Office of the City Auditor  
Independent Police Review  
Investigators: Andrea Damewood and Eric Berry  
Report Date: May 22, 2019

Confidential Investigative Report

Incident Dates: Multiple  
Case #: 2019-B-0010  
Complainant: Portland Police Bureau

Involved Members Interviewed:

<table>
<thead>
<tr>
<th>Officer</th>
<th>DPSST</th>
<th>Assignment</th>
<th>Allegation Category</th>
<th>Allegation #</th>
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<tbody>
<tr>
<td>Lieutenant Jeffrey Niiya</td>
<td>30666</td>
<td>TOD</td>
<td>3, 6, 3</td>
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Witness Members Interviewed:

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<tr>
<th>Officer</th>
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<th>Assignment</th>
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<tr>
<td>Assistant Chief Ryan Lee</td>
<td>39878</td>
<td>Chief’s Office</td>
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<tr>
<td>Sergeant Kevin Allen</td>
<td>45001</td>
<td>East Precinct</td>
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Citizens Interviewed:
Berk Nelson, former policy director, Mayor Ted Wheeler’s Office

Applicable Directives:
Directive 310.00—Professional Conduct and Courtesy (last revision effective 2/28/18)  
Directive 310.70—Dissemination of Information (no effective date provided)  
Directive 315.30—Satisfactory Performance (last revision effective 2/28/18)  
Directive 635.10—Crowd Management/Crowd Control (last revision effective 8/30/17)

Allegations:

1. Lt. Jeffrey Niiya, #30666, engaged in unprofessional behavior during his communications with Joey Gibson. (CONDUCT) (Directive 310.00 – Professional Conduct and Courtesy)  
2. Lt. Jeffrey Niiya, #30666, did not maintain objectivity while communicating with Joey Gibson (CONDUCT) (Directive 315.30 Satisfactory Performance) (HRAR 11.01 – Statement of Ethical Conduct) (City of Portland Code of Ethics)  
3. Lt. Jeffrey Niiya, #30666, inappropriately disclosed information to Joey Gibson that allowed individuals to avoid arrest. (PROCEDURE) (Directive 310.70—Dissemination of Information)

Incident Overview:

While serving as a member of the Portland Police Bureau’s Rapid Response Team (RRT), and as a Sergeant and later Lieutenant assigned to Central Precinct, Lieutenant Jeffrey Niiya was assigned the role of liaison between protest group members and the Police Bureau. As part of these duties, Lt. Niiya exchanged numerous text messages with Patriot Prayer leader Joey Gibson. Following a release of these text
Case #: 2019-B-0010  
Independent Police Review Investigative Report

messages to the media and subsequent reports, concerns arose regarding some of the text messages between Lt. Niiya and Mr. Gibson. Members of the public and journalists raised questions about Lt. Niiya being too friendly with Mr. Gibson and for discussing the status of warrants for Patriot Prayer member Tusitala "Tiny" Toese.

Investigation Narrative:

BACKGROUND

Crowd Management/Crowd Control Directive

Directive 635.10 – Crowd Management/Crowd Control describes the Police Bureau’s expectations regarding appropriate responses to protests and other mass events. This Directive’s stated purpose is to “provide guidance for demonstrations, special events, the managing of crowds during demonstrations, and controlling crowds during civil disturbances.” This Directive was most recently revised on 8/30/17.

This Directive describes the use of a Demonstration Liaison, defining the position as follows: “A Bureau member who has been designated by the IC [Incident Commander] as the primary contact for communication with the demonstration’s Person-In-Charge to police.”

The Directive further states:

The Bureau, through the PPB Demonstration Liaison or another designee, shall attempt to maintain communication with known event or demonstration organizers or the Person(s)-In-Charge before and during the event. The Liaison shall maintain communications with the IC to keep them apprised of the situation.

The Directive states the IC shall “When feasible, attempt to maintain communication, through the PPB Demonstration Liaison, with the Person-In-Charge, or their designee, during demonstrations.” The Directive further states when the IC determines police should take action during a protest, the liaison, along with the police sound truck, should “attempt to convey the police actions to the crowd via announcements and warnings.”

Media Reports

Local journalists reported on Lt. Niiya’s liaison work with community members on multiple occasions, starting in December 2017. Relevant articles are summarized below. Complete copies are included in this case’s file.

1. Initial reporting describes Lieutenant Niiya’s contact with activist community

On 12/21/17, The Oregonian published an article with the web headline “Portland activist ostracized, police criticized after cooperation, communication exposed.” The article discusses Lt. Niiya’s contact with antifascist protester June Davies (they/their pronouns), hereafter referred to as “Davies.” The article explains Lt. Niiya met Davies, gave them a business card, and exchanged text messages with them.

The article further indicates: Other activists learned of Lt. Niiya’s contact with Davies and posted copies of portions of the messages Lt. Niiya and Davies exchanged online. Following this disclosure, other activists ostracized Davies from the protest community. Some sent Davies threats.
Case #: 2019-8-0010
Independent Police Review Investigative Report

The Oregonian article describes the “apparent coziness” between Lt. Niiya and Davies as unsettling to some left-leaning protesters. The article includes remarks from Assistant Chief Ryan Lee, who stated, "Anybody that's willing to help paint a better picture to ensure public safety of an event, we're willing to have a conversation with. We want to be able to talk to members of the public and find out what they need from us."

On 12/26/17, Willamette Week published an interview with Davies, titled “What It's Like to Betray Antifa to the Cops—and Get Caught.” In the article, Davies described their intention in speaking with Lt. Niiya, stating: “There's no peace between police and protesters. I don't think there's ever going to be a peace. But I was trying to make it just a little bit easier so that the police would ease up on their tactics and then also see Antifa ease up on their tactics as well.”

2. Subsequent reporting describes Lieutenant Niiya’s contact with Joey Gibson

Reporters from Willamette Week and Portland Mercury made public records requests for information related to Police Bureau personnel’s contact with Mr. Gibson. The Police Bureau released the text messages Lt. Niiya exchanged with Mr. Gibson. Both publications posted stories on 2/14/19, with the headlines “Texts Between Portland Police and Patriot Prayer Ringleader Joey Gibson Show Warm Exchange” and “Texts Show Protective Relationship Between Portland Cops and Patriot Prayer,” respectively.

The Portland Mercury article states Lt. Niiya may have violated Directives 310.70 – Dissemination of Information and 313.70 – General Conduct – Associations. Both articles cite text message exchanges between Lt. Niiya and Mr. Gibson regarding Mr. Toese’s warrant status as examples of troubling communication.

The Portland Mercury article quoted a text message regarding Mr. Toese, dated 12/9/17 and sent from Lt. Niiya to Mr. Gibson:

Just make sure he doesn't do anything which may draw our attention. If he still has the warrant in the system (I don't run you guys so I don't personally know) the officers could arrest him. I don't see a need to arrest on the warrant unless there is a reason.

A text message in which Lt. Niiya wrote Mr. Gibson: “Your running for office?!! Good for you. County level?” was another highlighted in the news reports, along with text messages the two men exchanged over movements of counter protesters. Describing the text exchange, Mercury Reporter Alex Zielinski wrote, “It reflects many of the public's suspicions that the Portland police have been sympathetic – if not protective – of the right-wing extremist group.”

3. Additional reporting describes police not arresting Patriot Prayer protesters

On 3/1/19, The Guardian published an article online with the headline “Exclusive: video shows Portland officers made deal with far-right group leader.” The article states, “A far-right leader and Portland police officers made a deal to avoid the arrest of members of the Patriot Prayer group, despite the officers having probable cause to do so.”
Case #: 2019-B-0010
Independent Police Review Investigative Report

The article describes a portion of a video taken from Mr. Gibson’s livestream of an event on 6/3/18 and it includes a copy of the footage. A copy of this footage is included in this case’s electronic file. The video excerpt shows two police officers approaching Mr. Gibson near the end of the day. One officer says, “I just talked to Jeff Niiya, and he asked me to tell you that he has probable cause to arrest a couple of the guys here.” The officer then states, “They’ve arrested the other side, so it’s not singling you guys out.” The officer states, “But it’s time to go. If you guys can go home, there won’t be any arrests.” Mr. Gibson asks who will be arrested, and the officer states, “You want me to tell you? These guys here.” At that point, Mr. Gibson’s camera turns, and Mr. Toese and another man can be seen, sitting together.

The officers in the video footage were subsequently identified as Sergeant Kevin Allen, and Richard Storm. Sgt. Allen was identified as the officer speaking to Mr. Gibson.

EVIDENCE OBTAINED AND REVIEWED

Investigator Comments:
All materials quoted, including grammatical and spelling errors, are published as written. When political affiliation or beliefs are relevant, groups and individuals are referred to as “right-leaning”, “left-leaning”, or to the right or left of the political spectrum to maintain consistency with public perceptions and media coverage.

Text messages from Lieutenant Niiya’s work phone
During this investigation, IPR obtained and reviewed 11,647 text messages retrieved from Lt. Niiya’s Bureau-issued cellular telephone, spanning May 2017 through February 2019. The text messages IPR received from Lt. Niiya’s phone contained no identifying information about the sender. IPR used the Bureau of Technology Services to identify city-issued phone numbers and other methods to identify other non-city numbers. Text messages between Lt. Niiya and unidentified numbers remain in the file, when the text messages were not sent by a city number, and identifying the sender was not materially relevant to this investigation.

Attached to this investigation report as Appendix A are a selection of text messages that are either cited directly in the investigation and interviews, or that illustrate Lt. Niiya’s contact with Mr. Gibson and other community members, as well as his contact with other Police Bureau personnel. This appendix is not intended to be an exhaustive list of every contact Lt. Niiya had with every community member. Rather, appendix A provides examples of the communication Lt. Niiya had with community members, during his work as a liaison and as Central Precinct’s special events sergeant.

Text messages quoted in this investigation report are cited using the line number in Appendix A. The complete record of Lt. Niiya’s text messages is included in this case’s electronic file.

Liaison Reports
IPR obtained and reviewed police reports, written by Lt. Niiya and other Police Bureau members, that reference the Police Bureau using a liaison in responding to protests and other mass events.
Case #: 2019-8-0010
Independent Police Review Investigative Report

Attached to this investigation as Appendix B are summaries of relevant or illustrative police reports written by Lt. Niiya, Sgt. Allen, and Sergeant Chris Burley, all of whom acted in a liaison role at one time or another.

Police reports quoted in this investigation report are cited using the line number in Appendix B. Full copies of all quoted police reports are included in this case’s electronic file.

Lieutenant Niiya’s emails
During this investigation, IPR obtained and reviewed all email messages sent by Lt. Niiya and several other Police Bureau staff between January 1, 2017 and February 14, 2019, that contained keywords including “Joey Gibson,” “Proud Boy,” “Patriot Prayer,” “Antifa,” “Antifascist,” “Tiny,” and “Toese.”

Attached to this investigation report as Appendix C are a selection of emails sent from and to Lt. Niiya that are relevant to this investigation. This selection is not intended to be an exhaustive list of every email Lt. Niiya wrote or received that referenced protest activity. Rather, Appendix C provides examples of the communication Lt. Niiya had with other Police Bureau staff and with community members, during his work as a liaison, as Central Precinct’s special events sergeant, and later as a lieutenant. All emails quoted below are cited using the line number in Appendix C. The complete record of all emails IPR reviewed is included in this case's electronic file.

