MISSOURI HOUSE OF REPRESENTATIVES
COMMITTEE RECOMMENDATION

Bill Handler: Eggleston District 2

Mr. Speaker:

Your Committee on **Ethics,**

to which was referred a review of **House Ethics Complaint Number 20-001**, begs leave to report it has examined the same and has adopted the accompanying report by the following vote:

Ayes:	(10): Eggleston, Kendrick, Anderson, Andrews, Brown (27), Ellebracht, Francis, Barnes, Lynch, Stevens
Noes:	(0):
Present:	(0)
Absent:	(0)

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STATE OF MISSOURI

HOUSE OF REPRESENTATIVES

100TH GENERAL ASSEMBLY

In the Matter of Representative Wiley Price

House Ethics Complaint No. 20-001

REPORT OF THE COMMITTEE ON ETHICS

WHEREON, the Committee on Ethics, of the Missouri House of Representatives, 100th General Assembly, pursuant to Rule 8 of House Committee Substitute for House Resolution 137, reports as follows:

1. On Monday, January 27, 2020, the administrative staff of the House of Representatives received a verbal report of a potential violation of House Policy B-5, which prohibits sexual harassment, and House Policy F-8, which prohibits amorous or romantic relationships between a representative and a House employee or intern. The report involved Representative Wiley Price (Respondent) and a House intern.

2. Immediately upon receiving the verbal report, the Chief Clerk of the House, pursuant to existing policy, retained outside counsel to investigate the complaint. Investigative counsel conducted an investigation of the complaint, which included interviewing the Respondent, intern, Respondent's legislator assistant (Witness 1), and another representative (Witness 2) with whom Respondent shared Witness 1 in a legislator assistant share agreement. The investigator prepared an investigative report, which was received by the House on February 12, 2020, and forwarded to the Committee on Ethics.

3. The investigative report stated that on Thursday, January 23, 2020, Respondent shared with Witness 1 that he had sex with the intern the night before, after Respondent,

the intern, Witness 1, and numerous others attended a party at a local bar and grill. The report also alleged that upon learning that he would be subject to an ethics investigation in this matter, Respondent attempted to coerce Witness 1 into being untruthful with the investigator and the Committee in order to cover up the offense.

4. On February 6, 2020, the investigator interviewed Witness 1. Witness 1 provided the investigator a detailed report that was consistent with her initial report to House staff. Witness 1 stated that Respondent shared with Witness 1 that he had sex with the intern. Witness 1 stated that Respondent began harassing her upon learning that she had made the report to House staff as a mandated reporter. Witness 1 stated Respondent told her that he and the intern had agreed to lie and state nothing happened between them, and they had deleted each other's phone numbers and all text messages and calls between them from their phones. The investigator deemed Witness 1 to be credible.

5. On February 9, 2020, the investigator interviewed Witness 2. Witness 2's statements were consistent with the testimony of Witness 1. Witness 2 recalled Witness 1 receiving a phone call from Respondent at their office suite, and Witness 2 recognized Respondent's voice over the phone yelling at Witness 1. The investigator deemed Witness 2 to be credible.

6. On February 10, 2020, the investigator interviewed the intern. The intern denied any romantic or sexual relationship with Respondent. The intern denied speaking with or texting Respondent on her cell phone. The intern denied ever having Respondent's cell phone number. Although initially indicating she would provide a copy of her cell phone records to the investigator, the intern later indicated she did not know how to obtain such records, and that any attempt to acquire such records would alert her mother to the investigation, which the intern did not want to do. The investigator deemed the credibility of the intern to be questionable.

7. On February 10, 2020, the investigator interviewed Respondent. Respondent denied any sexual relationship with the intern. Respondent denied claiming he had a sexual relationship with the intern to anyone, including Witness 1. Respondent stated although he and Witness 1 would have work related "spats" from time to time, they were nothing serious and he had no issues with Witness 1. Respondent stated that he has not called the intern on his cell phone, and that he does not have and has never had her cell phone number. Respondent indicated he would be willing to provide a copy of his cell phone records to confirm this, but stated he was not sure how to obtain the records. The investigator deemed the credibility of Respondent to be questionable.

8. On February 17, 2020, in order to prevent the possibility of further harassment or retaliation against Witness 1, the House completed moving Respondent to a different office complex within the Capitol, and assigned Witness 1 to be a full-time legislator assistant for Witness 2. Respondent offered no substitute legislator assistant, so the House assigned a different current legislator assistant for Respondent.

9. The Committee met on February 20, 2020, and, after reviewing the report from outside counsel, voted (9-0) to proceed to a preliminary hearing.

