

## 17: Skullduggery

During the late April hearings, Sidney Lezak, chairman of the special review commission privately notified the task force's attorneys that he would have a meeting to organize the upcoming hearings as they pertained to Gary Harrington. Lezak scheduled the meeting for two thirty in the afternoon on May 2, 1986, and asked the leaders attend.

The attendees and invited guests included: from the special review commission, Sidney Lezak and colonel H. Doyle Watson; from the office of the United States attorney, Charles Turner and his chief assistant attorneys John Wong and Barry Sheldahl; from the DEA, resident agent in charge, Connie McGeahan; from the office of the Multnomah County district attorney, Michael Schrunk and the deputy district attorney, Norman Frink (also a special assistant United States attorney); and from the Portland Police Bureau, captain Ed Davis and me.

Chairman Lezak announced that he had called the meeting to "discuss logistics." However, the word in the task force at my level was that even United States attorney Charlie Turner doubted Lezak's intentions. That Turner, Lezak, and the city attorney Jeff Rogers had gone several rounds in telephone exchanges and written correspondence over the CFR (the Code of Federal Regulations, which governed statements of federal employees testifying at non-federal hearings). That Turner demanded strict adherence to the regulations while Lezak dismissed the regulations as irrelevant and unnecessary. Turner concluded that Lezak's lack of respect for the law was an indication that he was setting the table for us—holding a meeting to discredit the task force. Through the grapevine, I heard that Turner had vowed not to let that happen.

I had received a meeting agenda about a day before the scheduled meeting with a turn of events—the meeting was now scheduled to be held in Charles Turner's office—that change a confirmation that the United States attorney intended to bring control to the out-of-control proceedings.

On the day of the meeting, more confirmation arrived. Ken Bauman telephoned, requesting my presence in Turner's office one-half hour before the scheduled meeting, "for a pre-meeting."

Charles Turner was at his desk when I arrived in my best three-piece suit at two o'clock. Other task force members, similarly dressed, were already there—Michael Schrunk, Norm Frink, Jack Wong, and Barry Sheldahl. Despite their dress though, there was nothing formal about their demeanor. As I came into view, passing the reception desk, all eyes looked impishly away from Turner, and focused on me for what seemed a couple minutes—probably really five seconds. They were talking amongst themselves in whispered tones. And they were snickering under their breath, avoiding eye contact with Turner, who seemed to be busy with his own thoughts. And I wondered, *Is this pre-meeting about me?*

In a flash of anxiety and insecurity, I quickly followed their eyes back to Charlie Turner. And discovered it wasn't about me. It was all about Charlie Turner. The statesmanlike United States attorney, seated at his dark walnut executive-style desk in an expansive top-level office suite overlooking some of the nicest downtown Portland real estate, working amongst some of the most powerful business-suited attorneys in the Northwest, was dressed for our high-level meeting in a dowdy sweater and blue jeans! More than that, his family's large German shepherd laid quietly on the plush berber carpet right below him!

The statuesque man was completely out of his normally professional and formal character. And it immediately became apparent that everyone's dodging glances and forestalling jabber was cover. Everybody there wondered what the United States attorney had planned, but apparently, they were waiting for the last guy in the room to be seated before they dared to ask.

By now, Charlie Turner was the only one in the room without a smile on his face. Suddenly noticing our surprised looks, he got right to it. He was almost matter-of-fact, without emotion. "Look you guys, Sid hates me. He'll hate the way I've dressed today. He hates informality in the office. And he'll hate my dog. I think, in fact, he may be allergic to dogs. He'll sit right here, next to my dog." He pointed to a lone chair, positioned immediately to the left of his desk, and right next to his family pet. "You guys fill all the chairs, there—" He pointed to a series of empty chairs, positioned in audience to his, directly in front of his desk. "—so he cannot sit anywhere else but next to my dog." In full stride, he went right on, leaving no time for interjection.

“Regarding the agenda, we will not vary from my agenda. Lezak will attempt to run this meeting. I won’t let it happen.”

At 2:10 p.m., Turner’s telephone rang. He answered, listened for a moment, and responded to the caller: “Yes.” Twenty seconds later, right on cue, Sidney Lezak, Doyle Watson, and Jeffrey Rogers walked into his office.