1. Lieutenant Niiya served as resource within Bureau and externally
Emails reviewed indicate Lt. Niiya engaged in liaison work, including his contacts with Mr. Gibson and others, at the behest of Police Bureau command staff. In an email dated 10/9/17, Captain Dave Golliday (now retired), wrote he was contacted by a member of the Montavilla Neighborhood Association, who told him Patriot Prayer was planning to attend an association meeting. Captain Golliday requested Lt. Niiya contact Mr. Gibson. Lt. Niiya replied to Captain Golliday, and indicated he sent a text message to Mr. Gibson. In a subsequent email, Lt. Niiya wrote, “Joey just texted and said he decided not to go” (Appendix C, line 282).

In an email dated 3/20/18, Chief Danielle Outlaw indicated she received an email from protest organizer [REDACTED] regarding a large protest rally he was planning, in the event Special Counsel Robert Mueller was fired. In an email dated 3/21/18, Chief Outlaw directed her command staff to designate an incident commander for the protest, as well as a point of contact for Mr. [REDACTED] On 3/22/18, Lt. Niiya described his previous contact with Mr. [REDACTED] writing, “I know the sender Jordan. He was one of the people I regularly communicated with back in Occupy. Though it has been several years, I found him reasonable and willing to work/communicate with us” (Appendix C, lines 915-917).

In an email dated 10/22/18 and sent to Lt. Niiya by Commander Wendi Steinbronn, she noted she had been designated the Incident Commander for an upcoming protest march against the presence of an ICE facility in Portland, organized by “Rose City Youth Liberation Front, Direct Action Alliance, Occupy ICE PDX, Queer Liberation Front” (Appendix C, line 1384). Commander Steinbronn asked Lt. Niiya if he had any contacts in the groups and asked for his assessment of where and how they would march. Lt. Niiya noted all of the groups were considered to be anarchists, and he was “very doubtful of any pre-event interaction” (Appendix C, lines 1337-1338). Lt. Niiya indicated he created a Central Precinct special events page on Facebook and offered to provide access to the page to Commander Steinbronn. Lt. Niiya noted
Case #: 2019-B-0010
Independent Police Review Investigative Report

he was monitoring social media, but local activist groups had been deliberately posting less information about upcoming events.

Emails reviewed indicate other law enforcement agencies contacted Lt. Niiya, to request information and assistance regarding their own responses to protest activity. In an email dated 9/18/17, a Lieutenant from the Washington State Patrol sent then-Lieutenant Ryan Lee an email, writing, “When we spoke with Commander Sheffer, she spoke of a sergeant with expertise in demonstrator relations so can you provide me his name so I could talk with him sometime soon?” (Appendix C, 178-179) Lt. Lee included Lt. Niiya in his reply, and Lt. Niiya sent an email directly to the WSP lieutenant, offering his assistance.

In an email dated 12/11/17 and sent to Lt. Lee, staff from the Oregon Department of Justice TITAN Fusion Center requested information about a right-leaning group called the Rise Above Movement, which was possibly associated with another right-leaning group called Identity Europa. On 12/11/17, Lt. Lee sent an email to Lt. Niiya and Officer Andrew Hearst, asking them if they had any information about the group. On 12/12/17 Lt. Niiya replied, indicating he had not heard of Rise Above, but “of course we do have Identity Europa here and if they are assembled within this or other groups it would be hard to determine a sub group” (Appendix C, lines 709-710).

On 6/13/18, FBI Special Agent Jason Kruger sent Lt. Niiya an email, stating Patriot Prayer member David Machado was organizing a protest on 6/30/18, and had requested a point of contact at the Police Bureau. On 6/15/18, Lt. Niiya replied to this message, indicating Sgt. Allen was the designated liaison for the 6/30/18 protest. On 6/16/18, Sgt. Allen sent an email to Lt. Niiya, Special Agent Kruger, and command staff for the Police Bureau and Federal Protective Service. In the email, Sgt. Allen indicated he spoke with Mr. Machado, who indicated he would provide the Police Bureau with their march route. Sgt. Allen further indicated he would meet with Mr. Machado before the protest, noting, “It’s primarily a chance for he and I to meet face to face so we can work together the day of the protest” (Appendix C, lines 1103-1104).

2. Lieutenant Niiya in regular contact with right-leaning protestors and groups
Emails reviewed indicate Lt. Niiya regularly contacted Mr. Gibson, other Patriot Prayer members, and other people on the right side of the political spectrum. These emails also indicate Lt. Niiya regularly updated other Police Bureau staff regarding these contacts. In an email dated 10/1/17 and sent to Police Bureau command staff, Lt. Niiya wrote, “I was just messaged by Joey [Gibson] and he plans on coming down to Portland next weekend with a small group. I informed him there was a protest on Saturday at 1300 and he for now says he will come on Sunday to avoid it” (Appendix C, lines 250-251).

In an email dated 10/28/17, Lt. Niiya described meeting with two Patriot Prayer members, to discuss a recent protest in Berkeley, California as well as an upcoming Patriot Prayer event. Lt. Niiya wrote, “My goals are to leverage them to talk with Joey [Gibson] about either canceling his event here like he did in SFO. Or at the very least not march” (Appendix C, lines 85-86). Lt. Lee replied on 10/28/17, writing, “Please continue to keep us informed on the size of both the Patriot Prayer event (if it continues) as well as any counter protest” (Appendix C, lines 55-56).

In an email dated 11/1/17 and sent to Police Bureau staff, Lt. Niiya indicated he spoke to Mr. Gibson, who reported Mr. Toese and his family received online death threats and had contacted police in Vancouver, Washington. Lt. Niiya indicated Mr. Gibson also told him he had spoken to a person on the left side of the
Case #: 2019-B-0010

Independent Police Review Investigative Report

political spectrum, who was organizing a protest on 11/4/17, about threatening messages various people were posting online. Lt. Niiya provided a link to information about the 11/4/17 protest and wrote, “Just wanted to pass along the profile and info” (Appendix C, line 586).

In an email he sent in the early morning hours of 11/4/17 to Police Bureau command staff, Lt. Niiya noted he reviewed an online video posted by Mr. Gibson, regarding the 11/4/17 protest, and the threatening messages people were posting online. Lt. Niiya wrote, “I think there is a lot of emotion going back and forth with this hype. We are not feeling it, but listening to Joey and talking to him, it seems like a lot of patriots believe something is going to happen tomorrow” (Appendix C, lines 610-611).

3. **Lieutenant Niiya attempted regular contact with left-leaning protestors and groups**

Emails reviewed indicate Lt. Niiya regularly described contacting, or attempting to contact, people on the left side of the political spectrum. Lt. Niiya sent an email to Lt. Lee, and other RRT and Central Intelligence Unit (CIU) staff on 09/28/17, stating, “I met with 2 of my street medic contacts last week and they are hearing planners for the Nov 4 protest (one year anniversary for election) are planning to occupy something” (Appendix C, lines 204-205).

On 10/19/17, Lt. Niiya received a message from the email address [redacted] regarding his contact with Davies which stated, in part, “RCA and PNW AFWC are aware you have had conversations with Tan/June [Davies] they are likely to socially, economically or physically hurt her in retaliation” (Appendix C, lines 451-452). Lt. Niiya notified Police Bureau command staff of the message. On 10/21/17, Lt. Niiya replied to the email, writing:

> I apologize for taking so long to respond back as I have been trying to process what has occurred. I am very concerned for June’s [Davies’] welfare after learning some in the community have taken offense to our communications. I hope people can see in the messages she tried helping those protesting be safe by making requests of us and gathering information from me as well.

> My role as a liaison to multiple people and groups has the intentions to allow people to have their first amendment rights while be considerate of everyone’s safety.

(Appendix C, 470-478)

On 10/23/17, Lt. Niiya sent an email to multiple Police Bureau staff, regarding upcoming protest events, and the recent disclosure of his contacts with Davies. Lt. Niiya wrote, “My medic contact [Davies] has been outed on social media as a ‘snitch’ and our text messages posted. She has gone missing since Thursday” (Appendix C, 530-531). Lt. Niiya further described his concerns about the incident: “I believe my effectiveness for getting any human intel from anyone on the left will now be compromised. My name is out in the activist community and I believe the possibility of being outed by some will have a chilling effect for them to talk with us” (Appendix C, 551-553)

Emails indicate Lt. Niiya continued to reflect on his contact with Davies having been publicly exposed. In an email dated 1/22/18 and sent to fellow RRT members Lt. Lee and now-Lieutenant Craig Dobson, he wrote, “Having done a bulk of this work for nearly 6-7 months I want to say I think the protest community
is finally understanding. I also am hopeful the outing of me in the media may have helped some of these groups understand what we are trying to accomplish” (Appendix C, lines 846-848).

On 1/31/18, Lt. Niiya received an email from a protest organizer, which stated: “Hi Sgt Niiya [sic] We are planning a very peaceful protest at the airport Holiday Inn on Saturday starting at 11:15 am during Rep. Walden’s speech. Just thought we would give you a head’s up…” (Appendix C, lines 898-900).

On 6/19/18, Lt. Niiya received an email from the address [redacted], which stated they were “Comm Ops” for the OccupyICEPDX protest. The email stated unless the City of Portland voluntarily shut down the roads around the ICE facility on SW Macadam Ave, protesters may begin “blockading and shutting down roadways” (Appendix C, lines 1193-1194) through the use of “activists as human barriers and use of caltrops, glass and nails” (Appendix C, lines 1196-1197). Lt. Niiya replied to this email, stating, “Thank you for the warning of a possible action tomorrow and the coming days” (Appendix C, line 1165). Lt. Niiya requested protesters remain on the sidewalks and not block traffic, and stated, “If unlawful activities start to impact the greater public we will have to evaluate how the Bureau needs to address these actions” (Appendix C, lines 1172-1173).

In an 11/8/18 email sent to other Police Bureau staff, Lt. Niiya noted he had a telephone conversation with Mr. LeDoux, the protest organizer who had earlier contacted Chief Outlaw regarding a protest to support Robert Mueller. Lt. Niiya indicated Mr. LeDoux described his plans for an upcoming rally and requested the Police Bureau provide him with a point of contact. Lt. Niiya wrote, “I told Jordan [LeDoux] I would follow up with him tomorrow” (Appendix C, line 1142).

INTERVIEWS CONDUCTED

Interview with Assistant Chief Ryan Lee
IPR Investigators Andrea Damewood and Eric Berry interviewed Assistant Chief Ryan Lee on 3/18/19 at Internal Affairs. IA Sergeant Pete Helzer and Captain Brian Ossenkop were also present. An audio recording and full transcription of the interview are available in this case’s file.

A/C Lee stated he started working at the Police Bureau in 2000 and has been a member of RRT for approximately 15 to 16 years. A/C Lee stated he remained in RRT as he moved up through the ranks, and he was the commanding officer of the unit prior to his promotion to Assistant Chief. A/C Lee stated he has studied methods of crowd management and control internationally and domestically. A/C Lee stated the National Institute of Justice considers him to be one of the leading subject matter experts on crowd management and control in the United States.

