5 explanation for the text messages at issue.

6 33. Officer Novisedlak also made comments off-duty to his then-girlfriend and members of her  
7 family that evidenced bias against Black coworkers and bias toward a fellow officer based  
8 on the fact he was Mexican. William Walker told OPA and testified at the hearing that Officer  
9 Novisedlak used the terms, "monkey," and "the n-word," in reference to his then-sergeant  
10 and supervisor, who is Black.

11 34. Officer Novisedlak admitted to using the term "monkey." He stated it was to refer to  
12 someone as silly and not used as a racial slur. He denied calling his supervisor a monkey and  
13 denied ever using the n-word.

14 **G. Second *Loudermill* and Termination of Employment**

15 35. Once again, Officer Novisedlak was notified of the recommendation for termination of  
16 employment, and that Chief Best would also consider the allegations related to the 2017  
17 insubordination (OPA 17-1326) as part of any disciplinary decision. A second *Loudermill*  
18 hearing was held on or around February 11, 2020.

1 36. On February 13, 2020, Chief Carmen Best terminated Officer Novisedlak's employment upon  
2 sustaining the four SPD Manual violation allegations, resulting from two investigations by  
3 the Seattle Police Department's Office of Police Accountability, OPA 17-1326 and OPA 18-  
4 0874.

5 **IV. DECISION**

6 **A. Insubordination toward supervisor in 2017**

7 The Commission finds that there is substantial evidence to support the Chief's findings that  
8 there was clear and convincing evidence that Officer Novisedlak acted in an insubordinate and  
9 unprofessional manner toward his supervisor when he raised his voice at his supervisor, used  
10 profanities, pointed at him, and otherwise behaved unprofessionally in response to his supervisor's  
11 directive while on duty. Officer Novisedlak denied raising his voice or otherwise behaving  
12 unprofessionally, but the supervisor and two witnesses confirmed that Officer Novisedlak's  
13 behavior towards his supervisor was concerning. Based on the evidence and giving due deference  
14 to the police chief who weighed that evidence, the Commission affirms Chief Best's determination  
15 that Officer Novisedlak's actions violated Seattle Police Manual § 5.001(19) Employee Shall Strive  
16 to be Professional at all Times.

17  
18

1       **B. Domestic Violence**

2           The Commission finds that there substantial evidence to support Chief Best’s findings that  
3 there was clear and convincing evidence that Office Novisedlak physically assaulted Michele Walker  
4 in 2015 by kicking her, as described by Ms. Hillman to Detective Christiansen and which she  
5 reaffirmed to OPA Investigator Sergeant Corbin. Officer Novisedlak’s text messages to Ms. Walker  
6 apologizing for hurting her and causing her pain also to support the conclusion that an assault  
7 occurred. The Commission affirms Chief Best’s determination that Officer Novisedlak’s actions  
8 violated Seattle Police Manual §5.001 - Standards and Duties 2. Employees Must Adhere to Laws,  
9 City Policy and Department Policy.

10       **C. Use and Possession of Controlled Substance**

11           There is substantial evidence to support Chief Best’s determination that there was clear and  
12 convincing evidence that Officer Novisedlak possessed and smoked marijuana during his  
13 employment. In her statement to Detective Christiansen during the criminal investigation (2018-  
14 342471), Ms. Hillman stated that she "absolutely" smoked marijuana with Office Novisedlak and that  
15 he admitted to smoking it several times per week to help him sleep. Ms. Walker also testified that  
16 she observed Officer Novisedlak using marijuana. Officer Novisedlak denied smoking marijuana but  
17 he is not credible on this point, and the testimony of his supporting witnesses is not relevant to  
18 whether he smoked marijuana when he was not in their presence. The Commission affirms the

1 finding that Officer Novisedlak's actions violated Seattle Police Manual §5.170 - Alcohol and  
2 Substance Use 7. No Employee Shall Use or Possess any Controlled Substance, Except at the  
3 Direction of a Medical Authority.

4 **D. Biased statements**

5 There is no dispute that Officer Novisedlak in his text messages referred to his women  
6 coworkers as "whores," and that he texted that he had little respect for women police officers. There  
7 is substantial evidence to support Chief Best's findings that he referred to his former supervisor, who  
8 is Black, as a "monkey," which is a harmful racial slur, that he used the "n-word" in reference to Black  
9 people, including his supervisor, and that he called a Mexican coworker "lazy," an ethnic stereotype.  
10 Chief Best viewed the private nature of Officer Novisedlak's texts and statements to be strong  
11 evidence that he held sexist, homophobic, and racist biases against at least some women, lesbians,  
12 Black people, and other people of color. She testified that his biased communications undermined  
13 the public's trust in SPD and caused her to lose confidence that he could appropriately wield the  
14 authority and power of a Police Officer.