10. The Committee confirmed that the intern was a current House intern assigned to a representative not related to this matter in January 2020. The intern was invited to testify before the Committee on multiple occasions. However, through her Title IX coordinator, she declined to cooperate with the Committee's investigation. Although the Committee made multiple requests for phone records to the intern, she ultimately failed to supply any records to the Committee.

11. On February 27, 2020, Witness 1 testified before the Committee. The testimony of Witness 1 was consistent with her initial report to House staff and to the investigator. Some of the testimony of Witness 1 is as follows:

a. Witness 1 stated "The next day when he got to work, we went into his office and he closed the door and that's when he told me that he had sex with [the intern] the night before."

b. Witness 1 stated that in the past Respondent had told her on two separate occasions with whom he had previously had sex.

c. Witness 1 stated "[Respondent] told me that he had contacted [the intern] and that he had told her to delete his phone number, delete their text messages, and that she wasn't supposed to contact him anymore."

d. Witness 1 stated that Respondent said "It was consensual. There's nothing wrong with what I did. You're the one that messed up by telling [Witness 2]."

e. Witness 1 stated that Respondent urged her "to say that [Witness 2] misspoke or I misspoke and that he didn't do anything and it was all wrong. And it was my mess and I had to clean it up."

f. Witness 1 stated that Respondent said that "if I didn't back his play or back his idea that I was going to lose my job."

g. Witness 1 stated Respondent told her "where I come from, people die for doing s*** like this", referring to Witness 1 revealing the contents of her conversation with Respondent as a mandated reporter, and Witness 1 not vouching for Respondent's narrative of the events. Witness 1 stated she was afraid of Respondent after this conversation.

The Committee deemed Witness 1 to be credible.

12. On February 27, 2020, Witness 2 testified before the Committee. The testimony of Witness 2 was consistent with the testimony of Witness 1. Witness 2 recalls Witness 1 telling about Respondent and the intern, and that Witness 2 immediately recognized their duty to report as mandated reporters. Witness 2 also recalled Witness 1 receiving a phone call from Respondent at their office suite, and Witness 2 recognized Respondent's voice over the phone yelling at Witness 1 (not on speaker phone). Also, Witness 2 stated that in the past Respondent had told her on two separate occasions with whom he

had previously had sex. The Committee carefully examined the testimony of Witness 1 and Witness 2 and found their accounts to be consistent. The Committee finds the testimony of Witness 2 to be credible.

13. After verifying the cellular telephone numbers for Respondent and the intern in use in January 2020, the Committee requested the Speaker issue a subpoena for phone records relating to this matter. The subpoena requested historical transaction detail for the dates of January 22, 2020 through January 27, 2020.

14. The cell phone transaction records received in response to the House subpoena contained seven phone calls and 26 text messages between Respondent and the intern. Some of these communications were initiated by Respondent and some initiated by the intern. The first call originated from Respondent on January 23, 2020 at 12:40AM. The final communication was a phone call originated by Respondent in the evening of January 26, 2020 lasting 42 minutes. These phone records clearly indicate Respondent and the intern had each other's cell phone numbers and had communicated, which contradicts their testimony to the investigator, and part of Respondent's testimony under oath to the Committee.

15. On September 15, 2020, Respondent provided sworn testimony before the Committee. Respondent was present with counsel, and both counsel and Respondent were given an opportunity to provide a verbal statement to the Committee in addition to Respondent's testimony. Some of Respondent's testimony is as follows:

a. Respondent denied any sexual relationship with the intern.

b. Respondent denied claiming he had a sexual relationship with the intern.

c. Respondent and his counsel initially denied (four times) ever calling or texting the intern. After being shown an excerpt of the phone records the Committee acquired by subpoena, Respondent then claimed he communicated with the intern to see if Witness 1 had made it home safely from a party the three of them had attended on the night in question. Respondent claimed that the part of the investigator's report that stated he said he did not have the intern's cell phone number was false.

d. Respondent testified he switched cell phones and is not certain of the location of the phone he was using in January 2020. Respondent stated he would search for the original phone in his home and provide it to the Committee.

e. Respondent claimed that a week before the alleged sexual encounter with the intern he had given notice to Witness 1 that she was going to be fired within 30 days. This contradicts the testimony of Witness 1 and the investigator's report in which he said he had no serious issues with Witness 1. Respondent claimed Witness 1 fabricated the story of Respondent and the intern as retaliation. When asked, Respondent said he had not told Witness 2 (with whom he shared in a legislator assistant

share agreement with Witness 1) that he had given notice to Witness 1; he had not told House administration that he had given notice to Witness 1; and had not documented his issues with Witness 1 or that she had been given notice. Respondent testified that he had arranged for a friend of his from his district to replace Witness 1, but could not recall his name and did not mention him to House administration when they separated Respondent from Witness 1. Respondent testified that the ex-boyfriend of Witness 1 (Witness 3) was aware that Witness 1 was being fired and "came into my office to save his ex-girlfriend's job." On September 22, 2020, Witness 3 testified before the committee that he was unaware that Witness 1 was to be fired, and that he never spoke to Respondent to save Witness 1's job. The Committee deemed the testimony of Witness 3 to be credible.