1. **Assistant Chief Lee described the purpose and value of liaison work**
A/C Lee stated he was an advocate for instituting the use of a liaison in crowd management, as part of an evolving view toward protest policing. A/C Lee stated prior views on protest policing were more along the lines of crowd control, versus crowd management. A/C Lee explained:

   I think that there was clearly a philosophy that goes back well before probably any of us were in professional careers that really was about crowd control. It was about reasserting authority versus a crowd management and a facilitation sort of mindset... We’re always
looking for ways to – always looking for alternatives to being in a control setting. So, to
delineate between crowd management and crowd control, crowd management is
fundamentally the concept that you are trying to manage, negotiate, facilitate activity
and to find – help people identify and carry out lawful expressions of the rights that they
are exercising.
(Lee 3/18/19 interview, lines 119-121 and 129-132)

A/C Lee stated the idea of a liaison is for a police officer to serve as a point of contact prior to and during
protest events to gain information and allow for appropriate police response. A/C Lee stated he became
aware of the concept in approximately 2013 based on a method known as “dialogue policing” that was
introduced in Sweden. A/C Lee stated:

The idea is that – their sole function is to really develop communications and be an
information conduit. Their design is not really to be an intelligence gatherer. Having
intelligent conversations with people will ultimately lead to gaining intelligence
information that can be forwarded up your chain of command. You may learn activities,
plans, other events that they have but it’s the recognition that – for the lack of a better
description – relational policing. That regardless of the ideology, whether you may
personally find it repugnant, that having a dialogue with somebody so that you
understand their intent, their action, you can communicate consequences to behavior to
help try and facilitate lawful expression, that that is a more advantageous route.
(Lee 3/18/19 interview, lines 260-267)

A/C Lee stated the use of a liaison is a recommended best practice by the Police Executive Research
Forum. A/C Lee stated the use of a liaison was incorporated into Directive 635.10 – Crowd
Management/Crowd Control when it was most recently revised. A/C Lee estimated that in the last 18
months, approximately four or five Bureau members, including Lt. Niiya, had been used in a liaison role.

A/C Lee described some instances of the Police Bureau successfully using a liaison, including during events
which caused public concern. Regarding the 6/4/17 protest and counter-protests, A/C Lee stated:

There were three sort of distinct protesting groups. There was – using shorthand it may
not be the best descriptions – for what the public perceived is sort of an alt-right. There
was a generally more Portland protest sort of community and then there was sort of those
willing to more militantly engage on sort of the opposite end of the alt-right spectrum. So,
we have three different groups. The ability to actually some of – despite the tension
between sort of the two extremist groups – the ability to communicate and explain what
was going on was sort of – again, very shorthand – sort of the more Portland group, it was
much easier to look at that in its totality to keep those parties from being involved, to keep
people from co-opting that event.
(Lee 3/18/19 interview, lines 336-343)

A/C Lee stated during a protest in the Montavilla neighborhood in April 2017 the liaison assisted in
identifying Jeremy Christian (who was later charged with murdering two people on a MAX train on
5/26/17) as “somebody that was volatile.” A/C Lee stated:
Case #: 2019-B-0010
Independent Police Review Investigative Report

Jeremy Christian, the individual who wound up committing the murders on the MAX train, actually showed up and the ability to have liaisons recognize what was going on, provide information, explain to people on both sides that they needed to not engage, and the actual ability to disentangle him [Christian] from that event contrary to what the press talks about was a success to not have somebody – especially in hindsight – to look back and realize we have removed somebody that was that volatile from the event.
(Lee 3/18/19 interview, lines 347-352)

Asked to describe any problems the Police Bureau encountered with using a liaison, A/C Lee stated the Police Bureau encountered "the same problems" as other law enforcement agencies that have used liaisons. A/C Lee stated:

If you’ve been dealing with somebody – and I’ll just be blunt – maybe the extremism of their thought is a little tiring to just mentally try and negotiate with somebody like that. If you’ve been dealing with them before the event, during the event, you’re trying to really essentially avoid a critical event. You’re trying to avoid or manage through crisis that’s very mentally taxing. The ability to say something that is maybe not as professionally selected or guarded as you may want it to be or could be taken out of context and the ability for that to be capitalized on, that has been a frequent problem that they’ve had with police liaisons in the United Kingdom.
(Lee 3/18/19 interview, lines 368-374)

2. Training for liaison and review of liaison communications
A/C Lee confirmed there is no official Police Bureau training for the liaison role, nor are there standard operating procedures for a liaison to follow. A/C Lee stated he directed a captain to begin researching available training, and the Police Bureau is considering changing its structure and policies to have Police Bureau command staff review individual text messages between liaisons and their contacts.

A/C Lee stated while he may have read specific text messages between Lt. Niiya and his contacts, he is not aware of any Bureau member conducting a regular review of these contacts. Asked if he was aware of how Lt. Niiya was obtaining information about protests, A/C Lee stated:

We were well aware that he [Niiya] was speaking to people on all political spectrums. Anybody that is willing to talk to us to help us come out with a safe outcome and minimize the likelihood of violence or the likelihood of a contentious event occurring, we’re going to try and talk to them. I think that that’s sort of an expectation of police and the City is that if somebody wants to talk to the police and try to find a peaceful outcome we’re going to communicate with them.
(Lee 3/18/19 interview, lines 463-467)

3. Interpretation of Lieutenant Niiya’s text communications
A/C Lee indicated community members have asked him questions about Lt. Niiya’s text messages and the news stories about them. A/C Lee stated:
Case #: 2019-B-0010
Independent Police Review Investigative Report

I’ve equated it a little bit to if somebody were to sit down and listen to a detective interview a homicide suspect, they are often appalled at how you can continue to talk to a person who is describing some fairly heinous and graphic action but we have to continue to talk to the person and seem moderate and gain the communication that we need. It’s the same if you listen to a negotiation from, you know, the classic sort of SWAT event, people are very surprised to hear sort of that dialogue and how that plays out. The ability for the public to not understand that we’re developing rapport with somebody to continue a dialogue often gets lost to the casual listener and I think that especially in the information age the ability to take things out of context and to put implication in them makes that even more challenging.
(Lee 3/18/19 interview, lines 480-488)

A/C Lee stated he read the majority of Lt. Niiya’s text messages after the news stories broke in February. Asked if he found any of the text message exchanges problematic, A/C Lee noted some examples.

A/C Lee first referred to an exchange between Lt. Niiya and Brian Krogmann, a retired law enforcement officer who was aligned with the right-leaning protesters during the 6/4/17 protests. This exchange is as follows:

Niiya: Good morning Sir. Sgt Niiya here. I would like pictures of those who will be armed. I don’t want a blue on blue issue.
Krogmann: As soon as our group is assembled I’ll send those. At this point we have ONE CCW holder who WILL NOT be in the park but I will confirm ASAP and send photos
(Appendix A, lines 273-276)

Regarding this exchange, A/C Lee stated:

I remember distinctly he [Niiya] uses verbiage to the effect of blue-on-blue and thinking in hindsight somebody not understanding that you’re talking to a former law enforcement officer, a retired law enforcement officer who’s now decided to associate with somebody who’s ideologically more extreme than I think he would be that that has the opportunity to be taken out of context. I also get why he used that verbiage in shorthand, again trying to write a quick text and gain information, and trying to have a level of comfort and familiarity with a person to talk to them. The see I can understand where you’re coming from standpoint gains some advantage when building rapport, but looking at that in hindsight and when I read that text I remember thinking that was probably not the best choice because it creates this – it can create – a misimpression to the public who’s not understanding it in full context.
(Lee 3/18/19 interview, lines 511-519)

A/C Lee also referred to text message exchanges between Lt. Niiya and Mr. Gibson, regarding whether there was a warrant for Mr. Toese’s arrest, on 12/8/17 and 10/20/18. The 12/8/17 exchange is as follows:

Niiya: When you don’t get intimidated and show you care they do it no reason to do it. And yes I don’t think this will be a huge deal. I’m thinking it will be a lot like the last one.
Case #: 2019-B-0010
Independent Police Review Investigative Report

BTW, make sure Tiny [Toese] has his court stuff taken care of. I was told on the radio at the Jamison Sq event he had a warrant. I told them we would not be arresting Tiny right now. So please be sure he’s good to go before coming down

Gibson: Shit. He told me he was good.

Niiya: Just have him double check

Gibson: Whoever Tiny is talking to at the courts they said they would take care of it Monday.

Niiya: Ok. Just make sure he doesn’t do anything which may draw our attention. If he still has the warrant in the system (I don’t run you guys so I don’t personally know) the officers could arrest him. I don’t see a need to arrest on the warrant unless there is a reason. I’ll be working today but upstairs in the operations center. A buddy of mine will be doing the liaison work. But feel free to call or text me if you need to.
(Appendix A, lines 182-192)

The 10/20/18 exchange is as follows:

Gibson: Are there warrants out for Tinys arrest?

Niiya: Not that I know about. He can call the front desk of Central and ask them to run his name and see 503-823-0097
(Appendix A, lines 212-214)

Regarding these exchanges, A/C Lee stated warrants are public records, and it is a common practice for officers to disclose warrant status to people or their associates. A/C Lee stated disclosing a person’s warrant status to that person could also be viewed as a deterrent. A/C Lee stated:

The way it is written that people could construe that as if it was a warning, which I vaguely remember having a conversation when I was acting captain at Central about that to the effect where he had told Joey Gibson hey I told Tiny – I told him that Tiny has a warrant and the tone and intent of doing that was much like we do with a lot of other people. Hey there’s a consequence if we see you again with the intent of maybe you shouldn’t be coming down here to the City of Portland to stir up problems.
(Lee 3/18/19 interview, lines 527-532)

A/C Lee described his impressions of Lt. Niiya’s exchange with Mr. Gibson, during which Mr. Gibson announced he was running for office. The 1/22/18 exchange is as follows:

Gibson: The hate against me will multiply because I am running for office, so when I come into Portland and Seattle the energy will be high. I know it’s a pain in the ass for you guys, but I will do the best I can to work with you.

Niiya: Your running for office?!? Good for you. County level?

Gibson: Federal. Please don’t tell anyone until I publicly announce in about 14 days.
(Appendix A, lines 195-199)

A/C Lee stated he did not believe the exchanged showed bias on the part of Lt. Niiya. A/C Lee stated:
Case #: 2019-B-0010  
Independent Police Review Investigative Report

While I can understand the public’s concern and the public’s sense of it and how it can be taken in a context of distaste, I’m also looking at it from my police experience as somebody who’s trying to maintain rapport and it doesn’t shock my conscience because of that. (Lee 3/18/19 interview, lines 576-578)

A/C Lee was asked about the perception on the part of some community members that the Police Bureau is biased toward right-leaning protest groups. Asked if the Police Bureau is more successful at interacting with some groups than with others, A/C Lee stated, “I would say we’re successful with anybody that wants to talk to us” (Lee 3/18/19 interview, line 722). A/C Lee stated:

We should never operate in this idea that if we’re trying to manage two conflicting groups from coming together and we have one group that is willing to speak to us and another group that maybe – their representatives are more reserved in their communications – the notion then that we should cease communication with all groups in a sense of equality is foolhardy. (Lee 3/18/19 interview, lines 734-738)

4. Bureau Policy and Directives
When interviewed, A/C Lee was asked to review the allegations associated with this investigation and indicate whether he believed Lt. Niiya violated Bureau directives. A/C Lee stated he did not believe Lt. Niiya violated directives but added there was a need to review the Police Bureau’s policy about the liaison position. A/C Lee stated:

However, if I was a finder of fact, would I say that it was not sustained with a debrief and want to have considerable conversations about the mindfulness of verbiage used, the ability for it to be communicated, would I have – would I probably also check on the box that there needs to be a policy review and that we as an institution need to build some better safeguards and checks and that we probably need to develop some sort of system so that all those communications go to a universal single source point, whether it’s we assign liaisons their own phone, whether for liaison work only we’re pulling it back and downloading all the information at the end of each event, whether we have a universal point of contact – for example, in this whether it’s policeliasjon.jeffniya@portlandoregon.gov instead so that it goes to a different email than the regular email so those communications are easier to maintain and track so the people wishing to engage in activism it still is easy for them to communicate. (Lee 3/18/19 interview, lines 589-598)

Interview with Senior Mayoral Advisor Berk Nelson
IPR investigator Damewood interviewed Berk Nelson, a senior adviser to Mayor Ted Wheeler, at IPR’s offices on 3/12/19. An audio recording and full transcription of the interview are available in this case’s file.

