



Oregon State Police

Incident: SP15228825

Incident details:

Incident Type: Public Official Investigation
Incident time: 07/17/2015 00:00 - 07/23/2015 13:22
Reported time: 07/22/2015 07:28
Incident location: 414 E 1ST ST, NEWBERG, Yamhill OR 97132 (NEWBERG) (Beat: MNO, Region: NWR) 97132
Incident status: Inactive
Summary: At the request of the Marion County District Attorney's Office Oregon State Police investigators contacted Newberg City Officials to conduct a preliminary investigation into a complaint of potential criminal misconduct in relation to Newberg-Dundee Chief of Police being placed on administrative leave.

Involved Persons:

Name:	NEWBERG CITY HALL	Gender:	
Classification:	Business	DOB:	
DL:			
Address:	[REDACTED]		
Name:	CLARKSON, PAIGE	Gender:	Female
Classification:	Prosecutor	DOB:	
DL:			
Address:	[REDACTED]		
Name:		Gender:	
Classification:	Police Officer - outside agency	DOB:	
DL:			
Address:			
Name:		Gender:	
Classification:	Other involved person	DOB:	
DL:			
Address:			
Name:		Gender:	
Classification:	Mentioned; Person of interest	DOB:	

DL:

Address:

Name:

Gender:

Classification: Other involved person

DOB:

DL:

Address:

Name:

Gender:

Classification: Attorney

DOB:

DL:

Address:

Involved Officers:

- Other / HERSHMAN, JEFFREY / #29154 / OSP / Officer / FIELD OPERATIONS BUREAU
- Other / HARRINGTON, JONATHAN / #31353 / OSP / Officer / NW REGION CRIMINAL COMMAND
- Other / DAVIE, TERRI / #34523 / OSP / Officer / CRIMINAL INVESTIGATIONS DIVISION
- Reporting Officer/Case Lead / SEBER, CHRISTOPHER / #31052 / OSP / Officer / EAST REGION CRIMINAL COMMAND
- Reporting Officer/Case Lead / WAGNER, DON / #31617 / OSP / Officer / BEND AREA COMMAND
- Dispatcher/TC2 / ANDERSON, RICK / #13369 / OSP / Non sworn / DISPATCH

Reports:

General report:

Author: #31617 WAGNER, DON

Report time: 07/23/2015 12:34

Entered by: #31617 WAGNER, DON

Entered time: 07/23/2015 12:34

Narrative:

Distribution: Marion County District Attorney's Office

Supervising Deputy District Attorney Paige Clarkson

On July 20, 2015, at about 11:30am OSP Investigators Lieutenant Chris Seber and I contacted Deputy District Attorney Paige Clarkson in reference to a criminal complaint alleging misconduct by Newberg-Dundee City Manager Jacque Betz. The complaint alleged Jacque Betz unlawfully used her position as City Manager to place Newberg-Dundee Police Chief Brian Casey on administrative leave without cause and for personal gain in violation of:

- ORS 162.235 Obstructing Governmental Administration
- ORS 162.415 Official Misconduct in the First Degree

OSP Investigators were requested to conduct a preliminary investigation into the above mentioned crimes to determine if further investigation was warranted.

On July 20, 2015, at about 1:30 pm Lieutenant Seber and I contacted and interviewed City Officials Mayor Bob Andrews, City Attorney Truman Stone, and were eventually joined by Interim Human Resources Director Nancy McDonald in relation to the allegations of misconduct. It was noted that Mayor Andrews left the room during detailed discussions of personnel matters in accordance with City Council Policy.

PRELIMINARY INVESTIGATIVE FINDING(S)

As a result of this investigation the above mentioned City Officials reported in substance that City Manager Betz received several reports of misconduct over an undisclosed amount of time from approximately ten or eleven active and/or formerly employed City Police Officers. The allegations of misconduct reportedly named Chief Casey and other unidentified subordinate members of the Newberg Police Department, alleging various levels of unsubstantiated misconduct.

As a result of those reports City Manager Betz, City Attorney Stone, and Interim Human Resources Director McDonald had reportedly sought out consultation with Citycounty Insurance Services (CIS) for a period of approximately one to two weeks prior to Chief Casey being placed on administrative leave. City Officials reported that during the consultation(s) with CIS it was discussed hiring an independent investigator to look into the allegations of misconduct and placing Chief Casey on administrative leave pending the finding of that investigation, in an effort to alleviate perceptions of undue influence over subordinate employees.