The attendees exchanged greetings, but not much more than that. Charlie Turner did not offer a seat to any of the new arrivals. They stood there, talking amongst themselves just inside the doorway, a few feet from Turner’s desk. Another twenty minutes ran by before the last invited guest, DEA resident agent-in-charge Connie McGeahan arrived. At 2:30 p.m., He took the one seat left between Captain Davis and me.

Turner opened the meeting still seated at his desk. Sidney Lezak moved further into the office space and, seeing that there were not three chairs open, stood to the right of the open chair—and the dog—next to Turner’s desk, right where Turner wanted him. Colonel Doyle Watson, seeing that Lezak had chosen to stand, moved graciously by him and took the one open seat next to Turner’s dog. Rogers found an available seat in the back of the audience section.

Turner distributed copies of the agenda, saying, “For purposes of time, we need to confine this meeting to the agenda you all have before you. Now, as to the applicable CFR regulations—”<sup>86</sup>

And Sidney Lezak interrupted, “Listen, I respect the confidentiality on everything, but now I want to relate the commission’s opinion of the case against Gary Harrington ...”

It was the first time I’d heard Chairman Lezak speak. He was soft-spoken, confident, and commanding. It went downhill from there. Lezak went into a three-minute monologue: “Gary Harrington’s criminal investigation is concluded. The Portland police IIU investigation is also concluded. And the commission has received their report. The evidence indicates no sinister activity on the part of either Harrington. Gary Harrington may have violated bureau general orders, but there is no indication that this was a deliberate effort to compromise the task force case or protect himself. It was an act committed because of too much booze and shooting off his mouth. Of course, as the evidence shows, the chief was aware of these contacts but thought there was no jeopardy to the case because, in

her view, if Lee was in fact a focal suspect and there was an investigation, Lee certainly would have been indicted before her husband's contacts with him.

Now, I want to tell you all, it is critically important to the public that we all give credence to the IIU investigation. The commission will do that by calling Lieutenant Amos and Detective Law. The IIU has done an excellent job. This plan will serve us and you folks. There will be no issue of regulations or hearsay problems. We can close the hearings by calling Gary Harrington and Penny Harrington in rebuttal. We will not need any other testimony to conclude the commission's review."

The room went silent. He had not solicited any other opinion in the room before announcing his conclusions, he did not ask for support or comment, and he took no questions—just issued *his* statement of fact. It was shocking. I couldn't believe what he was saying—and I wasn't alone. Norm Frink fidgeted once, then again, then broke the deafening silence, his voice almost breathless—and on attack!

"Well ... Hold on, hold on a second. There is also more evidence than you alluded to in the IIU file, evidence that, in fact, indicates *deception on the part of the chief*. The criminal investigation is *not* resolved. It will continue when we can access the evidence that is still out there. Penny Harrington said in the press release, that Gary Harrington was exonerated on the 1972-73 investigation. She knows that is not true either. And Gary Harrington has not been exonerated yet, criminally. I just don't believe that the commission is looking at all the evidence."

By now, all the task force members were shaking their heads in disbelief. The room felt tense. I thought, *If ever the term "whitewash" could appropriately describe a process, the commission's opinion fit.*

I was wrong. Colonel Watson, the other commission member in the room, came to life immediately after Norman Frink's comments, apparently recognizing the disbelief and disillusionment in the audience. "Just so you all know, I want to make it clear that Mr. Lezak's statements are his opinion—not my opinion. I personally have serious concerns about the Gary Harrington investigation, that there is yet another stone to be unturned."

Lezak looked as if the floor had just dropped from beneath him. He was alone in the room now. His jaw dropped, and his eyes searched for cover. "Well ... uh ... I agree with Colonel Watson. Uh, you should know that both Judge Beatty and Colonel Watson have different opinions. My point is—this is just a starting point, and my opinion."

*Smooth. Real smooth.* Lezak continued, “The commission will make an effort to gather all the evidence. Anyone who wants to testify will be allowed to do so. To be sure, though, this review is simply a media event. It is not so important that justice be served as that the public *perceive* fairness. Justice can come later.”

*Unbelievable! Is this The Twilight Zone? Does he not know what he is saying?* But there was more. Lezak continued, “Listen, I am going to review the entire IIU file and, more than that, I want to see to it that you all have access to the file. I will attempt to get approval from DC Tobin. If Tobin has no serious objections, we will have it as soon as possible.”