Mr. Nelson stated he served as the public safety liaison for the Mayor’s Office from January 2017 to 3/15/19. Mr. Nelson said he reported to Chief of Staff Kristin Dennis and to Mayor Wheeler. Mr. Nelson stated he dealt with the police response to protests, with a primary goal of preventing protests from
Case #: 2019-8-0010
Independent Police Review Investigative Report

becoming unsafe, destroying property or shutting down bridges and transit lines. Mr. Nelson stated he attended protests, monitoring movements from the command center and keeping the mayor updated.

Mr. Nelson stated he interacted with Lt. Niiya in the context of protests, primarily to find out the time, date, location and size of upcoming protests. Mr. Nelson stated he was aware Lt. Niiya was in contact with protesters but did not ask to see specific texts or have any further information on how Lt. Niiya obtained information. Mr. Nelson stated he would pass on information provided by Lt. Niiya to Mayor Wheeler.

Regarding his knowledge of Lt. Niiya’s role as a liaison, Mr. Nelson stated:

I think he had a good communication rapport with Joey Gibson. Tried to develop one with [redacted] which has proved more difficult. Because the purpose of them is to find out where they were going. What time they were going to be there so they can be able to staff police accordingly, let the public know, also watch out for TriMet closures, stuff like that. So, that’s what the purpose of him gathering that information and intelligence was. Yeah, and then I think he also Star Staufer, I think he tried to reach out to, but I don’t know the details of the emails. Just knowing that he tried to reach out to individuals from time to time.
(Nelson 3/12/19 interview, lines 231-237)

1. Interpretation of Lieutenant Niiya’s text communications

Mr. Nelson stated he had not read all of Lt. Niiya’s texts following the news coverage about them, but he was aware of the “gist” of them. Describing his reaction to the text messages exchanges coming to light, Mr. Nelson stated:

My reaction is that I know that police take certain actions to get information. So, I equated to like an interrogation. Where police will try to befriend alleged criminals to try and get more information by any means necessary. I mean, police do certain tactics that are within the law like, lie and stuff like that to get information. So, I equated that to this being the same thing. Just because you’re trying – you’re interrogating a child molester and trying to get them to reveal information does not make that police officer a child molester. So, just because Jeff Niiya is having conversations with Joey Gibson trying to get him to reveal information, does not mean he goes and hangs out with Joey Gibson and has a beer with Joey Gibson. They’re not friends. He’s just trying to extract information. That’s the way I look at it.
(Nelson 3/12/19 interview, lines 310-317)

Asked if he felt Lt. Niiya showed bias when he congratulated Mr. Gibson on his run for senate, Mr. Nelson stated, “To me that’s just a colloquialism trying to remain or to keep a good rapport. That’s the way I looked at it. I’m not looking at it as him [Niiya] going up and stumping for fricking Joey Gibson” (Nelson 3/12/19 interview, lines 333-335).

Mr. Nelson stated IPR should ask Lt. Niiya “about the reasoning behind explaining to Tiny [Toese] how to evade arrest. That is troublesome.” (Nelson 3/12/19 interview, lines 430-431) He continued:
Case #: 2019-B-0010
Independent Police Review Investigative Report

The only thing that I can come up with is maybe he thought it would be safer for the bureau and the public not to have officers go in and try to arrest Tiny [Toese] when there’s a mass of people who may be armed because it’s an open carry state.
(Nelson 3/12/19 interview, lines 436-438)

Addressing the negative reaction on the part of many community members to the news that Lt. Niiya had been communicating with Mr. Gibson and other people on the right side of the political spectrum, Mr. Nelson stated:

I would love to pose a question back to the public. What do you want us to do? What do you want us to do? How are we supposed to keep everybody safe with less information? Or what avenues would you like the police to do to gain this information? Because without any type of rapport, we’re in the dark.
(Nelson 3/12/19 interview, lines 357-360)

2. Bureau Policy and Directives

Mr. Nelson stated there were some policy issues that in hindsight the Police Bureau needed to address regarding the use of a liaison. Mr. Nelson stated there “needs to be communication within the Bureau of what’s being communicated to demonstration leaders, so everybody’s kept in the loop” (Nelson 3/12/19 IPR interview, lines 376-377). Mr. Nelson stated:

There also I think needs to be some type of liaison between the bureau and the public who also can have eyes on it and be like, I know that this is policy or in the past this is how – but this is how it could also be read.
(Nelson 3/12/19 interview, lines 392-394)

Interview with Sergeant Kevin Allen

IPR investigators Damewood and Berry interviewed Sergeant Kevin Allen on 3/18/19 at Internal Affairs. IA Sgt. Helzer and PPA President Daryl Turner were also present. An audio recording and full transcription of the interview are available in this case’s file.

1. June 3, 2018 protest

Sgt. Allen stated he is assigned to East Precinct and is not a member of RRT. Sgt. Allen stated that starting with the 6/3/18 protest, he served as a liaison for at least six protest events. Sgt. Allen stated he was asked to show up at the briefing for the protest, where he was informed he would be the point of contact between protest groups and the Police Bureau. Sgt. Allen stated he received no further training or information from commanders regarding his role. Sgt. Allen stated, “The impression I got was the role of liaison was being kind of developed as we went” (Allen 3/18/19 interview, lines 81-82).

Sgt. Allen stated he spoke with Lt. Niiya after the briefing, who gave him some pointers and Joey Gibson’s telephone number. Sgt. Allen said he texted Mr. Gibson and introduced himself and informed him he would be the point of contact for this rally. Sgt. Allen stated he also communicated with Patriot Prayer associate Mr. Machado by telephone and email. Sgt. Allen indicated Mr. Machado came to East Precinct before one event to meet.
Case #: 2019-B-0010
Independent Police Review Investigative Report

Sgt. Allen stated Lt. Niiya told him to speak with anyone who would communicate with him, and to keep the command center informed of what was going on in the street. Sgt. Allen stated about one hour prior to the rally, he approached a group in Chapman Square, which included many activists known to film police activity. Sgt. Allen stated:

All the cameras came up. Myself and Officer Storm were almost surrounded by them. It was a very uncomfortable situation and they started screaming and yelling at me. And I said, hey guys, I’m not here to enforce anything. I’m just here to communicate. I wanted to give you my information and I handed my business card. I remember specifically no one would take my card. And what I ended up doing was I put it on the ground and Eli Richey and all the cameras all were zooming in on it and were zooming in on me, and I couldn’t get a word in edgewise. So, there was a huge safety concern there and I already communicated to command that I was in there.
(Allen 3/18/19 interview, lines 348-354)

Sgt. Allen indicated he attempted to speak to protesters, but they did not appear to be receptive to speaking to him. Sgt. Allen stated:

I said if anybody would like to communicate with the police, I will be over there for a little while and I’ll be available to you. And I went over, and I stood across the street for probably twenty, thirty minutes and nobody came up to me.
(Allen 3/18/19 interview, lines 355-357)

Sgt. Allen stated during the incident, he remained in contact with the operations chief or deputy chief in the command center, over radio, telephone and text. Sgt. Allen stated after the rally began, Mr. Gibson and the Patriot Prayer group decided to march. Sgt. Allen indicated he asked for the route the group intended to march, and he was told they did not have a route. Sgt. Allen stated:

If memory serves, they came back to the park and then rallied some more and then there was a lot of words being exchanged between the opposing sides and then they decided to march again. They may have marched actually three times because I remember we were all getting tired of following them around.
(Allen 3/18/19 interview, lines 187-190)

Sgt. Allen stated at that point Lt. Niiya called him and asked him to tell Mr. Gibson that the police had probable cause to arrest some of the Patriot Prayer members. Sgt. Allen stated he believes police reviewed video footage of an incident during the protest and established probable cause to arrest some Patriot Prayer members, including Mr. Toese. Sgt. Allen indicated he approached Mr. Gibson and spoke to him.

Sgt. Allen’s interaction with Mr. Gibson was video recorded. The Guardian included this video footage in the 3/1/19 article describing the incident. When interviewed, Sgt. Allen was given an opportunity to view the footage. After viewing the video, Sgt. Allen stated:
Case #: 2019-B-0010
Independent Police Review Investigative Report

Our goal was to end the dangerous situation as to try to get the – to avoid people getting hurt because we had these two opposing groups that were ramping each other up with emotion and with anger and I – I don’t remember if there was in this event but we had numerous physical scuffles between the two sides. We just didn’t have the ability to keep them separated. We were running around trying to keep up and it, you know, they had had their event. Their permitted event and I think at one point the permit might’ve been revoked. There was one event where the permit was revoked. I’m not sure if it was this one, but it – anyway, it was like we’d given them an opportunity to have their say and it’s time to be done. That was the goal and if we have to use arrest as a motivation to – to get them to end, then we were planning to do that. (Allen 3/18/19 interview, lines 226-233)

Sgt. Allen indicated at that point, members of Patriot Prayer began leaving the area. Sgt. Allen indicated officers often use the threat of arrest to stop a behavior, in and out of protests. Sgt. Allen stated:

If we can influence them to stop their behavior by threaten it, the threat of arrest, that’s a very effective at often times ending their behavior. And of – and when it doesn’t, then we can come back and make an arrest at a later time. So, that’s a very common strategy. (Allen 3/18/19 interview, lines 423-425)

2. Interpretation of Lieutenant Niiya’s text communications

Sgt. Allen stated when Lt. Niiya’s text message exchanges were first reported in February 2019, he read some of the news articles about them, as well as some of the text messages Lt. Niiya sent. Sgt. Allen characterized his communication style as similar to Lt. Niiya’s. Sgt. Allen stated nothing he read or saw struck him as problematic. Sgt. Allen stated:

We speak like a regular person. We don’t talk like a robot or, you know, just overly formalized way. The best cops I know communicate with people like that and they communicate with people like that whether they are victims, witnesses, and suspects. And even if we know they’ve committed a heinous crime, sometimes we talk to them like that because we will almost without exception be more successful in gathering information, doing our jobs, investigating incidents, by communicating that way. (Allen 3/18/19 interview, lines 282-286)

Sgt. Allen further stated:

I understand he’s [Niiya is] doing his job and it’s not – it’s not like he’s palling around with these folks. There’s still that professional barrier, but he’s just communicating and he’s gathering information and, in many cases, he’s being upfront about his goal. I’m trying to gather information. I want to know why, you know, when you guys are going to be there. What you’re planning to do. How many people are coming? All these things. (Allen 3/18/19 interview, lines 289-293)

Interview with Lieutenant Jeffrey Niiya
Case #: 2019-B-0010
Independent Police Review Investigative Report

IPR investigators Damewood and Berry interviewed Lt. Niiya on 4/8/19 at Internal Affairs. IA Sgt. Helzer and Lieutenant Craig Morgan were also present. An audio recording and full transcription of the interview are available in this case’s file.

