



THENELL LAW GROUP P.C.

12909 SW 68th PARKWAY
SUITE 320
PORTLAND, OR 97223
ThenellLawGroup.com

Daniel E. Thenell, Partner

Admitted in
Oregon, Washington,
Idaho & Alaska

Email: Dan@ThenellLawGroup.com

P: (503) 372-6450


F: (503) 372-6496

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2014-105


VIA CERTIFIED AND FIRST-CLASS MAIL

Chris Jordan
City Manager
22500 Salamo Road
West Linn, OR 97068

Re: City of West Linn
Employees : Chief Terry Timeus
Sergeant Mike Stradley
Our Clients : 

Dear Mr. Jordan:

My office represents 

 The purpose of this letter is to bring to light the concerns my clients have of misconduct and violations of West Linn Police Department policies committed by your Chief of Police, Terry Timeus. The actions of Chief Timeus have destroyed morale amongst your officers causing a mass exodus of veteran officers to other jurisdictions.

This letter is addressed to you, so that corrective action is taken to fix the improprieties committed by Chief Timeus, and is not intended for publication to others. Please note that the disclosure of my clients' identities regarding the contents of this letter is prohibited under ORS 659A.218.¹

Below is a summary of the misconduct and policy violations committed and allowed by Chief Timeus.

Incident

This incident involves the improper order by Chief Timeus to arrest a West Linn resident, the subsequent forgery of the police report by Sergeant, Mike Stradley, and the eventual cover up by Chief Timeus.

¹The statute prohibits a public employer from disclosing the identity of an employee who reports misconduct. ORS 659A.218(1). The disclosure of the employee is an unlawful employment practice. ORS 659A.218(2).

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On November 23, 2013, West Linn resident [REDACTED] was arrested and cited for DUII. On November 24, 2013, a hit and run was attributed to [REDACTED] arising out of the November 23, 2013, arrest. Between the dates of November 24, and 28, 2013, West Linn Police Officer, Jim Abeles, was assigned to follow up and cite [REDACTED] for the hit and run.

In the early morning of November 29, 2013, Chief Timeus contacted West Linn Sergeant, Dave Kempas, and ordered him to arrest [REDACTED]. Sergeant Kempas reported that Chief Timeus sounded heavily intoxicated when he issued the order.² Although the prior order in dealing with [REDACTED] was to issue a citation for him to appear in court, Chief Timeus persisted with the order to arrest [REDACTED] during the Thanksgiving holiday.

Sergeant Kempas, following Chief Timeus' order, requested that Officer Abeles arrest [REDACTED]. After the arrest, Officer Abeles wrote a detailed report regarding Chief Timeus' executive order to Sergeant Kempas. Officer Abeles' official report was approved by West Linn Sergeant, Wade Corbin. Following the report's approval, it was filed with the records division on December 2, 2013.

On the evening of December 2, 2013, Sergeant Stradley arrived at work and saw that the report on the [REDACTED] arrest contained Chief Timeus' name. Concerned with the apparent misconduct by Chief Timeus, Sergeant Stradley contacted Officer Abeles and requested that all reference to Chief Timeus and his order be removed from the report. Sergeant Stradley accessed the digital copy of the report and made changes to it by removing references to Chief Timeus.³ Sergeant Stradley then accessed the original signed and approved report, and removed pages to replace them with the new altered pages. Finally, Sergeant Stradley forged Officer Abeles' signature and refiled the report.⁴

On January 29, 2014, [REDACTED] and Sergeant Jim Doolittle became aware of Sergeant Stradley's forgery and approached Chief Timeus. [REDACTED] and Sergeant Doolittle requested that an outside law enforcement agency investigate Sergeant Stradley's actions, and that Sergeant Stradley be placed on administrative leave. Chief Timeus agreed to have an outside law enforcement agency investigate the situation, but declined to place Sergeant Stradley on administrative leave.⁵ Chief Timeus told [REDACTED] that he would not place Sergeant Stradley on administrative leave, because he only places officers on administrative leave when he intends to terminate them.⁶

On February 16, 2014, after returning from vacation, Sergeant Stradley began accessing documents related to this incident, and contacting Officer Abeles and others, in an attempt to manipulate the situation and influence potential witnesses.