City Officials reported City Manager Betz met with Chief Casey during a regularly scheduled meeting and after that meeting announced her intentions to place Chief Casey on administrative leave pending the independent investigation. City Manager Betz made the decision to place Chief Casey on administrative leave. The City retained an independent investigator (Bill Carroll) recommended by CIS and began ongoing internal investigations into the allegations of misconduct.

City Officials classified Chief Casey's employment status as an "at will employee" currently on paid administrative leave pending the independent investigation. Any employment related decisions would be further discussed at the conclusion of the independent and ongoing investigations conducted by Bill Carroll. City Officials advised any substantiated allegations of a criminal nature would be forwarded on to an investigating agency for further investigation if necessary.

City Officials announced that City Manager Betz had been placed on administrative leave in accordance to policy immediately after the announcement by the District Attorney's Office of a criminal investigation to be performed by the Oregon State Police.

At our request City Officials provided the following reference materials for further review; Newberg Police Department roster, Chief of Police and City Manager position descriptions, related Newberg Municipal Codes, and other related miscellaneous documents. (See attached)

STATEMENTS

(The following statements are in substance accounts of in person interviews based on interview notes and personal recollection of statements involving the aforementioned investigation(s). Some of the statements were in direct response to investigative questioning.)

Truman Stone, City Attorney

Mr. Stone advised he was consulted as City Attorney by City Manager Betz in reference to allegations of misconduct involving the Police Department that had come to her attention. Mr. Stone advised based on his personal knowledge, 10 separate people had come forward with allegations involving the Police Department. Mr. Stone explained based on his position as City Attorney some of the details of those complaints were protected due to attorney client privileges. But he would be as forthcoming involving the investigation as he could be.

Mr. Stone stated as a result of the allegations of misconduct the City Manager Betz, Interim Human Resources Director Nancy McDonald and himself consulted with advisors of their insurance company City County Insurance Services (CIS), later identified as Tamara Jones and Dave Nelson for a period of about 2 weeks before the Chief of Police was placed on leave by the City Manager. The consultation was related any potential liability issues involving those allegations. As a result of those consultations a decision had been made to place the Chief of Police on administrative leave while the City conducted an independent investigation into the allegations of misconduct. The City elected to hire an independent investigator later identified as Bill Carroll who was recommended by CIS. Mr. Stone advised that a decision was made to place the Chief of Police on administrative leave until the conclusion of the independent investigation was completed.

Mr. Stone advised during the consultation and review process he worked directly with the City Manager to provide a good legal foundation and operate with in the Cities policies to minimize any potential liabilities. Mr. Stone advised he believed the City Manager acted within the scope of her duties in her decision to place the Chief of Police on administrative leave.

At the request of OSP investigators Mr. Stone provided position descriptions, related municipal codes, and other reference documents for investigative review.

Mr. Stone advised during discussions and planning a timeline had been established to place the Chief of Police on leave. A decision was made by the City Manager to act earlier than expected after a regularly scheduled meeting between the Chief of Police and the City Manager resulting in the Chief being placed on administrative leave.

Mr. Stone disclosed that after the announcement by the District Attorney's Office that OSP would be conducting a criminal investigation into allegations involving the City Manager that according to City Policy the City Council held an emergency meeting and placed the City Manager on leave.

Bob Andrews, Mayor

Mr. Andrews was contacted by OSP investigators and scheduled a meeting at OSP investigators request. Mr. Andrews spoke briefly on topics but not directly to the investigation. It was noted he left the interview during detailed discussions of personnel issues with Interim Human Resources Director Nancy McDonald.

Nancy McDonald, Interim Human Resources Director

Mrs. McDonald confirmed that she had been approached by the City Manager and personally viewed a file with hand written notes and photos related to allegations of misconduct. Mrs. McDonald advised based on her personal knowledge of the events that eight active employees of the Newberg Police Department and three former employees had reported allegations ranging from:

- Hostile work environment
- Verbal abuse
- Member not meeting firearms qualification requirements
- Excessive force
- Modification of use of force report
- Modification of a shotgun for personal use

The allegations involved multiple Officers including the Chief of Police. Mrs. McDonald advised she was present during discussions of these allegations of misconduct with the City Manager when discussed with CIS (Dave Nelson). Mrs. McDonald advised discussions and a decision was made to place the Chief of Police on administrative leave to prevent any perception of influence over employees while independent investigations were being conducted into the allegations of misconduct. Mrs. McDonald advised that she believed the consultations with CIS had been ongoing for one week or longer before the Chief of Police was placed on administrative leave.