Lt. Niiya indicated he has worked for the Portland Police Bureau since 1996, except from 2014-2016, when he went to work for Oregon Health Science University’s (OHSU’s) police force. He was promoted to Sergeant in 2005. At that time, he began to regularly take part in the Police Bureau’s response to protest activity. He joined RRT in 2010 or 2011 and rejoined the team when he returned from OHSU to the Police Bureau. He was promoted to lieutenant in February 2018 and was assigned to Central Precinct. He was then put in command of RRT and was assigned to the Tactical Operations Division (TOD). In April 2019, he was reassigned from RRT to the Professional Standards Division (PSD).

1. Appointment as liaison
Lt. Niiya stated that starting with the protests surrounding Schumacher Furs in 2005, he has engaged in liaison work for the Police Bureau. Lt. Niiya indicated he was assigned as the sergeant in charge of the Police Bureau’s response to a long-lasting protest regarding Schumacher, and he acted as the liaison between business owner Gregg Schumacher and protesters. Lt. Niiya said he also took part in the Police Bureau’s response to the Occupy Portland protests. Lt. Niiya stated he and then-Sergeant Dobson shared responsibilities of taking the lead in responding to protest activity and communicating with protesters.

Lt. Niiya stated Commander Kelli Sheffer and Captain Larry Graham (both now retired from the Police Bureau) asked him to be a liaison following the 2/20/17 Not My President’s Day protests. He was then made the special events sergeant for Central Precinct. He began reaching out to other City agencies such as Portland Parks & Recreation, and the Portland Bureau of Transportation (PBOT), to coordinate the City’s response to protest activity. He also established contact with protest organizers to assist them with obtaining permits.

Lt. Niiya further indicated that when Directive 635.10 – Crowd Management/Crowd Control was revised in August 2017, the use of a protest liaison was incorporated into the Directive. Although he was still an RRT member, his liaison work was considered part of his duties as Central Precinct’s special events sergeant. At the time, then-Lt. Lee was his direct supervisor at Central Precinct and on RRT.

Part of his goal, Lt. Niiya said, was to speak with people from all sides and pass along information so that the Police Bureau could make plans for safe demonstrations and staff events appropriately. Lt. Niiya described this as being visible at protests and city council meetings, talking to anyone who would speak with him and giving out his phone number.

2. Liaison training and protocols
Asked if he received any training regarding acting as a liaison, Lt. Niiya stated, “Absolutely none, no” (Niiya 4/8/19 interview, line 223). Lt. Niiya stated:

[Sergerant] Kevin Allen actually came to me and said, you know, we probably should had you do some type of training or formalize this somehow because he felt that at the initial time a little bit lost, right and so, yeah, you know, I will say we’ve talked about it, but there
Case #: 2019-B-0010
Independent Police Review Investigative Report

had been no actual formalized, let's look at this. Let's put like an SOP or some type of training thing out there. It was on the to-do list.
(Niiya 4/8/19 interview, lines 277-280)

Lt. Niiya said he primarily communicated with outside contacts via text messages he sent from his Bureau-issued cellular telephone. Lt. Niiya indicated he wanted to maintain a record of all the interactions he had as a liaison. Lt. Niiya stated:

I tried primarily through text because with the Smarshing, the external company that we use to capture our text. I wanted a record of what I was doing. So, yeah, I mean sometimes there are phone calls being made because you want to have that personal connection or there’s some information is lost in translation, but I try for the most part to do text.
(Niiya 4/8/19 interview lines 218-221)

3. Contacts with left-leaning community members
Lt. Niiya stated he attempted to have contact with community members from all sides of the political spectrum. Many of Lt. Niiya’s contacts with community members on the left side of the political spectrum occurred in 2017. As an example, Lt. Niiya detailed attempts to work with Nora Colie, a left-leaning protester, during the 5/1/17 protests (for additional details, refer to the summary of PPB report #17-680465 in Appendix B; the full report in file; and related texts in Appendix A).

Lt. Niiya stated he met with Ms. Colie prior to the May Day protests and attempted to get information on strategies and discuss concerns about anarchists taking over the event. Lt. Niiya stated he went on to exchange text messages with Ms. Colie during the protests, discussing anarchist activity and other crowd movements:

Niiya: Well more were just thrown at us by Wells Fargo building we need to put helmets on.
Niiya: Tell your peace keepers to try and stop this
Colie: What’s the latest?
Niiya: One of our fire medics got hit with a Pepsi can thrown at him
Colie: Um well the intention is to get people back to the park I realize this to be disbanded but can’t control group Trying to get them on side walk But up front they are peaceful at least
(Appendix B, lines 78-83)

Later, the two continued texting. On 6/5/17, they had the following exchange:

Colie: Hey Jeff, maybe we should still meet in a week or two. And maybe you bring a few other officers along and I bring some people. I know there are some bad seeds within protests gatherings who can ruin it for the rest of us by throwing stuff, but still the harsh return from the police makes it pretty terrible for those of us not there to battle you, which is always the majority of the crowd. It was weird yesterday to get attacked by the police suddenly and see standing behind them white supremacists cheering the police on. It made lots and lots of people feel uncomfortable and lose even more hope for this country
and the direction of the PPD. I assume that is not what the PPD is going for and I know some of those cops were federal but still. This protests are gonna continue so we MUST find a way to work together.

Niiya: Nora thank you for sending this to me and your message. I saw you yesterday but did not get a chance to say hello. I was busy liaising with Jamie Partridge and his peacekeepers. Texting some people in the Chapman group, and working with the patriots organizers. I tried to do a better job than on May Day. I would love to sit down with you and others to discuss. We understand it's not a collective group, but individuals whom make it hard on all of us. I'm still working Wed-Sat from 7 am to 5 pm. Let me know when and where works best for up and the others.
(Appendix A lines 156-169)

4. Contacts with left-leaning protestors around June 4 protest

Lt. Niiya also detailed numerous attempts to contact left-leaning protesters prior to, during, and after the 6/4/17 protests, including Ms. Colie, Star Stauffer, Mimi German, **[redacted]** Jamie Partridge, and Rabbi Debra Kolodny. Lt. Niiya's exchanges involve informing the groups' liaisons of crowd movements and requesting internal peacekeepers take actions to keep their groups off streets and prevent violence (for additional details refer to the summary of report #17-680687; the full report in file and related texts in Appendix A). On 6/4/17, Lt. Niiya exchanged text messages with Mr. Partridge:

Niiya: Being told black Bloch made their way into your group FYI. Can the peacekeepers get them out?
Partridge: We're doing our best ... we're asking them to unmask & give up weapons
Niiya: Great thanks. Ned got back to me.
Partridge: Are you telling us to disperse?
Niiya: No you are fine. Please let us deal with antifa
Partridge: Cool
Niiya: Have your peacekeepers keep people there
Niiya: We were taking balloons filled with an unknown liquid and then bricks were thrown at us. I'm sorry this is happening
Partridge: We are no longer in control...Another group has control of the crowd on the sidewalk in front of City Hall. the Brown Berets helped move the crowd out of the street...thanks for your cooperation...leaving the scene
(Appendix A, lines 219-230)

Lt. Niiya also contacted Siobhan and Ned Burke, who were involved with the protests in front of City Hall that day. On 6/4/17, they had the following exchange:

Niiya: Need to have the peacekeepers on 4tg Ave not allow jay walking please. Dangerous and illegal
Burke: We're on it. Media are ignoring us though
Niiya: We are hearing they plan to rush the Patriot group. I would advise you to keep your folks over there if the black Bloch try
(Appendix A, lines 265-268)
Case #: 2019-B-0010
Independent Police Review Investigative Report

Lt. Niiya also exchanged text messages with Ms. German on 6/4/17:

**Niiya:** Just to keep you informed and also if you can pass it along. I have wanted the patriots if they are in the street they are subject to arrest. Can you please ask your folks on Chapman to stay out of the street as well? Thank you
**German:** We know.
(Appendix A, lines 257-260)

Following the 6/4/17 protest, on 6/17/17 Lt. Niiya spoke in person with Ms. German, Ms. Stauffer and others. Lt. Niiya described this activity to now-Lieutenant Dobson via text message:

**Dobson:** You in?
**Niiya:** Yes at the waterfront. Talking the mimi, star and other protesters for the last 45 min
(Appendix A, lines 56-57)

When interviewed, Lt. Niiya described this conversation, stating, “I kind of let the veil back a little bit” (Niiya 4/8/19 interview, line 596). Lt. Niiya stated:

*I tried to explain to them about why they don’t want a partisan police department. Why law enforcement cannot place sides because sides always change, right. Power is constantly moving in our republic, and so I also at that — that was probably the first time I’d ever talked to any of the protest groups about — I probably align with some more of your ideas then you guys probably believe and a lot of us in this organization, we’re a thousand-person department, we have very blended views of things. You can’t just label all of us with one broad stroke, and I told them that my wife is an immigrant. That she’s Jewish. My kids are Jewish. My friends are all immigrants. You know, there’s a lot of things that I hold as a personal belief, but I do not let it affect my job, nor should it and nor should they want me to let that affect my job.*
(Niiya 4/8/19 interview, lines 1144-1152)

5. **Communications with Davies**

Lt. Niiya had several text message exchanges with left-leaning protester Davies in 2017. When interviewed, Lt. Niiya described these exchanges as an example of successful liaison work, and indicated in one instance the exchanges helped police avoid using force. Lt. Niiya stated:

*I still remember a time, rally at Terry Schrunk Plaza. The left and the right were both in there. The police bureau had RRT in full PPE [Personal Protective Equipment] which is, you know, full protective gear and there was pushing and shoving going on and I can tell you that June [Davies] was messaging me directly and saying, hey don’t bring in the hard squads. It’s going to set the tone off and we’re going to lose control. I trust — I trusted her and the command staff who was in charge, I think that one was Captain Graham at the time. I sent that information up to the incident commanders and people upstairs in the incident command post, they trusted me with my information, and we didn’t. We did not bring in police in that situation and it ultimately resolved itself.*
Case #: 2019-B-0010
Independent Police Review Investigative Report

(Niiya 4/8/19 interview, lines 359-366)

Text messages Lt. Niiya exchanged with Davies on 10/8/17 support Lt. Niiya’s description of the incident:

Davies: What is your play. There’s no danger here. The riots need to be called off.
Niiya: Ploy plan? Don’t know right now...think sit back and watch again
Davies: My people are panicking because of them. They should be called back to the cats. Cars.
Niiya: I’ll let them know.
Davies: Please. I don’t want any major issues today. Call them off now. So, RCA [Rose City Antifa] won’t get even more aggressive. Believe me. Please trust me on this. Please call them off ASAP.
Niiya: I’m working on it.
Davies: Great.
Niiya: They are moving now.
Davies: Thank you, I see them.
(Appendix A, lines 286-281295)

In another exchange, previously described in media reports, Lt. Niiya described his role to Davies:

Niiya: I’m a liaison officer
Davies: You need to be a captain or a commander.
Niiya: Haha...thanks. see you need to be chief and making decisions
(Appendix A, lines 281-283)

6. Exposure of Davies communications limits further contact with left-leaning groups
Lt. Niiya stated after his contact with Davies was first exposed on Facebook by activist Luis Marquez in October 2017, and after it received media coverage in December 2017, he was concerned about Davies’ safety. The last text message Davies sent to Lt. Niiya, dated 10/20/18, was a series of Morse code dots that translated to “Phone being watched call soon” (Appendix A, lines 305-306).