He must have recognized that he was losing us. Well, maybe not ... “I already gave the file to the Harringtons,” he said. “I did so at the objections of Deputy Chief Tobin, Judge Beatty, and Colonel Watson. My belief is just as you folks have a need to receive input, they must have a chance to prepare their rebuttal.” And he paused, surveying the room, and then, seeing all the incredulous eyes on him, said, “Well ... you understand, every criminal defendant has that right.”

Charles Turner broke in: “Uh ... Sidney, we need to move on.”

But Lezak was desperate to turn his wandering ship around. “I do expect that we have more information to put on,” he said. “But I know there is difficulty in presenting it because of the continuing task force investigation.”

Colonel Watson tried to help with the point, “I am concerned that there should be no further compromise in the case.”

This was Turner’s opening—back to his agenda. “CFR regulations. You need to get Sergeant Tercek’s testimony. But you must comply with the requirements of the regulations. Sergeant Tercek is deputized as a special deputy United States marshal.”

Still, Lezak was not having any of it. “No need. We’ll get Tercek’s statement from the IIU file; we won’t need Tercek to testify.” The cat was out of the bag. It was apparent that Chairman Lezak intended to use the federal CFR disclosure constraints on the task force members as his unwitting partner in suppressing information that he might not want to come before the commission.

Almost in unison, USA Turner, DA Schrunk, and SAUSA Frink saw where Lezak was going and they all sought to head him off. SAUSA Frink was first to jump in. “I see ... *we* ... we need to get as much information from the task force to the commission as possible.”

Schrunk added, “Maybe, Charlie, you can outline the task force background evidence for the benefit of the commission.”

And Turner said, “I don’t think so. The commission needs to hear from Tercek himself—and the task force prosecutors.” The attorneys were on to Lezak now, worrying about seeming to be complicit in his cover-up and his propensity to push aside their concerns about potential new compromises to the task force investigation. They were certain that the task force information needed to be included in the Lezak Commission hearings’ records, and that this could be accomplished without compromising the investigation.

Turner went back to his agenda. “Sidney, the commission can identify prospective government witnesses, the date of expected testimony, the order of witnesses, and the nature of expected testimony for each witness. Now, in compliance to the CFRs, each prospective government witness will write a relevant affidavit for review by my office. I will then seek approval from my superiors for disclosure. After approval, we will forward the affidavit to the commission and, if necessary, the witnesses can be approved for appearance in executive sessions—not open to the public.”

Lezak relented, now noticeably compliant. “All right. OK. I’d like Tercek and Frink to write affidavits.” He paused a moment, looking in each of our directions, and continued. “Write them so that they can be released to the public—I don’t want what you write to affect the task force investigation. Also, I want you to submit opinions as to the damage that the alleged Harrington compromise caused—and then, any unresolved questions to be put to the Harringtons. I’ll get you the IIU file to help you prepare.”

Hard to know why this sudden watershed moment. But it was good. At the same time, all things considered, even with Colonel Watson’s protestations and Sidney Lezak’s eventual acquiescence to task force needs, none of us would ever quite trust any of the Lezak Commission opinions. In fact,

United States Attorney Turner was now noticeably motivated to monitor Sid Lezak’s every move for hidden agenda.

On May 5, Charles Turner issued another letter to Sidney Lezak expressing his concerns.

I discussed this matter over a month ago, at which time I informed you of the necessity of complying with the controlling C.F.R. regulations. As I stated during the May 2, 1986, meeting,

this remains my position. Upon receipt, I will do everything in my power to facilitate its approval by the Department ...

With respect to your request, it is important for it to specifically note that any testimony by Messrs. Landers and Tercek can be presented in affidavit form and that *no witness* will be called upon to provide information regarding any on-going investigation and *no witness* will be asked to disclose the names of confidential informants or subjects of such an investigation.<sup>87</sup>

In the days following, I worked on the affidavit that Lezak had requested. I found the process difficult. Avoiding new disclosures, skirting the line between portraying myself as an objective investigator and as a doubting zealot, all the while taking care to include all unrestricted information. My position was untenable. I was an employee of the City of Portland, reporting to a chain of command within the Portland Police Bureau. I was also a federal employee, reporting directly to the United States attorney in the district of Oregon. I was sworn to uphold the rules and regulations of the Portland Police Bureau and the City of Portland, and moreover, all applicable federal rules administered by the United States Department of Justice. I wondered often now, *Where should my loyalty lie?* It was untenable at best.