When asked, Mrs. McDonald replied no other officers had been currently placed on leave pending the investigation. It was further clarified that the allegations were unsubstantiated at this time and the main reason for the Chief of Police being placed on leave so the independent investigation could take place allowing for an assessment of the allegations.

Mrs. McDonald advised based on her knowledge of the allegations that the City Manager had cause to place the Chief of police on administrative leave status. Mrs. McDonald stated that it was her opinion that the City Manager had been attempting to implement some change as to how City agencies handle personnel matters and to get HR more involved in the process in an effort to standardize practices. Mrs. McDonald stated that she sensed there had been some resistance from City Police administration to the City Managers efforts. McDonald further explained that the City Manager had been doing ride along with members of the City Police Department, Public Works, and the Fire Department during the course of her duties and some inference that may have been the origin of the alleged misconduct.

General report:

Author: #31052 SEBER, CHRISTOPHER

Report time: 07/27/2015 15:27

Entered by: #31052 SEBER, CHRISTOPHER

Entered time: 07/27/2015 15:27

Narrative:

Distribution: Marion County District Attorney's Office

Supervising Deputy District Attorney Paige Clarkson

On July 20, 2015, at approximately 9:20 a.m., Lieutenant Wagner and I met with Captain Davie at Oregon State Police General Headquarters in Salem, Oregon. Captain Davie advised on July 1, 2015, she was at the ONEA / WSIN conference and received a voicemail from Jacque Betz. Captain Davie returned Mrs. Betz telephone call and left her a voicemail. On July 7, 2015 at 11:30 a.m., Captain Davie e-mailed Captain Hershman and Lieutenant Harrington asking one of them to contact Mrs. Betz, regarding her wanting to talk to OSP about a missing shotgun from "NPD'S armory." On July 8, 2015 at 9:41 a.m., Lieutenant Harrington e-mailed Captain Davie that he talked to Mrs. Betz and briefed Captain Hershman on the matter and would brief Captain Davie as well. Captain Davie was briefed by Captain Hershman on this matter.

On July 22, 2015, at approximately 11:10 a.m., I contacted Citycounty Insurance Services (CIS) Legal Department General Counsel Kirk Mylander by telephone. I was at the Oregon State Police office located in Bend, Oregon in a meeting room with Lieutenant Wagner. The conversation took place using a speaker phone and was digitally recorded. Refer to digital recording for verbatim statements and following statement pages (not verbatim):

Kirk Mylander: Hello, this is Kirk.

Don Wagner: Hi, Kirk. It's Don Wagner with the state police. How are you?

Kirk Mylander: I'm doin' all right. How about yourself?

Don Wagner: Not too bad. Hey, did I call the right number? I'm lookin' to get a hold of CIS.

Kirk Mylander: This is CIS.

Don Wagner: Okay. Is Tamara Jones in today?

Kirk Mylander: She's in our Salem office.

Don Wagner: How about how about Dave Nelson? Is he there?

Kirk Mylander: He telecommutes –

Don Wagner: Okay.

Kirk Mylander: He is not in this office today.

Don Wagner: Perfect. Do you have a better number we could get a hold of either one of them at?

Kirk Mylander: Sure. You're from the state police so are you calling about Newberg?

Don Wagner: Yes.

Kirk Mylander: It's something I've discussed with Tamara.

Don Wagner: Sure.

Kirk Mylander: I'm the general counsel here, so start with me.

Don Wagner: Perfect. That'd be great. Are you available to chat with us for a few minutes?

Kirk Mylander: Sure.

Don Wagner: Perfect. And what was your name again?

Kirk Mylander: It's Kirk. K-I-R-K-, Mylander, M-Y-L-A-N-D-E-R.

Don Wagner: Great. We appreciate your willingness to chat with us for a few minutes. I'm Don Wagner and also I have you on speaker here with Lieutenant Chris Seber.