Lt. Niiya stated the public exposure of his communication with Davies put a “shock stop” (Niiya 4/8/19 interview, line 317) to his communication with left-leaning contacts, Lt. Niiya stated. Ms. German and Ms. Stauffer stopped speaking to him, Lt. Niiya said, and he felt a “wall” attempting to talk to people on the left. Lt. Niiya stated, “My personal belief is that I was becoming ineffective versus what I had done earlier in my time, but due to the void and the fact that we still needed that job done, they kept me in it” (Niiya 4/8/19 interview, lines 787-789).

On 10/25/17 he texted the following with Sgt. Martin Schell:

Niiya: Throwing something out for you to think about. Would you be interested in doing what I am doing for Protest work?
Schell: I honestly don’t know if I could fill your shoes on the technological front. You have set the bar very high. I would be fine interacting with the players, but I’m not good at the other part of what you do
Case #: 2019-B-0010
Independent Police Review Investigative Report

Niiya: You could learn and we are trying to get Hearst to do the background stuff but having some knowledge of what's going on is needed. I lost a lot due to one of my sources getting outed on FB. Calling her a snitch and saying I used her. Doubt most are going to want to talk to me now

Schell: Might be a good discussion to have when I get back. I will not be offended if there is someone else out there who is a more natural choice. What about Hughes? He is money at this stuff. There might be an officer too

(Appendix A lines 104-113)

Lt. Niiya stated he also approached A/C Lee about removing him from the liaison role, but was told he would remain in the position:

But I did have conversations like, you know, should we – should I continue doing this, but I think the consensus was again, there's a vacuum. There's nobody else doing it. We still need this – need this for our ability to work protests. So, it just came down to me to try to just navigate that water.

(Niiya 4/8/19 interview, lines 336-338)

7. Communications with right-leaning groups and individuals

Lt. Niiya stated Joey Gibson was his main contact on the right side of the political spectrum, but he spoke with other people as well. Lt. Niiya stated prior to the 6/4/17 Patriot Prayer rally, he worked with the group organizing the rally.

Lt. Niiya's texts and report for the 6/4/17 event show he communicated with “peacekeepers” from the right side of the political spectrum, including Lawrence Cavallero and Oath Keeper Brian Krogmann. On 6/4/17, Lt. Niiya texted with Mr. Krogmann, a former law enforcement officer, regarding his concerns about Oath Keepers being armed at the event:

Niiya: Good morning Sir. Sgt Niiya here. I would like pictures of those who will be armed. I don't want a blue on blue issue.

Krogmann: As soon as our group is assembled I'll send those. At this point we have ONE CCW holder who WILL NOT be in the park but I will confirm ASAP and send photos

(Appendix A, lines 273-276)

Following the event, Mr. Cavallero texted Lt. Niiya on 6/5/19:

Cavallero: It goes without saying, but a huge 'thank you' from my group. Your officers did an outstanding job and we are extremely grateful.

Niiya: Thank you for working with us. I appreciate the cooperation

(Appendix, A lines 131-133)

8. Crowd control policy

Lt. Niiya indicated his interactions with peacekeepers on the left and right sides of the political spectrum were in accordance with Directive 635.10 - Crowd Management/Crowd Control, which encourages groups
Case #: 2019-B-0010
Independent Police Review Investigative Report

of protesters regulate themselves. Lt. Niiya explained peacekeepers are identified by their groups and are designated as people willing to de-escalate situations. Lt. Niiya stated:

If you want to assign peacekeepers, liaisons, or some type of security detail, we encourage that. That way we, the police, don’t have to get involved. So, but we do not utilize them. It goes back to the June 4th event where DHS had one of Lawrence’s [Cavallero’s] team members on video helping make that arrest. Everyone thought it was us, right. Mimi German texted me at 9:30 at night on my day off asking me, why are they helping you? That’s not us.
(Niiya 4/8/19 interview, lines 898-902)

Regarding his reasoning for keeping in contact with Mr. Gibson, Lt. Niiya stated:

Just being able to communicate with Joey [Gibson] and understand what his intentions are, has allowed us to respond with the appropriate personnel at times. At times we’ve been caught flat footed, right just it’s not a one hundred percent science, but I can say that being able to communicate with him about expectations he has – he does have – unlike Gia [Davies] he [Gibson] does have control over his people—to an extent, right. He tries to diminish that role that he plays with his folks, but I’ve always kind of pushed him that you are a leader in that group. You need to set the tone and expectations and that has I think at times reduced some of the violence that people who show up at his rallies are prepared to exact on others.
(Niiya 4/8/19 IPR interview, lines 376-382)

9. Bureau command staff and city leadership aware of liaison activities
Lt. Niiya stated senior Police Bureau command staff, including Chiefs Mike Marshman and Danielle Outlaw as well as Assistant Chiefs Chris Uehara and Matthew Wagenknecht were aware of his communications. Lt. Niiya stated Police Bureau command staff who served as Crowd Management Incident Commanders (CMICs), including Commanders Bryan Parman and Wendi Steinbronn as well as Captain Erica Hurley, were also aware of his communications. Lt. Niiya stated:

It goes on and on internally of people who have worked around demonstrations that have held a higher rank than me, have known about my communications and at times have encouraged me to reach out because they needed information.
(Niiya 4/8/19 interview, lines 244-246)

Lt. Niiya stated Mayor Wheeler and Mayoral advisor Mr. Nelson were aware he was in contact with Mr. Gibson and others. Lt. Niiya explained he was asked to help set up a meeting with Mr. Gibson prior to the 6/4/17 protests and was present when Mayor Wheeler attempted to persuade Mr. Gibson to cancel the event. Lt. Niiya stated:

After the meeting with the mayor and Joey Gibson I mean, the Mayor commented to me personally that you did – he said, he couldn’t understand why people talk to me. I mean, so he was impressed, surprised, with the level of information I was able to get, but they never asked me about how, but they seem – the mayor seemed impressed by it.
10. Text messages regarding Mr. Toese’s warrant status
When interviewed, Lt. Niiya was asked to address specific text messages highlighted in the media, including his communications about Mr. Toese’s warrant status. There is no law or policy that police officers must arrest on warrants at a given time, Lt. Niiya said, adding it is common practice for police to not arrest on a warrant in non-protest situations as well. Lt. Niiya stated particularly with low-level warrants, if there is a different time when an arrest would be better, or if the officer has more pressing work to do, police may choose to delay making an arrest.

Regarding the specific text messages he sent to Mr. Gibson about Mr. Toese’s warrant, Lt. Niiya said that since police cannot stop protesters from coming from Washington into Oregon, he hoped to use the idea of Mr. Toese’s warrant to “influence” him to not come. Lt. Niiya said he was also hoping to avoid causing a potential safety issue by arresting Mr. Toese in the middle of a protest. Lt. Niiya stated:

Joey and I, we’ve had enough conversations that we know what draws the attention of the police to Tiny [Toese]. And that’s Tiny getting in people’s faces, yelling, punching people. So that’s – I mean, see a lot of this there’s no context, right, and so there is a shared knowledge between people because of the relationship that I don’t have to spell it out, everything. That there is some basis of what I’m talking about around this subject. Don’t bring attention to yourself. Don’t start fighting. Don’t even show up potentially, Tiny. And so – but if you do show up, I’m probably not going to walk into the crowd and arrest you right there on the spot because again of the potential of the emotional response of others around him.
(Niiya 4/8/19 interview, lines 514-523)

In describing the video posted by The Guardian from the 6/3/18 protest, in which Sgt. Allen warns Patriot Prayer protesters to leave as they have probable cause to arrest Mr. Toese, Lt. Niiya stated the idea was to influence the group to leave, and also to avoid a flash point if they did try and arrest Mr. Toese. Lt. Niiya stated:

We weren’t able to really control it with the assets we had in place without using a bunch of force. And so, the idea came up that we would send a message down to the one person who was communicating with us at that time, which was Joey Gibson. That it was time to leave. The reason we weren’t making arrests at that time is that the intelligence gatherers and the detectives wanted to do follow up investigation because we had no named victims for the assaults. They – we knew there were still additional video that was going to pop up on social media to assist with the prosecution of those individuals and the fact that we knew they were going to come back at some point. And so, we can arrest them at a later time. So, that was the context around that and ultimately that was not my decision. That was then Captain Steinbronn’s as incident commander to have that message go down. I was the one communicating with Sergeant Allen from the ICP to push those messages from the incident commander.
(Niiya 4/8/19 interview, lines 551-560)
Case #: 2019-B-0010
Independent Police Review Investigative Report

Asked to provide an example of the Police Bureau avoiding or delaying arresting left-leaning protesters, Lt. Niiya described an incident related to a 6/3/18 protest, when left-leaning protesters and Mr. Marquez were seen stealing a camera from a person on the right side of the political spectrum, and Mr. was also seen kicking the person. Lt. Niiya stated police determined they had probable cause to arrest Mr. Barros on assault and robbery charges but chose not arrest him that day due to worries it would “spike the emotions of that crowd.” Lt. Niiya stated:

I saw Jacob several times at the ICE encampment protest. Not the right time to go arrest Jacob at that moment. We did arrest him at another protest later on. Which there was a little bit of a flashpoint, but that was an intentional arrest and I knew the flashpoint was going to happen. So, that’s a good example of one that I was personally involved in. That I knew about it to make the arrest. Luis Marquez, again a known quantity. There’s been several times that we’ve known that he’s done stuff and we just haven’t made the arrest.
(Niiya 4/8/18 interview, lines 632-637)

11. Text messages regarding Mr. Gibson’s senatorial campaign
Media reports regarding Lt. Niiya’s liaison work described his text message exchanges with Mr. Gibson regarding Mr. Gibson’s senatorial campaign. Asked if he endorsed Mr. Gibson’s campaign, Lt. Niiya stated, “No, I absolutely was not endorsing, nor did I give any donations or anything else to support him [Gibson]” (Niiya 4/8/19 interview, line 1048). Lt. Niiya stated:

I was hoping that if he’s [Gibson is] running for something that he might actually stay in Vancouver, in Washington and not come to Portland since that’s where he’s trying to run and get into office. And, you know, this – this is a guy that, you know, I’ve been talking with, just some normal dude. And so, I figured oh, maybe, you know, school board, county commission, city council at the most right, and then of course I think he fired back senate race, right. And I mean, my jaw – if I was face-timing my jaw would probably drop
(Niiya 4/8/18 interview, lines 641-645)

12. Lieutenant Niiya’s political opinions
On 8/12/17, Lt. Niiya exchanged text messages with Lt. Dobson regarding the Balkanization of American politics:

