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Article published Nov 25, 2009

Rockingham County sheriff resigns: AG determines he broke the law

PORTSMOUTH — Rockingham County Sheriff "Dan" Linehan has tendered his resignation as a result of an Attorney General's investigation that determined he broke the law by leaking opponent David Lovejoy's annulled criminal record to newspaper reporters during election season in the fall of 2008.

An investigation found that both Linehan and Major Mark Peirce — the number two man in the department — violated the law by releasing information and both have reached an agreement with the Attorney General's Office that will see them avoiding criminal prosecution in exchange for their immediate resignation and departure from law enforcement in New Hampshire.

Lovejoy told Foster's Daily Democrat he cooperated with the investigation and will now seek appointment as sheriff and run for election. He said Linehan and Peirce's wrongful actions robbed him of a seat he should have won.

"I believe it did cost me the election and I believe my opponent was very concerned with me winning and that's why he took the steps he did," Lovejoy said.

Attorney General Michael A. Delaney announced the findings on Tuesday saying his office's investigation of Linehan and Peirce is complete.

Delaney states in a release that his office found "sufficient evidence" to prove Linehan and Peirce violated state laws making it a misdemeanor to disclose or communicate the existence of a person's criminal record of arrest or conviction if either had been annulled.

The investigation revealed that an annulled arrest record of Lovejoy — Linehan's opponent in the sheriff's race — was disclosed or communicated to a reporter from the Carriage Towne News and the information found its way into a separate article published in the Portsmouth Herald.

The information was leaked while Linehan was running against Lovejoy for election as Rockingham County sheriff.

Delaney indicates Peirce disclosed or communicated the annulled information to a member of his staff and directed that staff member to provide the information to a reporter from the Carriage Towne News and was further disclosed to at least one other reporter.

The Attorney General's investigation showed an article published in the Portsmouth Herald on Oct. 27, 2008 referenced "a case and a 1989 conviction, involving Lovejoy, which had been annulled."

"The investigation also revealed that it was Sheriff Linehan's intent and request that the annulled information be disclosed or communicated (to the reporter)," Delaney stated.

The Attorney General has reached a negotiated disposition with Linehan and Peirce regarding their "unlawful conduct."

"In return for their immediate resignations, the Attorney General has agreed not to institute criminal charges against either man. Linehan has also agreed that he will not seek the position of sheriff or a law enforcement officer in any county in the State of New Hampshire at any future time. Linehan relinquished his certification as a police officer on November 23, 2009. Peirce has also relinquished his certification as a police officer by the New Hampshire Police Standards & Training Council," Delaney said.

Delaney said such "criminal behavior" will not be condoned, particularly by those who have sworn to uphold the law.

"While I am confident that misdemeanor convictions would have been obtained, today's agreement ensures that Mr. Linehan and Mr. Peirce will immediately be removed from the highest levels of Rockingham County law enforcement and they will never again serve as members of New Hampshire's law enforcement community. I believe that this agreement is an appropriate disposition of this case," Delaney said.

A call placed to Linehan's cell phone by Foster's Daily Democrat was not immediately returned on Tuesday evening.

Linehan, a Republican, has served as sheriff since 1997 when he was appointed by the New Hampshire Superior Court from a field of 30 applicants. In 1998 he was named New Hampshire Association of Counties "Sheriff of the Year."

Linehan, a 37-year law enforcement veteran, sent a resignation letter to the County Delegation on Tuesday that acknowledges the investigation and the impact it has had on his ability to lead the sheriff's department.

"Since I became aware of the investigation in June, it has been difficult to properly manage the affairs of the Sheriff's Office, particularly personnel matters. However, it is important for the County Delegation to know that the Sheriff's Office has faithfully fulfilled its obligations to the citizenry of Rockingham County throughout this difficult period," Linehan wrote in his letter.

Linehan's letter indicates he cannot disclose the particulars of the investigation though he assures he cooperated with investigators "at all times."

The resignation letter written by Linehan states: "My attorney has advised me that the complaint may not be sustainable on the merits of the evidence and that he believes the release of information may be protected by the First Amendment to the United States Constitution. In either event, I would be exonerated from any wrongdoing."

Linehan goes on to say he decided to opt for an agreement requiring his resignation for two reasons, with the first being that he claims to have been "unaware" of the statute at issue last October and that "a prolonged disagreement with the Attorney General's Office potentially would cripple the Sheriff's Office's ability to function as a cohesive law enforcement unit."

Lovejoy, 45, of Hampton called Tuesday's announcement "a shame" and stressed it should not reflect on the hard-working men and women who serve admirably in the sheriff's department.

He said the resignation will open the door for him to seek the post.

"I plan on running again in the next election and I plan on seeking the appointment to fill out the remainder of his term," Lovejoy said.

Lovejoy said he garnered 62,000 votes despite articles releasing information that might have unjustly swayed voters.

"I still received more votes than my opponent did in any previous election," Lovejoy said.

When asked if he prompted the Attorney General's investigation, Lovejoy responded: "We made the Attorney General's Office aware that I believed my opponent broke the law on numerous occasions during the election and I provided them with any and all documentation they needed to assist them in the investigation."

He praised the Attorney General's Office for its hard work in what he described as a "painstaking investigation."

As for a criminal record ... he said there is none.

"The statute is very clear on an annulled record ... it never happened. I have no criminal record," Lovejoy said.
