

TO: ODDIS ROLLINS  
FROM: JERRY GABRIELATOS  
RE: Clarifying Questions Regarding Findings in the OIR Report  
DATE: January 22, 2021

Oddis,

The following questions are intended to help me understand some of issues that are raised in the OIR Group report regarding your actions but were not thoroughly resolved to my satisfaction.

The OIR Group report states:

“While the Police Department did decide to proceed with an investigation, it failed to heed initial suggestions made by attorney Rubanoff and supported by City Attorney Ramis as to whom should conduct it. As a result, Acting Lieutenant Rollins was left to conduct the investigation into the myriad of allegations raised in the tort claim notice but eventually chose to investigate only a small subset of them.”

The report goes on to conclude that this narrow scope of the investigation led you to conduct an inadequate investigation. I would like clarification regarding your involvement in the decisions that were made regarding the investigation and, to the extent you exercised your own judgment in making some of these decisions, the basis for the choices that you made.

Please provide written answers to these questions. I would like to have them back by February 1, 2021, but please let me know if you feel that you need more time.

1. What did you understand your assignment to be regarding the investigation of Tony Reeves in July 2018? **My understanding was that I was to conduct an internal investigation into possible West Linn Police policy violations that Tony Reeves may have committed during his case investigation.**
2. The OIR Group report states: Rollins wrote in his report that his inquiry into the matter was restricted to the “limited scope” of WLPD policy violations, and not civil complaints raised within the body of the tort claim. What did you mean by “civil complaints raised within the body of the tort claim”? **I meant that the investigation I was directed to perform was specific to the scope of West Linn Police policy violations. Allegations and the associated actions that would be looked at later by outside (Federal) authorities, such as the civil infractions described in the legal claims sections of the tort claim (subsections 1 and 2), would not be included in my inquiry.**

*Excerpt from section--“Based on the course of conduct summarized above, Mr. Fesser has multiple claims against the West Linn Defendants arising under federal law, pursuant to 42 U.S.C. Sections 1981 and 1983...”*

3. Did you receive any instructions or guidance regarding the scope of the allegations you were expected to investigate? **The instruction I was given was to look at possible West Linn Police Department policy violations that Tony Reeves may have committed during the Theft**

investigation. The scope of my investigation, as I understood it, was limited to possible internal police policy violations. The scope was also limited to Tony Reeves as the subject of the investigation. Tony Reeves was the only remaining West Linn police employee who actually worked on the case. An internal policy investigation can only be performed on current employees who are still subject to and required to adhere to those policies. At this point as a Sergeant, I had performed 3 internal policy violation investigations and they were all limited in scope to the actions and behaviors of the persons being investigated as they directly related to written, current West Linn Police policies.

4. Did you receive any instructions that the investigation should only address conduct by Tony Reeves? If not, why did you choose not to investigate conduct by former Chief Timeus? **Yes.** The subject of the internal West Linn investigation was to be Tony Reeves only, as he was the only remaining current West Linn police employee who actively worked on the case. I was not instructed to look for WLPD policy violations possibly committed by Chief Timeus or Lt. Stradley. Based on my knowledge and experience level at the time, it seemed reasonable that an "internal department policy violation" investigation would be limited to those current employees who were bound to follow those policies and were subject to discipline or corrective action. It seemed reasonable to me that as a sergeant, the department had only asked me to investigate the actions of Tony Reeves for internal policy violations and would later allow the City's formal legal counsel and the counsel representing CIS to investigate and evaluate the actions of Chief Timeus and Lt. Stradley as it related to the larger lawsuit.
5. Did you receive guidance or instructions as to which policy violations by Tony Reeves you were expected to investigate? If not, how did you make the decision of which policy violations to investigate? **No.** I made the decision on which possible policy violations to initially investigate by reading and taking into account the written accusations in the tort claim provided to the City by Michael Fesser's attorney. That document outlined specific accusations of behavior, that if true, could fairly accurately match up with specific WLPD policies. I identified which policies those might be and began there. Capt. Hennelly was aware of the policies I initially identified to look at and did not offer any additional suggestions or guidance.
6. Did you receive guidance or instructions as to who should be interviewed? If not, how did you make that decision? **No.** My decision on who to interview was based on the first-hand knowledge that person may have had on the actions Tony Reeves took during the case investigation. Former WLPD Detective Mike Boyd was an active participant in this case and worked directly with Tony Reeves during specific investigation activities. According to the information I had at the time, which included two short reports written by Tony Reeves and one report written by a Portland Police Officer, there was no evidence to suggest that any other City employee worked first-hand with Tony Reeves, other than Mike Boyd, on this case investigation.
7. Did you attempt to interview former Chief Timeus? If not, why? **No.** As my instructions were to look into possible policy violations committed by Tony Reeves during his theft investigation, it did not appear from any documentation or evidence that Chief Timeus had been directly involved in the actual investigation of the case or worked first-hand with Tony Reeves during any case investigation activities.
8. Did you attempt to interview former Lt. Stradley? If not, why? **No.** As my instructions were to look into possible policy violations committed by Tony Reeves during his theft investigation, it did not appear from any documentation or evidence that Lt. Stradley had been directly involved in the actual investigation of the case or worked first-hand with Tony Reeves during any case investigation activities.