Dobson: We are starting to look like the tribal warfare that is going on in other parts of the world. This needs to stop before things get beyond controlling. If it already hasn’t started
Niiya: I’m going to need help communicating to all of these groups…not sure it will help, but only thing I can think of is keep talking to everyone and try to set a tone
(Appendix A, lines 71-74)

On 12/8/18, Lt. Niiya exchanged text messages with Lt. Dobson regarding the re-emergence of nationalism in politics:
CONFIDENTIAL

Case #: 2019-B-0010
Independent Police Review Investigative Report

_Niiya:_ And independent media person reported today anarchists and nationalist were side
by side because of the issues. The government needs to realize everyone is against these
policies and think about better ways to handle than with police
_Dobson:_ Unless your out of touch like the German kaiser or czar of Russia were.
_Niiya:_ Yes, Seems that way with some of the things coming out of the EU. Did you see the
President of Ukraine standing with soldiers one wearing a Nazi emblem?
_Dobson:_ No I missed that. This nationalism thing needs to stop or we will be repeating
another dark chapter of history again
(Appendix A, lines 86-93)

Asked to describe his feelings about white nationalism, Lt. Niiya stated:

_I don’t believe it is something that benefits us. Not – not only is my wife – she’s Jewish.
She was born in Israel. Most of my friends are Russian Jews that were kicked out of the
Soviet Union because of what the politics were at the time. I have no place in my heart or
my thinking around any of that. Does that mean that the folks that do believe that, I should
stop them from that? No, I have no power in that, right. We live in America. You are free
to believe what you believe. Now, if you turn that criminal or you act upon that in a
criminal fashion, absolutely. Then that’s my job to be aware of that and address that._
(Niiya 4/8/19 interview, lines 444-449)

Regarding the friendly tone some community members perceived in the text messages he exchanged with
Mr. Gibson, Lt. Niiya stated:

_I understand how this looks and how the context of this sounds but you don’t get
cooperation by, bluntly, being an asshole to people, right. And whether it’s the left or the
right. Its - respect is something that you have to be given, and so I respect these folks. I
mean, they’re – whether it’s the left or right I respect what they’re doing. I respect that
they’re willing to come out and put themselves out in a public form like this. So, are they
friendly? Sure. Do I condone the actions of the group? Absolutely not._
(Niiya 4/8/18 interview, lines 385-390)

Lt. Niiya further stated:

_It is a conscientious thing that I do about my tone and the words I choose. A lot of times
I’m not hitting send right away when I’m hitting a text message. I’m conscientiously
thinking about what I’m saying, why I’m saying it, knowing it’s going to get captured. And
so that is something I do think about._
(Niiya 4/8/18 interview, lines 397-400)

When interviewed, Lt. Niiya noted he has been publicly criticized regarding his interactions with people
on the left side of the political spectrum, as well as his interactions with people on the right side of the
political spectrum. Lt. Niiya stated:
Case #: 2019-B-0010
Independent Police Review Investigative Report

It shows that I’m trying to be neutral and trying to do what I can right, all the way around. Left, right, whoever. The context of the media about this is hurtful both personally and professionally. The fact that this police bureau and the executive management of this organization can’t seem to get out in front of this, and we knew about these requests since November of 2018, I did. Why individuals in this department can’t satisfactorily perform their duties to provide context around this stuff knowing once – it’s already happened to me once. This happened to us once with Gia [Davies]. Why we can’t handle it better this time, is disappointing. (Niiya 4/8/19 interview, lines 1101-1107)

RECOMMENDED FINDINGS

Allegations 1 and 2: Professional Behavior and Objectivity

Allegation 1: Lt. Jeffrey Niiya #30666 engaged in unprofessional behavior during his communications with Joey Gibson. (CONDUCT) (Directive 310.00 – Professional Conduct and Courtesy)

Recommended Finding: Not Sustained

Allegation 2: Lt. Jeffrey Niiya #30666 did not maintain objectivity while communicating with Joey Gibson (CONDUCT) (Directive 315.30 – Satisfactory Performance) (HRAR 11.01 – Statement of Ethical Conduct) (City of Portland Code of Ethics)

Recommended Finding: Not Sustained

Directive 310.00 – Professional Conduct and Courtesy states in relevant part:

Definitions:

Professional Conduct: The standard by which member behavior that is not specifically addressed in other Bureau directives is evaluated. The Bureau expects member behavior to reflect the highest of law enforcement industry standards. This includes, but is not limited to, member adherence to all applicable laws, rules, and Bureau directives and member application of the law. The Bureau also requires that members fulfill their professional duties, act with the utmost respect for the Constitutional rights of all people and communicate in a professional manner at all times. Members shall refrain from conduct that unduly affects Bureau operations or unduly erodes public trust.

Policy:

1. The Portland Police Bureau recognizes its role within the community and its internal organization to engage and interact with individuals in a professional and courteous manner that emphasizes a respect for all individuals and cultures. This is regardless of race, gender, nationality, sexual orientation, physical or mental disability, ethnic or religious group, age, or any protected status under applicable law or
Case #: 2019-B-0010
Independent Police Review Investigative Report

administrative rules. The Bureau expects its members to constantly strive to attain the highest professional standard of conduct.

Procedure:

1. Professional Conduct.

1.1. Members, whether on duty or off duty, shall be governed by the reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit to the Police Bureau or the City of Portland.

1.2. Members will conduct themselves in a professional manner in the discharge of their duties and in relations with the public.

Directive 315.0 – Satisfactory Performance states in relevant part:

Policy:

1. The Portland Police Bureau requires its members to understand their job responsibilities along with the knowledge of applicable Bureau directives, city ordinances, and state and federal laws to perform their duties and functions within a law enforcement agency. The Bureau expects its members to meet the requirements of their position and accomplish their functions in a satisfactory and efficient manner that supports the goals and objectives of the Bureau.

Procedure:

1. Member Responsibilities.

1.1. Members shall maintain sufficient competency and knowledge of Bureau directives (including Standard Operating Procedures), applicable City ordinances, rules, and resolutions along with state and federal laws and job-related skills to properly perform the duties and responsibilities of their positions.

HRAR 11.01 – Statement of Ethical Conduct states in relevant part:

General

City employees are to treat their office as a public trust. As one safeguard for that trust, employees must conform to the ethical standards described in the state code of ethics and conduct themselves in a manner that is consistent with the City’s Code of Ethics.

City of Portland Code Chapter 1.03 Code of Ethics states in relevant part:

1.03.010 Definitions.
Case #: 2019-8-0010
Independent Police Review Investigative Report

A. "City official" means any elected official, employee, appointee to a board or commission, or citizen volunteer authorized to act on behalf of the City of Portland, Oregon.

And:

1.03.020 Trust.

The purpose of City government is to serve the public. City officials treat their office as a public trust.

And:

B. City officials ensure public respect by avoiding even the appearance of impropriety.

And:

F. Citizens have a fair and equal opportunity to express their views to City officials.

And:

1.03.030 Objectivity.

C. City officials avoid bias or favoritism, and respect cultural differences as part of decision-making.

Analysis
After media coverage described some of Lt. Niiya’s interactions with Mr. Gibson and other right-leaning activists, some community members expressed concern regarding the tenor and content of these communications. Some community members expressed concern regarding whether Lt. Niiya maintained his objectivity, by using congenial and familiar terms while interacting with Mr. Gibson, by congratulating Mr. Gibson on his senatorial campaign, and by providing Mr. Gibson with information about the movement and actions of counter-protesters. Some community members suggested Lt. Niiya displayed a bias toward people on the right side of the political spectrum.

1. Directives
To reflect these concerns, IPR drafted allegation 1, alleging Lt. Niiya violated Directive 310.00 – Professional Conduct and Courtesy, by engaging in unprofessional behavior during his communications with Mr. Gibson. IPR also drafted allegation 2, alleging Lt. Niiya violated Directive 315.30 – Satisfactory Performance, by not maintaining his objectivity while communicating with Mr. Gibson. Allegation 3 also cites HRAR 11.01 – Statement of Ethical Conduct as well as the City of Portland Code of Ethics, as these rules describe the City’s expectations regarding City officials maintaining objectivity and avoiding the appearance of impropriety. Because both these allegations are substantially similar, and because all witnesses provided substantially similar information related to both allegations, the recommended findings for allegations 1 and 2 are described here jointly.

2. Directives not included in allegations
Case #: 2019-B-0010
Independent Police Review Investigative Report

In drafting these allegations, IPR considered citing Directive 635.10 – Crowd Management/Crowd Control, as this Directive describes the responsibilities of the liaison. This Directive does not however specify how the liaison should carry out their responsibilities, stating only the liaison should “maintain communication with known event or demonstration organizers or the Person(s)-In-Charge before and during the event.” As such, IPR did not allege Lt. Niiya violated Directive 635.10 – Crowd Management/Crowd Control.

Additionally, some media coverage suggested Lt. Niiya violated Directive 313.70 – General Conduct – Associations. This Directive states Police Bureau staff shall avoid associating with people who “are actively involved in an organized effort advocating criminal behavior against any individual, group or organization on the basis of race, ethnicity, religion, gender, age, national origin, marital status, sexual orientation or mental or physical disability.” However, this Directive also notes that Police Bureau members who maintain contact with such people “in the performance of official duties” are exempt from the prohibition, provided their supervisor is aware of the contact. This investigation found all of Lt. Niiya’s contact with Mr. Gibson and others occurred as he carried out his duties, and multiple Police Bureau command staff were aware of Lt. Niiya’s work as a liaison. Accordingly, IPR did not allege Lt. Niiya violated Directive 313.70 – General Conduct – Associations.

3. Liaison role requires open communication
All parties interviewed for this investigation indicated if a liaison is to be effective, they must be friendly and approachable. A/C Lee compared a liaison’s work to how a detective interacts with a homicide suspect, or how crisis negotiators interact with a barricaded suspect, indicating such conversations are often friendlier than community members might expect. Sgt. Allen, who has also served as a liaison, stated officers are more successful in gathering information when they “speak like a regular person.” Mayor Wheeler’s former advisor Mr. Nelson noted police routinely engage in friendly conversation with people they are investigating, in order to obtain more information. Lt. Niiya expressed this idea succinctly, stating, “You don’t get cooperation by, bluntly, being an asshole to people.”

4. Lieutenant Niiya engaged or attempted to engage with people from multiple sides of the political spectrum
This investigation found many instances of Lt. Niiya engaging in friendly communication with Mr. Gibson, and other people on the right side of the political spectrum. Read with no context, or incomplete context, these interactions are understandably concerning. But placed into the context of Lt. Niiya’s ongoing relationship with Mr. Gibson, and his overall objective to maintain Mr. Gibson as a source of information and a point of contact during protests, these interactions emerge as evidence of Lt. Niiya doing his job.

This investigation also found many instances of Lt. Niiya engaging in friendly communication with community members on the left side of the political spectrum. These people include Davies, Ms. German, Ms. Stauffer, Mr. Ledoux, and a variety of anonymous online contacts. Across these contacts, Lt. Niiya struck the same friendly tone with them as he did with Mr. Gibson and his associates. Placed into the context of his work as a liaison, Lt. Niiya’s interactions with left-leaning community members likewise emerge as evidence of Lt. Niiya doing his job.