² West Linn Police Department Manual strictly prohibits the consumption of alcohol or consumption of illegal drugs by on-duty personnel. See WLPD section 1012.2.

³ This is evidence by the last date of modification stamp on December 2, 2013 at 2:05 a.m. by Sergeant Stradley.

⁴ Sergeant Stradley's actions are in direct violation of WLPD sections 340.3.5(d) and (i), and 344.5.

⁵ Chief Timeus had the discretion to place Sergeant Stradley on administrative leave. See WLPD section 1020.4; see also 1020.5.

⁶ See WLPD sections 1020.4 and 1020.4.1 regarding the procedure for placing an officer on administrative leave.

Approximately five weeks later, Chief Timeus informed [REDACTED] that there would not be an outside investigation into Sergeant Stradley's misconduct. Concerned at the lack of accountability and overt cover up of Chief Timeus' and Sergeant Stradley's misconduct, [REDACTED] and Sergeant Doolittle expressed their grievances to you, and the city of West Linn's human resource director. On February 26, 2014, you advised that a private investigator would be hired from the city attorney's office. However, the investigation focused on narrow issues, and never addressed Chief Timeus' misconduct in ordering the arrest of [REDACTED] while intoxicated, and attempting to cover up Sergeant Stradley's misconduct.

Sergeant Stradley's altering of a police report, and forging the arresting officer's name is a serious act of misconduct that should have been properly investigated. Chief Timeus' willingness to do nothing, and protect Sergeant Stradley – even though numerous officers requested that Sergeant Stradley be held accountable – is a showcase of the complete lack of leadership within the department.

Incidents of Intoxication While in the Course of Chief Timeus' Employment

There have been several complaints by West Linn police officers regarding Chief Timeus' use of alcohol while in the course of his duties as a public official for the city of West Linn. On multiple occasions, Chief Timeus has issued orders while under the apparent influence of alcohol, or placed the credibility of the West Linn Police Department and its officers in jeopardy by arriving to active police scenes under the influence of alcohol. The incidents described below are serious instances of misconduct, and violations of the West Linn Police Department manual.⁷

On November 10, 2010, West Linn resident, Boyle, reported a robbery at her home. Members of the police department, including Chief Timeus, responded to investigate and assist. Several officers detected a strong odor of alcohol on Chief Timeus' breath. The odor was so strong that officers took measures to ensure that Chief Timeus was neither near Boyle, nor her family, during the investigation. The actions committed by Chief Timeus not only placed the credibility of the department in jeopardy, but forced his officers to focus on Chief Timeus' improper behavior as opposed to assisting Boyle.

In January, 2013, Chief Timeus called West Linn Captain, Vic Lancaster, regarding an illegal search of vehicle by Sergeant Stradley. Captain Lancaster reported to other officers that Chief Timeus sounded intoxicated and verbally abused him by repeatedly shouting, "what is your end game?" Chief Timeus' conduct, while under the influence of alcohol, was unbecoming of a police chief.

In September, 2013, Chief Timeus contacted Captain Lancaster regarding a former West Linn police officer. Captain Lancaster reported that Chief Timeus' language was slurred. Later in the evening, Chief Timeus again contacted Captain Lancaster to discuss the incident. This time, his voice was even more slurred.

⁷ See WLPD section 1012.2.

In the fall of 2013, a part time records clerk with the city of West Linn reported her home had been burglarized. West Linn police officers responded, including Sergeant Kempas. Chief Timeus called Sergeant Kempas to instruct him on the investigation. Sergeant Kempas informed fellow officers that Chief Timeus was intoxicated when he made the call, speaking with slurred words and sounding unintelligent. Chief Timeus issuing this order, while under the influence of alcohol is a serious violation.

On November 26, 2013, Chief Timeus contacted Sergeant Kempas and ordered him to arrest West Linn resident [REDACTED].⁸ Sergeant Kempas reported to others in the department that Chief Timeus was intoxicated when he gave the order. Further, on December 8, 2013, during a shift briefing, Sergeant Stradley made statements to other officers about Chief Timeus being intoxicated when he ordered the arrest of [REDACTED].