Drafting the affidavit was a task with which I had some experience but, at the same time, no real confidence given the politics. I solicited advice from all spectrums. My home agency was no help. The Portland city attorney's office, the PPB legal advisor, and the commission had no time—or understanding—for me, did not seem to care whether I risked violating the federal 6(e) rule or the Code of Federal Regulations.

In contrast, my coworkers were most helpful. Al Azorr, Bob Foster, Mike McPhee, and Tom Jacobs spent hours and hours with me, validating and confirming the content and helping with reviews, edits, and rewriting. And giving lots of encouragement. SAUSA Norm Frink also prepared an affidavit as requested by Lezak. I consulted with him as we both prepared. The last consult, a telephone conversation, was a bit disquieting, however.

Frink related that during his preparation, he had inquired with the commission about the status of the delivery of IIU file, which Lezak had said he intended to pass on to us. According to Frink, Lezak answered that the mayor's office was holding the file back because *they believed the task force to*

*be a leak risk.* That the commission was in the process of deliberating on the issue. And that he was reconsidering his own offer, saying that he now was undecided as to whether or not it was appropriate for the commission to enter the entire substance of our affidavits into the hearing record; that, before doing so, the commission would at a minimum want to screen our material for relevance to their mission and propriety for disclosure.

More politics and more “Lezak opinion.” It was not reassuring. *What has changed?* I wondered. Nevertheless, Frink and I both moved forward, completing our affidavits.

By May 12, I was ready—however, still lacking the benefit of having reviewed the IIU file, with no new word of its status or of the logistics for presenting my affidavit. That morning, I called the Lezak Commission from my office in the Detective Division. Sidney Lezak took my call.

CHaiRman Sidney lezaK: Hello.

SeRgeant Ray teRCeK: Mr. Lezak. lezaK:

Yes. teRCeK: This is Ray Tercek.

lezaK: Hi.

teRCeK: I talked with Norm Frink. lezaK:

Yes.

teRCeK: He said there was some question as to whether you would put the entire affidavit that I’m presenting in the record.

Is that correct? lezaK: Uh, we’ll put everything that is relevant to the scope of

our inquiry. teRCeK: I

see. Uh [...]

lezaK: In other words, we’re prohibited from going beyond the scope of our inquiry—if you were to testify. For example, suppose you were to get up on the stand, and you were to testify that—that uh, uh, Penny Harrington, uh, was involved with a uh—uh, uh, uh, in a—in covering up for Decker—about which there are some allegations. Uh, at the moment, we couldn’t go into that because we haven’t been given permission to do so.

He was confusing me now. This sounded like some kind of legal double talk to me.

teRCeK: Uh huh. You're not charged with anything relating to, uh—  
 lezaK: We're not charged with anything relating to—to, uh, Decker. Except we are only interested in Decker to the extent that we are—I don't mind telling you this, as I did. I think—we are very interested in whether Decker, uh, knew that it was uh, um— that it was a task force investigation, and whether he told Penny that it was a task force investigation. But, but we don't have authority. We've been given a mandate from the mayor to explore limited things. But we have not been given a mandate to explore whether Decker, himself, was engaged in—in, uh—cocaine sales, which Penny covered up. teRCeK: Well, it would seem to me—since it's the example you've given—that would be relevant, since it's the same kind of behavior we're alleging now. lezaK: Uh—

This must have taken him off his course, because he paused. He regained his composure and continued—just not very well.

lezaK: I don't think so. It's too—  
 His tone was unsure. This legal scholar and expert did not indicate any confidence in what he was saying. But he continued.

lezaK: The mere fact that it is similar behavior—uh—doesn't make it—um, necessarily relevant in a court of law unless it's tied in some way with the same people. In other words, similar illegal acts are not normally, um, admissible unless—

It was bullshit. What “similar” behavior could be more “tied in” than this? I couldn't let this go. teRCeK: Well, I understand that—

And he interrupted.

lezaK: But—uh—uh, just that you've raised an interesting point. You've raised an interesting point. Let's put it this way, what we'd rather do is—we'd rather put in everything you know, and leave it to us to do the deleting. Uh, rather than have you feel that you are being prohibited from doing this.