15 The Commission agrees with Chief Best's refusal to tolerate such biases in her police officers,  
16 and her decision to take serious action once such biases are proven. The Commission considered  
17 whether it was appropriate to consider text messages that Officer Novisedlak argued were private.  
18 The Commission notes that the text messages were spontaneously and voluntarily given to the

1 Department, and their content was germane to Officer Novisedlak's work as a Police Officer. At the  
2 hearing, Chief Best testified, "It's like saying somebody was a member of the KKK on their private  
3 time so we have to ignore it. [As a police officer], you don't have the luxury of being racist or making  
4 racist comments in our private life and then coming out publicly and -- you know, those comments  
5 being made available to the public and putting on a uniform. ... I don't think anybody is going to  
6 make the differentiation between a racist at home and a racist at work." Tr. 821, 23-822, 6.

7       Officer Novisedlak's non-privileged text messages and statements are highly concerning to  
8 the Commission. The Commission finds that the texts and statements in question clearly violate the  
9 Seattle Police Manual Section 5.001.10 - Employees Strive to be Professional, which states,  
10 "Regardless of duty status, employees may not engage in behavior that undermines public trust in  
11 the Department, the officer, or other officers."

12       SPD has not established that there was just cause for terminating Officer Novisedlak's  
13 employment for violation of the Bias Free Policing Policy, Section 5.140. There was no evidence  
14 presented that Officer Novisedlak acted in a biased manner in the performance of his policing duties.  
15 SPD did not prove that the Bias Free Policing policy clearly notified Officer Novisedlak that "policing"  
16 may include an employee's actions while off-duty such as text messages to a fellow household  
17 member. Nevertheless, the Professionalism policy, Section 5.001.10, of which Officer Novisedlak did  
18 have notice, requires employees to be professional, regardless of duty status. The Commission finds



1 that Officer Novisedlak's text messages and statements clearly violate the professionalism  
2 requirements of the Seattle Police Department Manual Section 5.001.10.

3 **E. Discipline Imposed**

4 The Commission reviewed comparable cases provided by SPD and Officer Novisedlak and  
5 concludes that termination of employment was a fair penalty based on the facts underlying the  
6 sustained allegations, comparative disciplinary cases and Officer Novisedlak's disciplinary and  
7 employment records.

8 Officer Novisedlak's racist, sexist, and homophobic statements were, as Chief Best stated,  
9 "incompatible with policing our [diverse] community and destructive to the Departments' ability to  
10 serve the public." They were so improperly biased and connected to his work (i.e., referring to his  
11 Black sergeant as a "monkey", to a coworker as an "angry Black lesbian"), that the Commission cannot  
12 view them as unrelated off-duty conduct. He violated laws prohibiting domestic violence and assault  
13 - the very same laws that a police officer is charged with enforcing, and used prohibited controlled  
14 substances while employed as a police officer, both clear violations of SPD policy. Finally, Officer  
15 Novisedlak was insubordinate towards his supervisor, a Black sergeant, who he privately referred to  
16 as a "monkey," to his girlfriend and her family.

17 Officer Novisedlak's extremely poor judgment in these instances and consistent denial of  
18 responsibility for his own actions further cement the Commission's conclusion that termination of

1 employment was the correct penalty. "A fundamental part of any officer's job is to treat all members  
2 of the community we serve fairly and with dignity," Chief Best wrote in her notification to Officer  
3 Novisedlak of her decision. SPD has shown that Officer Novisedlak failed to meet the expectations  
4 that the community has of its police officers, and therefore the appropriate penalty is termination.

5 **V. ORDER**

6 The Commission unanimously concludes that the Department acted in good faith and for  
7 cause in concluding that Officer Novisedlak's actions violated multiple department policies, and that  
8 the decision to terminate his employment was made in good faith for cause. Regarding Allegation  
9 No. 4, the Commission determines that, although it is unclear whether Officer Novisedlak's text  
10 messages and statements violate Seattle Police Department Manual Section 5.140 Bias Free  
11 Policing, the messages and statements clearly violate Seattle Police Department Manual Section  
12 5.001.10. The Commission finds therefore that termination was the appropriate penalty.

13 \

14 \\\

15 \\\

16 \\\

17 \\\

18

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

Officer Novisedlak's appeal is denied.

Dated this 5<sup>th</sup> day of May 2021.

**For the PUBLIC SAFETY CIVIL SERVICE COMMISSION OF THE CITY OF SEATTLE:**

<b>Stacy Connole</b>	05/05/2021
Commission Chair Stacy Connole	Date

Dorothy Leggett	05/05/2021
Commissioner Dorothy Leggett	Date

Terry Carroll	05/05/2021
<i>Pro-tem</i> Commissioner Terrence Carroll	Date

**Signature:** Terry Carroll  
Terry Carroll (May 5, 2021 16:22 PDT)

**Email:** terry@terrencecarroll.com

**Signature:** Stacy Connole  
Stacy Connole (May 5, 2021 21:15 PDT)

**Email:** COMMISSIONER.STACY.CONNOLE@SEATTLE.GC

**Signature:** Dorothy Leggett  
Dorothy Leggett (May 5, 2021 21:31 PDT)

**Email:** commissioner.dorothy.leggett@seattle.gov