On January 25, 2014, Chief Timeus contacted a West Linn police officer seeking help assembling an AR-15 rifle. Chief Timeus reportedly was at a West Linn resident's home, and was too intoxicated to assemble the rifle.

Chief Timeus' Altering a Recruit's Score

In September, 2013, testing for potential new West Linn police recruits was set to take place. Several times in the past, Sergeant Doolittle had handled the recruit testing alone; however, on this occasion, Chief Timeus took it upon himself to assist with the testing. On September, 9, 2013, Sergeant Doolittle and Chief Timeus administered the test. Following the testing period, Chief Timeus requested that the tests be graded prior to the applicants leaving. Sergeant Doolittle advised that the grading should be done at a later time to guarantee accuracy. Chief Timeus persists in his request, and told Sergeant Doolittle that the applicants who wanted their test scores now could stay and wait. Chief Timeus collected the tests and personally divided them for grading by Sergeant Doolittle and himself.

After grading a young female recruit's test, Chief Timeus informed her that she had passed.⁹ Afterwards, Chief Timeus and the young female recruit left together and met another female outside. The three talked outside, and soon after left.

That night Sergeant Doolittle double checked the test grades for accuracy, and discovered that the young female recruit's test was graded inaccurately. It was the only test to be found with an altered and inaccurate score. The young female recruit's test, graded by Chief Timeus, was given an extra point that allowed for a passing grade. Sergeant Doolittle immediately sent Chief Timeus a message regarding the inaccuracy. Sergeant Doolittle later mentioned this incident to Captain Lancaster, who identified the young female recruit as the sister of Chief Timeus' longtime girlfriend.¹⁰

⁸ This incident is described above in detail.

⁹ Any circumstances in which an officer knows, or reasonably should know that relationship would create a conflict of interest, shall promptly disclose the conflict to the next highest supervisor. See WLPD section 1050.2.1.

¹⁰ The department maintains a strict policy against nepotism. See WLPD section 1050 et seq.

Chief Timeus' blatant form of nepotism has affected the morale within the department. This incident reinforces the belief amongst the officers in the department that as long as you are Chief Timeus' family or friend, he would use his power as chief to not only protect your interests, but ensure you were rewarded by any means necessary.

Improper Hiring of a Reserve Police Officer

On December 11, 2013, [REDACTED] met with fellow West Linn police officers to discuss the recent hiring process for new police officers. [REDACTED] was told that applicant, and current reserve officer, [REDACTED] was ranked lower than a military veteran applicant with preference points. On December 18, 2013, [REDACTED] was told by Chief Timeus that although [REDACTED]'s ranking was low, and below the score of the military veteran, [REDACTED]'s hiring process was moved to the next step. [REDACTED] told Chief Timeus that hiring [REDACTED], even though he was further down the list, violated the city's hiring procedure, and federal law. Chief Timeus agreed with [REDACTED] stating that he had probably violated federal hiring laws, but that it was okay because "no one would find out."

Chief Timeus was well aware of hiring policies and federal law at the time of this incident, due to a recent State Bureau of Labor and Industry complaint and Unfair Labor Practice hearing. Nonetheless, Chief Timeus exhibited a blatant lack of accountability and leadership amongst his officers.

Misuse of the State of Oregon's Law Enforcement Data System (LEDS) and the Computerized Criminal History (CCH) Database

On July 26, 2013, at approximately 8:00 p.m., Sergeant Doolittle was checking on officer unit status, and saw that Chief Timeus was logged on as working.¹¹ Sergeant Doolittle contacted dispatch to determine Chief Timeus' status. Dispatch responded to Sergeant Doolittle that Chief Timeus did not require assistance. Later that evening, Sergeant Doolittle found a facsimile that was believed to be related to two individuals [REDACTED] had arrested that day. Sergeant Doolittle later brought this to [REDACTED] attention and discovered that the CCH checks were run on two unrelated individuals.

In the fall of 2013, Captain Lancaster informed Chief Timeus that there were possible Law Enforcement Data System (LEDS) violations by [REDACTED]. Captain Lancaster recommended to Chief Timeus that full department LEDS audit be conducted.¹² Although the misuse of LEDS is a serious offense, Chief Timeus denied Captain Lancaster's request. It is believed Chief Timeus' motive was to cover up his own misuse of CCH and LEDS.