9. Did you attempt to interview Michael Fesser? If not, why? First, as the plaintiff in a potential lawsuit against the City of West Linn, I did not believe that Michael Fesser, either through his own volition or on the direction from his attorney, would engage in an interview with me. Also, I already had a detailed account of his allegations toward the City and police employees.
10. Why did you decide to interview Tony Reeves before you reviewed the text messages? At the time I interviewed Tony Reeves, it is my recollection that we (the City) had no timeframe on when we would receive access to the text messages. I do not believe that any person inside the WLPD knew we would be getting a call from CIS a few days later saying we could pick up copies of the text messages. My decision to interview Tony Reeves on July 16, 2018 was in response to an email I received from Capt. Neil Hennelly on July 13, 2018 in which he stated, "We are good to go with interviewing Reeves." I took that to mean that I could begin the interviewing process immediately.
11. Why did you choose not to reinterview Tony Reeves after you reviewed the text messages between him and Mr. Benson? Based on the answers Tony Reeves provided me during the interview, I did not find that any of the text messages he authored stood in stark contrast to what he had already admitted to. Tony Reeves had admitted to writing text messages that were lewd, profane, sexual and unprofessional in nature and content. There were text messages there that he authored that contained those elements. Tony Reeves denied writing text messages that were racist or homophobic. I did not find that any of the text messages that Tony Reeves authored contained racist or homophobic language. To be clear, I was tasked with investigating the actions and text messages of Tony Reeves and not the text messages of other people who were not West Linn police employees.
12. Did you make any recommendation to Captain Hennelly regarding the appropriate disciplinary sanction for Tony Reeves? No. I had no part in the discipline decision that was made by Capt. Hennelly.
13. When you reviewed the text messages, did you find any evidence that Tony Reeves had discriminated against, oppressed, or shown favoritism to any person on the basis of race, color, or any other protected class listed in WLPD policy 340.5.1? What was your interpretation of conduct prohibited by that policy? When I reviewed Tony Reeves's text messages, I did not believe that Tony Reeves was discriminating, oppressing, or otherwise investigating Michael Fesser based on Michael Fesser's race, color, or other protected class designation. I did not find evidence that led me to believe that Tony Reeves had conducted this investigation solely because Michael Fesser was black. Based on the information I had at the time (July 2018), the evidence showed that Tony Reeves believed he had probable cause to show that Michael Fesser had engaged in illegal activity with respect to auction car sales.

My interpretation here would include any negative or positive conduct by a West Linn Police officer that is done only (solely, exclusively) because of the perceived race, gender, sexual identity, gender identity, religion, physical or mental disability, or other classification protected by law, of a person. An example would be performing a traffic stop on a person solely because they are Hispanic. Another example would be dismissing an issued citation solely because the person is a woman. The West Linn Police Department will not take actions against a person, negatively or positively, solely and exclusively based upon that person's race, ethnicity, gender, sexual identity or any other protected class designation.

14. When Captain Hennelly adopted your findings and made his decision regarding appropriate discipline, did he have access to the complete set of text messages between Tony Reeves and Mr. Benson? **Yes, he did.**
15. In hindsight, is there anything that you would do differently if a similar situation arose again?

In order to help prevent similar situations from arising, Acting Chief Mahuna and I have been diligently working on revising, clarifying, and specifying many of the West Linn Police policies and procedures. We have also been dedicated to continually providing the West Linn Police Department with robust and comprehensive training opportunities in areas such as Implicit Bias, De-escalation, Community Policing, and Procedural Justice. The overarching goal is to provide the West Linn Police Department with the training, policy framework, and preparation to ethically and effectively serve the community.

## Rollins, Oddis

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**From:** Hennelly, Neil <nhennelly@westlinnoregon.gov>  
**Sent:** Friday, July 13, 2018 11:56 AM  
**To:** Rollins, Oddis  
**Subject:** FW: Fesser Tort - ATTORNEY-CLIENT PRIVILEGED

Oddis,

I talked to Terry about this already, based on the info below, we are good to go with talking to Reeves. If you have any questions, do not hesitate to call Dee. She is very well versed in our policies and procedures, and is great to work with.

Neil