

SUMMARY DETERMINATION REGARDING ACCOUNTABILITY
FOR THE ACTIONS OF CAPTAIN ODDIS ROLLINS

By Jerry Gabrielatos, City Manager

Dear Citizens of West Linn:

I have carefully considered the concerns from the West Linn community that Captain Rollins should be held accountable for his role in the Michael Fesser matter. I have also reviewed information regarding Captain Rollins that I obtained after the initial OIR Group report was issued last December. I believe that this information mitigates in favor of Captain Rollins in evaluating his actions, for the reasons stated below.

As a general consideration, it is important to note that Captain Rollins had no involvement whatsoever in the arrest of Michael Fesser, or any other involvement in the matter until he was assigned to investigate the actions of former Sgt. Tony Reeves in July 2018. As demonstrated below, OIR Group has confirmed that there was no evidence of any concerning conduct by Captain Rollins apart from the Internal Affairs investigation he conducted. It is also important to keep in mind that Captain Rollins was a Sergeant, who had been temporarily placed in the position of Acting Lieutenant, when he was assigned to investigate Tony Reeves. Additionally, one can see from the statements by OIR and Captain Rollins, quoted below, that the investigation was not properly scoped by Captain Rollins' supervisors, and it is OIR's opinion that Rollins' investigation was thereby set up to fail.

A. Excerpts of responses by OIR Group to supplemental questions regarding Captain Rollins. (The complete document is posted on the City's website.)

QUESTION: IS THERE ANY EVIDENCE THAT ACTING LT. ROLLINS PARTICIPATED IN THE DECISION TO CONDUCT THE INVESTIGATION INTERNALLY?

Answer: *"OIR Group learned of no evidence that acting Lieutenant Rollins participated in the decision to conduct the investigation internally rather than retain an outside investigator."*

QUESTION: WHAT IS THE EVIDENCE THAT ACTING LT. ROLLINS CHOSE WHICH ALLEGATIONS IN THE TORT NOTICE TO INVESTIGATE?

Answer: *"Assigning an Acting Lieutenant to investigate wide-ranging allegations of misconduct against a peer and his former Chief, without providing clear direction on its scope, was setting the investigator up to fail. * * * While any investigator ultimately "owns" the investigation he conducts, placing full responsibility on the investigator ignores the milieu and circumstances under which he was directed to function; the initial course and breadth of the*

investigation was clearly set by Chief Kruger and Captain Hennelly. And most significantly, for the reasons set out more fully in our initial report, no individual then working at the West Linn Police Department could have conducted an effective investigation into the multitude of serious allegations raised in the tort claim notice.

QUESTION: WHAT INFORMATION WOULD HAVE BEEN OBTAINED FROM AN INTERVIEW WITH FESSER, TIMEUS OR STRADLEY THAT WAS MATERIAL TO THE LIMITED SCOPE OF ROLLINS INVESTIGATION?

Answer: *“The question presumes that the scope of the investigation was appropriate. It was not. The whole point of the OIR Group report is just that; the scope of what to investigate and who to talk to was inappropriately narrow. Since the narrow scope did extend to witnesses, it likely did influence who Rollins interviewed.”*

QUESTION: ROLLINS DETERMINED THAT REEVES DID NOT VIOLATE THE FOLLOWING WEST LINN POLICE DEPARTMENT POLICY: 340.5.1- DISCRIMINATION. OPPRESSION OR FAVORITISM. WAS THAT FINDING CLEARLY ERRONEOUS BASED ON THE CONTENT OF THE TEXT MESSAGES?

Answer: *“It is important to note our understanding that at the West Linn Police Department, the investigator makes findings regarding violations of policy but the ultimate decision-maker is the individual who actually ratifies the findings and imposes discipline, in this case Captain Hennelly.”*

QUESTION: WERE THERE OTHER APPLICABLE POLICY VIOLATIONS THAT ACTING LT. ROLLINS FAILED TO IDENTIFY OR CONSIDER WITHIN THE LIMITED SCOPE OF THE INVESTIGATION THAT WAS ASSIGNED TO HIM?

Answer: *“[T]here would have been numerous founded additional policy violations (or violations of law) committed by Reeves and Timeus had the investigation been appropriately scoped.”*

QUESTION: WAS THERE EVIDENCE THAT ACTING LT. ROLLINS ENGAGED IN IMPROPER CONDUCT APART FROM THE CONCERNS ABOUT HIS HANDLING OF THE INVESTIGATION OF SGT. REEVES?

“No.”

B. Excerpts of responses by Captain Rollins to questions regarding his investigation of Tony Reeves. (The complete document is attached to this summary.)

QUESTION: WHAT DID YOU UNDERSTAND YOUR ASSIGNMENT TO BE REGARDING THE INVESTIGATION OF TONY REEVES IN JULY 2018?

Answer: *“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. * * * 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."*

QUESTION: 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?

Answer: "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."

QUESTION: 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?

*Answer: "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. * * * Capt. Hennelly was aware of the policies I initially identified to look at and did not offer any additional suggestions or guidance."*

QUESTION: DID YOU RECEIVE GUIDANCE OR INSTRUCTIONS AS TO WHO SHOULD BE INTERVIEWED? IF NOT, HOW DID YOU MAKE THAT DECISION?

Answer: "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."

QUESTION: DID YOU MAKE ANY RECOMMENDATION TO CAPTAIN HENNELLY REGARDING THE APPROPRIATE DISCIPLINARY SANCTION FOR TONY REEVES?

Answer: *“No. I had no part in the discipline decision that was made by Capt. Hennelly.”*

QUESTION: 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?

Answer: *“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.”*

QUESTION: 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?

Answer: *“Yes, he did.”*

C. Conclusions

Based on my review of the information summarized above, I have made the following determinations:

The Michael Fesser matter was thoroughly investigated by the Clackamas County District Attorney's office, and then was thoroughly investigated by OIR. The supplemental information from OIR Group, which is consistent with the statements of Captain Rollins, clarifies that there was no evidence of intentional wrongdoing on the part of Captain Rollins. The investigation report by the Clackamas County District Attorney's office issued in May 2020 also did not find any misconduct by Captain Rollins. I do not believe that any further investigation is warranted regarding this matter.

To the extent that Captain Rollins performed a flawed investigation of Tony Reeves while he was an Acting Lieutenant, it appears that this resulted from a limited scope of investigation assigned by Chief Kruger and Captain Hennelly, lack of guidance during the investigation process, and approval of Rollins' investigation report by his direct supervisor, Captain Hennelly. Under those circumstances, I do not believe that disciplinary action of Captain Rollins is appropriate. I understand that some members of the public will be disappointed or continue to

question this determination, but it is my responsibility to make the decision that I believe is correct, even if it is subjected to criticism.

It was my intent, in gathering the information summarized above, to address lingering questions about the investigation that resulted from the OIR report. I believe the path forward to improving the competencies within the Police Department is through training and setting high expectations for accountability going forward.

To that end, Acting Chief Mahuna and I are committed to immediately beginning the process of improving our complaint procedures within the Police Department so that citizen complaints are promptly and effectively addressed, and we are in the process of making arrangements to provide intensive training to supervisory staff for conducting thorough and trustworthy investigations of allegations against police officers. We will keep the citizens of West Linn apprised of our plan and our progress toward making that a reality.