¹¹ CCH is the department's computerized criminal offender information database. Only authorized recipients are allowed to access the database. See WLPD section 812.4. CCH is made available through LEDS. See OAR 257-015-0000 et seq.

¹² The unauthorized use of CCH can result in discipline up to and including termination. See WLPD section 812.9; see also OAR 257-015-0090.

Repeated Constitutional Violations Allowed by Chief Timeus

Prior to Sergeant Stradley's hiring by the West Linn Police Department, he was an officer with the Portland Police Bureau. During Sergeant Stradley's time with the Portland Police Bureau he was involved with alleged acts of unconstitutional behavior – specifically, violating individuals' Fourth Amendment rights. In 2011, Sergeant Stradley was hired by the West Linn Police Department, and following his probation period, he was promoted to Field Training Officer (FTO), and began training and mentoring new West Linn police officer recruits. As an FTO, Sergeant Stradley continued his repeated behavior of disregarding the constitutional rights of individuals. In light of the constitutional violations discussed below, Chief Timeus promoted Sergeant Stradley to sergeant.

Winter 2012 Incident

In the winter of 2012, then Officer Stradley – acting in his capacity as a FTO – illegally searched a vehicle in an impound yard while a new recruit was present. With no issued warrant for the search, or a valid exception to the warrant requirement, then Officer Stradley illegally searched the vehicle with the new recruit present. Based upon the improper search, he was investigated for this misconduct. During the investigation, Chief Timeus intervened causing the investigation to be undeterminable.

Incident No. 12-1833

Then Officer Stradley, again acting as an FTO and with a new recruit present, responded to a hit and run. After determining who the vehicle belong to, then Officer Stradley and the recruit drove to the owner's home, entered the residence, and arrested the owner for Driving While Intoxicated.¹³ Although the criminal complaint against the driver in this incident was ultimately dismissed, due to the illegal entry into the home, then Officer Stradley continued to advise officers to utilize ORS 133.033 as justification to enter into individuals' homes and private property without consent.

Incident No. 13-1726

On December 2, 2013, West Linn Police Officer, Al Bunch, was one of the officers responding to a stopped stolen vehicle. Officer Bunch was assigned to perimeter containment, and came in contact with an individual. At that time, Officer Bunch had no legal reason to arrest or detain the individual, and let the individual go after properly identifying him. However, Sergeant Stradley advised Officer Bunch that he should have detained the individual because he was an "armed career criminal." In a subsequent police briefing, Sergeant Stradley again advised

¹³ Sergeant Stradley justified his entry, alleging the "community caretaking" exception. See ORS 133.033. As used in this section, community caretaking functions means any lawful acts that are inherent in the duty of the peace officer to serve and protect the public, including, the right to enter or remain upon the premises of another if it reasonably appears to be necessary to prevent serious harm to any person or property. See ORS 133.033(2)(a)(A)-(C).

Officer Bunch that he should have detained the individual, not based on probable cause or reasonable suspicion, but solely on the fact that the individual was an armed career criminal. Sergeant Stradley later used this incident as justification to deny Officer Bunch the opportunity to participate as a department Officer In Charge.

Incident Nos. 13-12-19070 & 13-12-19071

On December 3, 2013, Officer Bunch approached an individual near a Safeway grocery store. There was no probable cause or reasonable suspicion to justify a stop, however, Officer Bunch engaged the individual in conversation and allowed him to continue on his way.

A short time later, the same individual was approached by West Linn Police Officer, Howell, and Sergeant Stradley. Officer Bunch advised that he had previously made contact with the individual, and let him go. Officer Bunch drove to Officer Howell, and Sergeant Stradley's location, and observed the individual leaving with Officer Howell in his patrol car. Sergeant Stradley told Officer Bunch that upon stopping the individual, he was searched and a marijuana pipe was found. Sergeant Stradley further told Officer Bunch that the individual was given a choice to either accept a ride home or to Oregon City. Sergeant Stradley stated that the individual asked if he could continue to his friend's house, but was told no.