*Oh yeah.* I was able to read between the lines: “Trust me. Don’t worry about those other things, like the 6(e) rule, the CFRs. Don’t worry whether the information you submit is important to this hearing. You just write whatever you know for us. We’ll decide that for you whether it is relevant, and we will put what we want to into the record. Trust me.” Sounded a bit patronizing and demeaning to me.

teRCeK: Well, I’m a little bit concerned about that. Uh—the limiting part of it. I was exposed to that in the internal investigation. There were some misconceptions about the fact that the criminal investigation with regard to Gary Harrington had been concluded. And—lezaK: Right. And I understand that—that—that it has only been, uh, uh, discontinued pending the possible receipt of additional evidence.

I was glad we could agree on that point. I pursued it.

teRCeK: And that would lead me to believe that there may be other misconceptions. Uh—  
This was not what he wanted to hear.

lezaK: Well, I want you to know—uh, uh—By the way, I should tell you something. I have actually urged the, uh, mayor’s office to permit you to see the IIU investigation, and I’m expecting a call back from them—uh—about that. As long as a request is made, it’s not been my decision. teRCeK: I appreciate that because I did provide the initiating information in this investigation and, as an investigator, I would expect that.

lezaK: I’m aware, and—and I think you understand that they’ve got some special information that I’m not privy to; that makes them concerned about the matter, but—

“Special information”? What was he saying? Is this what Frink was referring to, the mayor’s office’s concern about a task force leak risk? What bullshit! Just one more misconception.

t<sub>e</sub>Rc<sub>e</sub>K: Well, I don't believe that— lez<sub>a</sub>K: My own feeling is that it doesn't make any difference. That it's uh—uh—uh—

And he paused, realizing that he had just breached the confidence of a previously undisclosed mayor's office plan to leave task force members out of the loop. He was completely at a loss for words.

I was really disturbed at this development! The mayor's office was now engaged in a plot to scapegoat us—or maybe *me*! Some kind of contrived finger-pointing to keep us out of the loop! It made me sick. I was not going to accept this, and I'm certain my tone showed my disgust.

t<sub>e</sub>Rc<sub>e</sub>K: These are the same people— lez<sub>a</sub>K: Sure [...] All right, in any event, I've made another request, and we will see what happens—but on the other stuff. I don't know, you may have a point on the Decker thing, as to whether or not that's close enough that we need to go into that.

What was he saying now? Was he kissing off the slanderous attempt by the mayor's office? Enough!

t<sub>e</sub>Rc<sub>e</sub>K: Just so *you* know—what I am faced with—if my entire document is not put in the record, I may have to quit the task force in order to be able to testify. Because I want to ensure that the document—the entire document—is placed in the record. And/or that I have the opportunity—

What I really wanted to say, but didn't was, “Get this message, Mr. Lezak! I will not have this farcical commission editing my statement. I will not trust you to speak for me. I will not risk anyone thinking that I am part of any cover-up, this cover-up by you and the mayor.” Still, I think he got my message.

lez<sub>a</sub>K: OK. I can't tell you in advance—let's put it this way. When you submit it to us, we will tell you in advance what will go in. If it—if there are things that can't go in, then we can discuss it before we submit it. All right?

A bit of a concession. I could accept it—with caution. I calmed a bit.

teRCeK: That's fair. lezaK: And then we'll talk about it then. We're not—it is not in our interest to sandbag you in any way [...] Now, when will you have it for us?

teRCeK: Well ... I'd want to look over it one more time. When would you want it?

I really wanted to think about all this for a bit, before committing to anything with him or the Commission, but ...

lezaK: This afternoon.

teRCeK: You want it this afternoon? lezaK: Yeah, so we can look at it and tell you in advance. teRCeK: All right. I'll have it for you.<sup>88</sup>

I needed advice. Right now. United States attorney Turner had reviewed most of my affidavit already. I had consulted with him right along to ensure I was adhering to federal policy. Before taking the final document to the Lezak Commission's office—on the fourteenth floor of the U.S. Bank Tower—I would need his final approval.