Eventually, other community members on the left side of the political spectrum exposed Lt. Niiya’s contact with Davies. Davies’ exposure received media coverage. This media coverage framed Lt. Niiya’s liaison work with Davies in the context of Davies having betrayed left-leaning protest organizations to the police.
Case #: 2019-B-0010
Independent Police Review Investigative Report

Davies was reportedly threatened, they went into hiding, and they broke contact with Lt. Niiya. When interviewed, Lt. Niiya described how this exposure put a “shock stop” to his contacts with people on the left side of the political spectrum. Emails and text messages indicate Lt. Niiya questioned his effectiveness as a liaison, after his contact with Davies was exposed. Despite these concerns, Lt. Niiya was directed to continue working as a liaison.

5. No evidence Lieutenant Niiya failed to remain neutral in working with individuals and groups
When interviewed, Lt. Niiya specifically denied endorsing Mr. Gibson’s senatorial campaign, and indicated he did not give any donations or other material support to the campaign. Lt. Niiya likewise indicated he does not espouse white nationalism and does not believe its emergence is a positive development. Lt. Niiya spoke openly of his own beliefs, background, and family life, suggesting in some respects his personal perspective aligns more closely with some left-leaning community members. Lt. Niiya drew a distinction between his own beliefs, and his responsibilities as a liaison. Lt. Niiya stated as a liaison, he must remain objectively neutral, and not allow his own beliefs to influence the actions he takes. Lt. Niiya stated while he may strongly disagree with the actions of a group, he will still strive to be respectful to gain further communication and get his job done. This approach appears to conform exactly to the City’s expectations, as described in HRAR 11.01 and the City of Portland’s Code of Ethics.

6. Leadership was aware of Lieutenant Niiya’s work
This investigation found Lt. Niiya’s carried out his liaison work at the behest of Police Bureau command staff, and with their knowledge. These command staff include, but are not limited to, Chiefs Outlaw and Marshman; Assistant Chiefs Lee, Uehara, and Wagenknecht; and many Crowd Management Incident Commanders, including Commanders Parman, Sheffer, and Steinbronn, as well as Captains Hurley and Graham. Emails reviewed during this investigation also indicate Police Bureau command staff routinely referred requests from other law enforcement agencies for information and assistance regarding liaison work directly to Lt. Niiya. Mayor Wheeler’s advisor Mr. Nelson indicated he was aware of Lt. Niiya’s liaison work. When interviewed, Lt. Niiya indicated he arranged a meeting between Mayor Wheeler and Mr. Gibson, prior to a 6/4/17 protest rally, and further indicated Mayor Wheeler himself complimented Lt. Niiya on his liaison work.

7. Conclusion
This investigation did not find evidence sufficient to prove Lt. Niiya engaged in unprofessional behavior during his communications with Joey Gibson. This investigation likewise did not find evidence sufficient to prove Lt. Niiya did not maintain objectivity while communicating with Mr. Gibson. Accordingly, IPR’s recommended findings for Allegations 1 and 2 are Not Sustained.

Allegation 3: Dissemination of Information

Allegation 3: Lt. Jeffrey Niiya #30666 inappropriately disclosed information to Joey Gibson that allowed individuals to avoid arrest. (PROCEDURE) (Directive 310.70 – Dissemination of Information)

Recommended Finding: Not Sustained
Case #: 2019-B-0010
Independent Police Review Investigative Report

Directive 310.70 – Dissemination of Information states in relevant part:

POLICY (310.70)

Members shall treat the official business of the Bureau as confidential. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established procedures. Members may remove or copy official records or reports from a police installation only in accordance with established procedures. Information obtained from the Portland Police Data System (PPDS), Reports Viewer (R-View), Law enforcement Data System (LEDS), National Crime Information Center (NCIC), Department of Motor Vehicles (DMV) or similar systems are not for public disclosure, nor should they be accessed for personal reasons. Questions concerning the legality and appropriateness of document/record dispersal should be referred to the Records Division manager and/or City Attorney liaison.

Members, in their official capacities, shall not betray the trust of any person who confides pertinent and confidential information to them. They shall not reveal information as to an informant’s identity or the information that was provided, unless otherwise directed by their RU manager, by a court of law or by state law.

Members shall not provide information directly or indirectly that may enable any person to avoid arrest, punishment, or to conceal or dispose of goods, money, or other valuable things stolen or otherwise unlawfully obtained.

Analysis

1. Directives

After Lt. Niiya’s interactions with Mr. Gibson received media coverage, some community members expressed concern about Lt. Niiya having discussed Mr. Toese’s warrant status with Mr. Gibson, suggesting this information allowed Mr. Toese to avoid arrest. To reflect these concerns, IPR drafted allegation 3, alleging Lt. Niiya violated Directive 310.70 – Dissemination of Information, by inappropriately disclosing information to Mr. Gibson that allowed individuals to avoid arrest.

In considering this allegation, it should first be noted that a warrant for a person’s arrest is not confidential information. Rather, it is a public record. Community members regularly call Central Precinct to find out whether they have an active warrant for their arrest. Police routinely provide the public with information about the warrant status of people they are looking for, to elicit the public’s assistance in locating and arresting those people. Because Directive 313.70 – Dissemination of Information addresses the release of confidential information, it is not immediately apparent providing information about a person’s warrant status would violate this Directive.

Further, there are no laws or Directives which mandate that police must arrest a person, either when police determine that person has a warrant, or when police determine there is probable cause to arrest a person. Police commonly delay making an arrest, both during protests and during routine police work, when they determine there are reasons why making an arrest is not immediately practicable.
Case #: 2019-B-0010
Independent Police Review Investigative Report

2. Threat of arrest used to alter behavior

When interviewed, A/C Lee, Sgt. Allen and Lt. Niiya all described how the threat of arrest can be used to motivate an individual to alter their behavior and create a more positive outcome. Lt. Niiya stated this was his intent when he texted with Mr. Gibson on 12/8/17. Lt. Niiya indicated he hoped letting Mr. Gibson know Mr. Toese had a warrant would discourage Mr. Toese from traveling to Portland to face potential arrest, or if he did come to Portland he would not fight or otherwise act in an antagonistic manner that would provoke his arrest. On another occasion, Lt. Niiya sent Mr. Gibson a text message encouraging Mr. Toese to call Central Precinct and find out whether he had a warrant.

The incident on 6/3/18, during which Sgt. Allen told Mr. Gibson that Mr. Toese and others would not be arrested if they left the area, is a similar situation. Sgt. Allen stated this was a “common strategy” that officers use to elicit an action from people they are dealing with. Lt. Niiya stated during the incident, the CMIC, Commander Steinbronn, made the decision to ask Mr. Gibson and others to leave, and he simply communicated the direction from the command room to Sgt. Allen on the street.

When interviewed, Lt. Niiya also provided examples of specific instances when police did not immediately arrest people on the left side of the political spectrum, even though they had a warrant or probable cause to make the arrest. Lt. Niiya indicated in those instances, police decided not to make arrests in order to avoid a flashpoint, or further escalating the crowd

3. Conclusion

The information Lt. Niiya provided to Mr. Gibson about Mr. Toese is public information. Lt. Niiya provided this information to Mr. Gibson in an effort to influence him to have right-leaning protesters leave the area and avoid further conflict with left-leaning counter-protesters. This investigation did not find information sufficient to prove Lt. Niiya inappropriately provided information to Mr. Gibson that allowed individuals to avoid arrest. As such, IPR’s recommended finding for allegation 3 is not sustained.

Policy Recommendations

On occasion IPR may find an involved member’s conduct did not violate applicable Directive but was still concerning in some fashion. In those cases, IPR typically recommends the involved member undergo a debriefing. In this case, this investigation did not identify any concerning behavior on the part of Lt. Niiya. Rather, this investigation identified a number of concerning issues regarding the Police Bureau’s approach to using a liaison.

Provide training and guidance for demonstration liaison

This investigation found Lt. Niiya received no training or guidance regarding how he was expected to carry out his work as a liaison. Simply put, Lt. Niiya was left to figure it out on his own.

As a result, Lt. Niiya has faced personal criticism, and damage to his professional reputation, in large part because the Police Bureau failed to clearly describe Lt. Niiya’s job to him and failed to provide him training on how he should do it. If the Police Bureau intends to continue using demonstration liaisons, it should develop written guidelines for how the job should be done, and it should provide training to the members it assigns to do the job.
Case #: 2019-B-0010
Independent Police Review Investigative Report

Ensure communications are properly recorded and archived
This investigation found no Police Bureau command staff routinely reviewed or monitored Lt. Niiya’s text message exchanges with community members. Lt. Niiya indicated he primarily texted with community members, so there would be an archived record of his exchanges. It is fortunate Lt. Niiya thought to take this step. Had he not done so, it would have been difficult or impossible to accurately assess his work as a liaison.

If the Police Bureau intends to continue using demonstration liaisons, it should develop or formalize some means of archiving and monitoring the communication between liaisons and community members. The Police Bureau should also consider formalizing a process by which a protest organizer can contact a demonstration liaison, instead of continuing to rely on the current ad hoc approach.

Exhibits:
1. Recording of 3/12/19 interview with Berk Nelson
2. Transcript of 3/12/19 interview with Berk Nelson
3. Recording of 3/18/19 interview with Assistant Chief Ryan Lee
4. Transcript of 3/18/19 interview with Assistant Chief Ryan Lee
5. Recording of 3/18/19 interview with Sergeant Kevin Allen
6. Transcript of 3/18/19 interview with Sergeant Kevin Allen
7. Recording of 4/8/19 interview with Lieutenant Jeffrey Niiya
8. Transcript of 4/8/19 interview with Lieutenant Jeffrey Niiya
9. Appendix A: Exemplars of text messages sent from and to Lieutenant Jeffrey Niiya
10. Appendix B: Summary of Police Bureau liaison reports
11. Appendix C: Exemplars of emails sent from and to Lieutenant Jeffrey Niiya
12. Oregonian 12/21/17 article: “Portland activist ostracized, police criticized after cooperation, communication exposed”
13. Willamette Week 12/26/17 article: “What it’s Like to Betray Antifa to the Cops—and Get Caught”
14. Willamette Week 2/14/19 article: “Texts Between Portland Police and Patriot Prayer Ringleader Joey Gibson Show Warm Exchange”
15. Portland Mercury 2/14/19 article: “Texts Show Protective Relationship Between Portland Cops and Patriot Prayer”
16. The Guardian 3/1/19 article: “Exclusive: video shows Portland officers made deal with far-right group leader”
17. Video clip posted with The Guardian 3/1/19 article

In file for reference:
1. Text messages from Lt. Niiya’s work phone 2017-to February 2019
2. PPB report #17-680687
3. PPB report #18-680845
4. PPB report #17-680465
5. PPB report #16-365622
6. PPB report #17-681202
7. PPB report #18-681732
8. PPB report #17-681389
9. PPB report #18-681489
Case #: 2019-B-0010
Independent Police Review Investigative Report

10. PPB Report #17-269747
11. Emails from Lt. Niiya’s work email address
12. Portland Tribune 3/14/19 article: “Meet Ryan Lee”
13. Oregonian 2/20/19 article: “Mayor’s staff got protest intel on Patriot Prayer from Portland cop under fire for texts with right-wing leader”
14. Willamette Week 2/19/19 article: “How WW Obtained Joey Gibson’s Texts with A Portland Police Lieutenant”