Incident Nos. 14-0217 & 14-0218

On the morning of February 18, 2014, West Linn Police Officer, Chris Thomas, stopped a vehicle and arrested the driver for violating her probation. Shortly thereafter, West Linn Police Officer, Daniel Poitras, arrived at the apartment of the driver's boyfriend to determine whether he had been drinking as well in violation of his probation. The boyfriend denied consuming alcohol, and consented to a preliminary breath test (PBT). The PBT came back negative. During the test, Officer Poitras requested permission to enter the apartment, which the boyfriend granted.

Officer Poitras entered the upstairs of the apartment without consent and found a male lying on the bedroom floor. The male identified himself by his first name, and told Officer Poitras that he was not committing a crime. The male asked if he could leave, which Officer Poitras responded affirmatively. As the male was leaving the apartment, Officer Poitras radioed to Sergeant Stradley that a male was walking away from the apartment and appeared intoxicated.

Sergeant Stradley later located the male walking, and stopped him.¹⁴ Sergeant Stradley requested consent to check the male for weapons. Without consent, Sergeant Stradley conducted a full search and found and removed the male's Oregon identification card. The male was soon after arrested and jailed. No probable cause or reasonable suspicion was established to justify Sergeant Stradley stopping the male and searching him.

¹⁴ Reasonable suspicion is required to stop an individual for the purpose of conducting a field investigation. See WLPD section 440.3.

Incident No. 14-0234

On February 21, 2014, West Linn Police Officer Abeles ran a license check on a vehicle at a Shari's restaurant parking lot. The result identified the driver as having an extensive criminal history. Officer Abeles began watching the vehicle, and forwarded the information regarding the owner to Officer Poitras. Officer Poitras determined that the owner had recently been arrested, along with a known drug user. The vehicle owner was not allowed to associate with known drug users as part of her probation. Officer Poitras pulled up a picture of the known associate, and saw him walk out of the Shari's. Officer Poitras approached the associate to speak with him. Officer Abeles, who was present during the conversation with the associate, soon left to enter the Shari's to determine if the vehicle owner was inside.

Officer Abeles spoke with the Shari's staff, and was advised that the vehicle owner was not there. The Shari's staff did tell Officer Abeles that there was a male in the lottery area of the restaurant who knew the associate. Officer Abeles met with the male in the lottery area, initiated conversation, and was given a name, which Officer Abeles believed was false. At no time was the male acting suspicious or committing any criminal acts. Soon after, Officer Abeles left the Shari's to perform a check on the male's name, and update Officer Poitras. Officer Poitras entered the Shari's to speak with the male, and compelled him to provide his correct name.

During this time, Sergeant Doolittle was listening to the situation over radio traffic, and drove to the Shari's to monitor the situation. Upon reaching the Shari's, Sergeant Doolittle observed the male standing in the back corner of the lottery area, with Officer Abeles behind him blocking the exit, and Officer Poitras standing to the right. Sergeant Doolittle noticed a knife and a wallet on the lottery machine. Multiple attempts were made to get the male's correct name, and finally, the male identified himself as [REDACTED] [REDACTED] was subsequently arrested and jailed following confirmation that he had outstanding warrants.

Officer Poitras later admitted that he pushed the issue to obtain information from [REDACTED] without any reasonable suspicion – other than bad information given.¹⁵ Officer Poitras further admitted that taking an individual's personal property was considered a "stop," thus requiring reasonable suspicion; however, he stated that in a recent stop, he let an individual go who was later arrested after being picked up by Sergeant Stradley.¹⁶

The above-summarized incidents are indicative of Sergeant Stradley and other officer's indifference for the laws they have a duty to uphold. Chief Timeus' ability, or unwillingness, to correct this conduct has seriously impacted the ethical culture of the department.

¹⁵ West Linn police officers are trained that they may only stop an individual for the purpose of conducting a field investigation if reasonable suspicion is present. See WLPD section 440.3; see also section 440.3.1.

¹⁶ Incident Nos. 14-0217 & 14-0218 are discussed above.

Sergeant Stradley's Overt Insubordination and Lack of Respect for Officers

Sergeant Stradley has had a history of repeated insubordination within the department, by disrespecting his superior officers.¹⁷ On numerous occasions, Sergeant Stradley has lashed out against his reporting Captain by calling him names in front of fellow officers, and stating that he only reports to the chief of police. Chief Timeus has indirectly condoned this conduct by never punishing Sergeant Stradley or taken action to stop his conduct.