Not yet though. There was this small matter of the slander. I needed to get at the issue with the mayor's office. The question, though, was how. But I did not ponder it long. It reared its ugly head right in front of me.

Coincidence—but maybe not: in the same instant in which I hung up the telephone after Lezak's call, I looked up from my desk and noticed Captain Davis and Chuck Duffy, the mayor's executive assistant, walk across my field vision and continue down the thirteenth floor hallway. Sudden rage overwhelmed me. Chuck Duffy was Mayor Clark's office liaison to the police bureau—and, at this moment, a symbol of the skullduggery and slander. A *leak!* My mind screamed. *Someone in the mayor's office is accusing us, accusing me. The mayor's office! Chuck Duffy is accusing me! What are they thinking?*

I had no idea what this “leak” thing was all about. But I was going to find out. Chuck Duffy, the mayor's right hand, had been very visible with the mayor during press conferences, during all the televised commission hearings. He and city attorney Jeffrey Rogers were always at the mayor's side whenever he went public. Right now, Chuck Duffy was a visual representation of the false accusation that—according to Lezak—had come out of the mayor's office.

Caught up in emotion, leading me reflexively to the thirteenth floor hallway outside my door, I shouted, “Captain, can I have a moment?” Almost outside of me now, my words flowed, seemingly not my own, but part of a drama I wanted to witness. It was not a voice of request. It was firm and unyielding, a voice never heard from a lowly sergeant to his captain.

Captain Davis and Chuck Duffy must have heard the alter-ego voice, too, as they turned suddenly. Haltingly, almost awkwardly in wonder. Captain Davis spoke first: “Wh—Oh, Ray. Sergeant Tercek. Is something—?”

Chuck Duffy showed a bit of shock in his eyes. I knew this because my eyes had never left him from the moment I saw him. I had never met him before, but I sensed that he knew who he was looking at. Nonetheless, Captain Davis provided customary introductions: “Chuck, this is Sergeant Tercek, my task force supervisor—”

And almost before he could get it out, that unyielding voice spoke again—this time a bit more quietly, but still commanding. “He *knows* who I am,” I said. “And Captain, for your info—you probably have no idea—Chuck Duffy, here, and maybe others from his office, *know* who I am because they are actively engaged, as we speak, in accusing me and the task force of ‘leaking’ confidential material. They want us out of the loop of the internal investigation.”

I was only inches from Duffy’s face. I’m sure he could see the fire in my eyes. As Duffy received my message with shifting eyes and shock, Captain Davis stepped back, equally shocked, not knowing what to do. Catching his breath, Duffy said, “Sergeant Tercek, I, uh—I’m not sure what you’re talking about.”

“Yes, you are,” I spat back. “What if I told you that I just got off the phone with Sidney Lezak? Would that change your denial? Lezak filled me in. You guys don’t want me to get access to the IIU files to prepare my affidavit for the commission. You guys in the mayor’s office are claiming that I have leaked to the press and am now a risk for more leaks. You want me out of the loop.”

Duffy seemed to collect himself a bit. His expression turned to one of anger—the bureaucratic hack in him apparently assuming its battle station and setting out full spin ahead. “Sergeant Tercek, I would advise you to control yourself. You can’t talk to me that way. Now ... now ... number one, Chairman Lezak would not say that, and number two, I don’t know where you’re getting this.”

His denial did not sit well with me. The unyielding voice spoke again: “I *am* going to continue talking to you ‘that way’! Lezak did say that! He said he is reluctant to give me the IIU file, that you guys have some ‘special information.’ He said he was in favor of exchanging the documents, but that it was not his decision ... Do you want me to get Lezak on the phone? There’s one right there!” I pointed to a desk telephone. “You guys are planning to scapegoat me to cover your own asses on these screwups. I suggest that you get this corrected—or—or—I need the IIU file, as I was promised, to prepare a thorough affidavit for the commission.”

And he walked to the desk and dialed the telephone. He caved—I presumed that he was talking with Lezak, though I could not really know for sure what who he had dialed. His conversation was short. After hanging up the phone, his demeanor changed from defense back to attack. “Chairman Lezak said that he did not make that statement. He also denied that he said he wanted you to have the documents.”