Ultimately, Respondent also failed to supply the original cell phone or any phone records that would corroborate his version of the events in response to requests from the Committee. The Committee deemed Respondent to be not credible.

16. At the conclusion of Respondent's testimony, held in closed session before the Committee, a cell phone was discovered on the witness stand that was recording audio. The witness stand had just been vacated by Respondent and his counsel, who had both left the room. The phone had been recording Respondent's testimony, and would have continued recording the Committee's private deliberations. The phone was determined to belong to counsel for the Respondent, who stated he was recording the testimony of Respondent before the Committee. Counsel was not given permission to make a recording, and was in direct violation of House rules providing for the confidentiality of the Committee proceedings. The phone was returned to counsel after the audio file was deleted from the device and counsel stipulated that he would not take any steps to recover or otherwise attempt to use the audio file.

17. House records confirm that Respondent attended the mandatory Preventing Sexual Harassment training with all House members on January 14, 2020, and on March 11, 2019.

18. The Committee finds, based upon the testimony and evidence received by the Committee, that:

a. Respondent misled the House investigator by denying that he had claimed an inappropriate relationship existed between him and the intern to Witness 1 and denied that he had engaged in any cell phone communications whatsoever with the intern;

b. Respondent committed perjury before the Committee on Ethics by denying that he had claimed an inappropriate relationship existed between him and the intern to Witness 1 and denying that he had engaged in any cell phone communications whatsoever with the intern;

c. Respondent intimidated and threatened his legislator assistant in retaliation for performing her duties as a mandated reporter;

d. Respondent obstructed this Committee's investigation by misleading the Committee investigator with regard to his attempts to coerce Witness 1 into changing her testimony;

e. Respondent obstructed this Committee's investigation by committing perjury before the Committee by denying his attempts to coerce Witness 1 into changing her testimony; and

f. Respondent's conduct has compromised the ability of the House to provide a respectful, professional work environment.

19. The Committee finds that Respondent's actions involving both the intern and his legislator assistant, and his conduct before this Committee during its investigation, to constitute ethical misconduct and conduct unbecoming of a state legislator of sufficient severity to warrant censure.

NOW THEREFORE, the Committee on Ethics, having given full consideration to this complaint concludes that the issuance of this report is warranted, and recommends that the House of Representatives consider the following sanctions against the Respondent:

1. Censure by the 100th General Assembly, pursuant to Article III, Section 18, of the Constitution of Missouri;

2. Censure by the 101st General Assembly, pursuant to Article III, Section 18, of the Constitution of Missouri;

3. Payment of $22,492.25 to the House of Representatives in costs related to the investigation of this complaint; and

Until the House considers a resolution to censure, the following actions should immediately be taken:

4. Respondent shall conduct himself in a manner that respects the commitment of the House to provide a work environment free of sexual harassment to all members, employees, and interns;

5. Respondent shall have no service from or supervision over any intern for the remainder of his membership in the House. Any legislative employee assigned to Respondent for the remainder of his membership in the House shall be under the direct supervision of the Chief Clerk, who should monitor the Respondent's contact with House employees as appropriate;

6. House Speaker and Minority Floor Leader remove Respondent from any committee assignments;

7. House Speaker and Minority Floor Leader withhold from Respondent any of the privileges of office that the Speaker or Minority Floor Leader deem appropriate;

8. Respondent not be allowed to hold any leadership position; and

9. Any other sanctions the House of Representatives deems just and proper under the circumstances.

At the Committee hearing on December 15, 2020, Respondent was given until 1pm the following day to resign as Representative of the 100th General Assembly and resign as Representative-Elect of the 101st General Assembly. Respondent failed to meet this deadline.

This report was adopted by the Committee by a vote of 10 to 0:

Ayes: Eggleston, Kendrick, Anderson, Andrews, Barnes, Brown, Ellebracht, Francis, Lynch, Stevens

Date: December 15, 2020

J. Eggleston, Chair

Kip Kendrick, Vice-Chair