2014 Memo Incident

In early 2014, Sergeant Doolittle was assigned to investigate a performance issue involving Officer Abeles.¹⁸ Sergeant Doolittle wrote a memo to Officer Abeles and forwarded it to Chief Timeus and Sergeant Stradley. Chief Timeus met with Sergeants Stradley and Doolittle to discuss the memo, and to make written changes and suggestions. Chief Timeus later ordered that the memo be from both Sergeants Stradley and Doolittle.

Following Officer Abeles' receipt of the memo, and subsequent counseling session, Sergeant Doolittle received a letter from the Clackamas County Peace Officers Association (CCPOA) requesting that the memo be removed from Officer Abeles' file due to the conduct alleged in the memo being authorized by Sergeant Stradley. Sergeant Doolittle sought the guidance of Chief Timeus, who did not take any action. Due to Chief Timeus' lack of leadership, Sergeant Stradley began to intervene in the investigation. Sergeant Stradley questioned Officer Abeles on the memo, misrepresented to Officer Abeles that he knew nothing of the memo, and took a copy of the memo home to show his wife.

In February, 2014, a union representative contacted Chief Timeus to inform him that Sergeant Stradley was openly discussing the memo with Officer Abeles. Although Chief Timeus ordered that his sergeants prepare the memo, and made specific changes to it, he misled the union representative stating that he had never seen the memo.

On February 22, 2014, Sergeant Stradley confronted Sergeant Doolittle to speak about the memo. Sergeant Doolittle told Sergeant Stradley that he would not discuss it, due to an ongoing investigation. Sergeant Stradley admitted that there was an ongoing investigation, and that he had already discussed the issue with Chief Timeus. On February 27, 2014, Sergeant Stradley sent an email to Sergeant Doolittle threatening him to change the memo. On March 1, 2014, Chief Timeus replied to Sergeant Doolittle's email regarding the threats and stated he would advise Sergeant Stradley not to discuss the memo. No other action was taken by Chief Timeus.

Again, this incident showcases Sergeant Stradley's insubordination and disregard for this department's policy, and Chief Timeus covering up his misconduct. Sergeant Stradley was aware of an ongoing investigation in early 2014, yet sought to discuss the issue with Officer Abeles and

¹⁷ Disobedience or insubordination towards a supervisor is strictly prohibited. See WLPD section 340.3.5.

¹⁸ The performance issue involved the events that transpired in the [REDACTED] incident discussed above.

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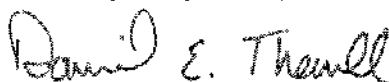
Sergeant Doolittle. Sergeant Stradley's misconduct continued by misleading Officer Abeles that he had no knowledge of the memo, and openly threatening Sergeant Doolittle. Moreover, Chief Timeus attempted to cover up Sergeant Stradley's actions by misleading the union representative that he had no knowledge of the memo, when informed about the misconduct.

The issues and incidents addressed in this letter display the repeated misconduct and violations by Chief Timeus. These issues and incidents stem from the lack of leadership of Chief Timeus. The actions taken, allowed and condoned by Chief Timeus have damaged the morale of your police officers, caused an exodus of experienced officers to other jurisdiction, created unnecessary divisions within the department, and have jeopardized the department's ability to serve and protect the residents of the city of West Linn. My clients are respectfully asking your office to assist in bringing a sense of accountability back to the West Linn Police Department. My clients further request that you retain a truly independent outside agency to thoroughly investigate the allegations against Chief Timeus and Sergeant Stradley.

I remind you that Oregon law prohibits the disclosure of my clients' identities regarding the contents of this letter.¹⁹ I would also like you to consider the courage these officers have shown in stepping forward for the members of the community and fellow officers. My clients believe the citizens of West Linn deserve better from their public officials.

Once you have reviewed this letter, please contact my office to discuss. I appreciate your time and attention to this matter.

Very Truly Yours,



Daniel E. Thenell

DET:AMN/cdm
West Linn.01

¹⁹ See ORS 659A.218.