I was stunned. “I can’t believe that,” I said. I knew then that there was more to this! *Why would Lezak deny it? No matter, though, I thought, I will have my day on this—I have Sidney Lezak on tape via the recording device on my phone!*

My helpless feeling, however, must have shown, as Duffy’s costumed arrogance strengthened upon my reaction. His tone became sarcastic and condescending, “So, what do we have now? Who is lying here? You?”

The Captain was fidgeting and pacing, now—not offering any support, showing way too much reservation to play any part in my offense or defense. It was time to call it a day. “I don’t have to stand here and listen to this bullshit.” I turned and started for my office door.

But Chuck Duffy was not finished puffing his chest. His words chased after me, full of indignation and arrogance: “No, you don’t. There’s no truth to your accusations ...” and several more derogatory remarks I chose not to hear. Duffy left the area in a huff, Captain Davis following him.

Not two minutes later, my telephone rang—a call to report to the captain’s office. I went immediately.

The captain appeared weary—and fearful. “There will be more problems for us on this, Ray, I know it,” he said. “You need to get on the phone and call Duffy’s office to apologize—and you need to do it right away.”

*Nope! I am not doing that!* “Captain, I disagree,” I replied. “I, uh, I have a tape of Lezak’s statement on my recorder. It proves what I said to Duffy. He doesn’t know about the tape, and neither does Lezak.”

He looked at me in disbelief. Then a weak smile appeared. And then a bit more fear. “But what can we do with a tape? I, uh ... ”

“Captain, relax,” I said. “My guess is Duffy took his ass right over to Lezak’s office. They’re talking right now, and in a few minutes, you’ll get a call. Duffy will be the one with his tail between his legs. Captain, I have caught them in the act—in the act of scapegoating me to cover their own asses. They will know it when they talk. The jig is up ... you’ll get a call and they’ll be back peddling in a few minutes. I know it. Meantime, I’ll go get that tape. Then I’ll wait with you. If no call comes in, we’ll come up with a new plan.”

The call came in twenty minutes, from Chuck Duffy to Captain Davis. I sat there while they had a short conversation. Captain Davis hung up with a look of astonishment. “I cannot believe what I just heard,” he said.

They had spoken for only two minutes—apparently with Chuck Duffy apologizing all the while. Duffy said this time that Lezak had apparently misunderstood his earlier call from the detective office. In fact, he said, now Lezak admitted to his telephone statements, that someone was accusing me of “leaks.” But further, Duffy said that he was not the source of the accusation, and that he personally did not have any problem with my accessing the IIU file. He would, however, seek to find the source of the objections and report back to Lezak. He said that Lezak would call me again soon, regarding the matter.

When Lezak did call back, he did so “on the record” of commission proceedings. He said, he had the special review commission in session in the commission office. I was in my own office.

SeRgeant Ray teRCeK: This is Ray Tercek. Sidney lezaK: Hi [...] Hi, this is Sid Lezak, and I have you on the speakerphone, and Colonel Watson and Judge Beatty are both here with me because we have taken this matter up as a commission. Let me straighten out a couple things.

First, when Duffy called me and asked whether or not we had requested that you be shown the material, um, I took that as meaning, “Did we have a present request?” And as I told you, I was waiting for the commission to come before making such a request. The commission has now been here. And although I had requested initially—when I was at Turner’s office—that your task force be permitted to see it. And that included you as well. So, in that sense, I had made the request. All right. The task force—the

commission has said that we should request the mayor's office to have you shown the material. And a request has been made through Duffy.

teRCeK: I understand. lezaK: All right. OK. So now you are aware of—of that much. I

hope that straightens out any misunderstanding— teRCeK: That—  
lezaK: —That you may have had about, about that. teRCeK: That  
does. lezaK: I want you to be sure that I did not tell you one thing,  
and tell Duffy another. teRCeK: Oh,  
I understand that.

Sure, Sid ... Reality was, any respect I had had for him was now gone. No matter though, I would play his game.

lezaK: All right. Second, uh—with respect to the information about—that came from the mayor's office about why they did not want you to have the material. I did mention that the conversation—[inaudible side discussion—by tone and volume, I took as being in response to someone who had just said something to Lezak]. OK. I did mention that the conversation—part of the conversation with Duffy, who was present at the conversation. If I said that it was Duffy who made the statement—that he thought you were the one who leaked—that, that was not ... uh—he did not—he's not the one who made the statement. It was somebody else in the mayor's office who made statement, and they were, uh, referring to a report that they had from another person who I am not at liberty to reveal. So, I want to clear up—that nobody in the mayor's office has said to me that they know that it was, uh, Sergeant Tercek who made the leak. They are quoting somebody else who I am not at liberty to quote at this time. teRCeK: OK. Now, as I understand it, someone in the mayor's office has information that I am a leak risk. Is that what you're saying? But you are not privy to—

lezaK: Somebody in the—uh—uh—I'm going to make it—I'm going to make it very plain. Somebody in the mayor's office told me that somebody else—who I am not at liberty to name—had said that they thought you were the source of leaks from the task force.

I got a little snide at that moment.

teRCeK: OK. Well, I want to make it clear that I understand what you're saying. And *that is false*.

lezaK: OK. All right. And I have no reason to doubt what you're saying. But I need—uh, uh—but I, uh, I realize that in talking the way I did about Duffy being there, that you might well have understood that I said that it was—uh—Duffy, who did it. And, I want to clear that up.

teRCeK: That was my understanding at the time.

lezaK: OK. teRCeK: OK. I understand now.

But I did not believe a word he had just said!

lezaK: Now, I'm waiting to hear from Duffy as to whether or not your—*our*—request will be honored. teRCeK: OK. Now, should I ... ? I intended to bring the affidavit over, over to you.

lezaK: Bring it over as it is—and then whatever changes you need to make in it as a result of your—uh, later—uh, uh, ability to see the report—we'll accept as changes.

teRCeK: OK. lezaK: OK. teRCeK: Thank you. I will bring it over.

lezaK: Thanks very much. Good-bye.<sup>89</sup>

I did not feel any better about the hearings after the conversation. I felt worse. The confrontation with the mayor's office and Lezak at least had exposed the incompetence of those involved in the proceedings—and potentially had exposed the sinister influences of the mayor's office on the outcome of the Lezak Commission hearings.

I contacted the United States attorney Charles Turner with my concern. Hearing my experience, Turner was outraged. "I can't believe these guys!" And he told me that he believed he knew the source of their special information.

He told me about a commission meeting Lezak and Rogers had called him to in the mayor's office. City attorney Jeffrey Rogers, Charles Duffy, Sid Lezak, and others would be present. When he opened the meeting, Lezak had requested that the meeting would be confidential.

At this, Turner said, “I should have known. There was conversation about leaks to the media. Then they deliberately solicited my response. I think now to secure a reason—my statement—to blame *the police* for the leaks. And I ignorantly agreed that the theory was possible, that anyone in the task force or other police could be the source of the leaks. But I certainly did not mean to indicate that *you* would ever have been the source of any leak! That is not what I intended! I think that I am apparently the source of their claim of special information!” Turner said that he felt “duped and set up.”

But it was all still mystifying to me. “What leaks were they talking about?” I asked.

Continuing, Turner said Duffy had asked him if he had any ideas as to how a “1982 police report” implicating sergeant Jay Decker in illegal drug use got to the press.<sup>90</sup> In response, Turner had answered with the obvious—merely participating in brainstorming as everyone else was—in an effort to help them answer the question. He said he recited a gamut of potential sources. He made reference to anybody who had access to the report—giving no specific names—but including the Portland Police Bureau in general.

USA Turner said that he did not intend the commission or the mayor’s office to stretch his words to implicate any individual—especially since Lezak himself had requested that the entire substance of the meeting be confidential. He said, “Apparently, this is the way they’re operating now,” and

further, that “Lezak violated the confidence of the city hall meeting once before.” He also told me about another question about leaks Lezak had posed to him during the public hearing. Turner said that, at the time, the question seemed obnoxious, that it was inconsequential in terms of the rest of his

testimony. Now, putting it together with my experience before the commission and the mayor’s office, he was outraged at Lezak’s breach of the confidentiality and at his apparent collusion with the mayor’s office, and said he was sorry that he had made any reference to the police bureau. He had not anticipated that the commission would use his statements in the manner they did. He regretted not being more attentive at the time and repeated that he “should have known.”

He concluded by saying, “I am going personally to the mayor’s office to protest!” And so he did, that day.