Kirk Mylander: Hello Lieutenant.

Chris Seber: Good morning. Do you need spelling on any of that?

Kirk Mylander: No. It's okay.

Chris Seber: We're out of the Bend office just so you're aware. Don's in charge here of the Bend area command and then I have our Criminal Investigation Division for the East Region. We were asked to come over to Newberg to make an inquiry on what's going on. Through that inquiry we're speaking with the city attorney over there, Truman.

Kirk Mylander: Right. Know him well.

Chris Seber: Okay good. We've also met with the mayor and the HR director there. Those conversations you know they of course led us to you folks there; specifically, Tamara and Mr. Nelson. This is actually the first, I'm glad we got a hold of you actually. How open are you guys able to converse with this? Are you able to converse with us about this Newberg issue at all?

Kirk Mylander: I don't even know what, I mean guessing that what you're talking about is the suspension of the city manager and the police chief.

Chris Seber: It is. One of the primary questions we have is, did they make an inquiry with your outfit, your company and then did you guys give them advice from there.

Don Wagner: So I think what we're trying to get at is, did you guys, did the city manager and the city attorney or basically consult with you guys for your services on some personnel issues that were ongoing?

Kirk Mylander: Um, so we're, we insure Newberg.

Don Wagner: Right.

Kirk Mylander: And as part of our insurance coverage we offer the ability for one of our members to consult with an employment litigator, that is Tamara before they take an employment action in order to avoid a lawsuit. So they can call us when they have a situation that could turn into a lawsuit so that they can get good legal advice to avoid the lawsuit. That benefits them of course and it also benefits us and all our other members around the state. My understanding is that Newberg did call. I don't know the content of that, and I actually, I don't even know specifically who their called. Probably to cut to the chase, it's a privileged attorney-client communication. I can't talk about even if I did know, I couldn't talk about it and Tamara shouldn't be either.

Don Wagner: Right.

Kirk Mylander: Now the privilege belongs to the city. It doesn't belong to us.

Don Wagner: Right. No that's understandable. That's kind of what we're expecting as far as the answer. What I was hoping to do is maybe talk with Tamara just briefly just to confirm that there was some consultation that occurred and that it was, possibly the city manager. Some of the information has

already been disclosed to by the city, and just confirm that Truman, Nancy McDonald and City Manager Betz basically spoke to them and just consulted over personnel issues. It's really what we're looking to confirm.

Kirk Mylander: Okay. If the city wants us to do that, and they're willing to put that in writing, give us their permission to do that, we will.

Don Wagner: Okay.

Kirk Mylander: But we need something from, I guess it should be from Truman at this point.

Don Wagner: Yeah absolutely. We can shoot him a call and just see – even something in writing that just says you know you wouldn't, if you could just send us something on letterhead that said that you consulted with them and you can leave it as generic as you want it to be just so we can confirm that some consultation took place would probably be enough for us to be able to get the information that we needed to shut down our end.

Kirk Mylander: Okay. If Truman can or someone who's speaking on behalf of the city can put something in writing saying CIS we give you permission to say XYZ or to disclose XYZ then we will.

Don Wagner: Sure.

Kirk Mylander: We don't wanna be obstinate or get in the way but we gotta follow the legal rules.

Don Wagner: Sure no problem. We definitely don't wanna break rules. We will see if we can get a hold of Truman and speak with him and see if he's okay with that and if either way we will probably be in touch.

Kirk Mylander: Okay.

Don Wagner: Thank you sir.

Kirk Mylander: Thank you both.

Don Wagner: Uh huh. Bye.

Kirk Mylander: Bye bye.

On July 24, 2015 at approximately 2:24 p.m., I received an email from CIS Pre-Loss Attorney Tamara Jones. The email attachment is a signed document from Newberg City Attorney Truman Stone and CIS Pre-Loss Attorney Tamara Jones and reads as follows:

“To Whom It May Concern: In an effort to cooperate with the Oregon State Police in its investigation pertaining to Police Chief Brian Casey being placed on administrative leave, the City of Newberg authorizes release of the following information that would otherwise be subject to attorney-client privilege. This is a limited release of the facts set out below only. The City of Newberg does not consent to any other information being released, and has not waived any other privileged information.”

“On July 1, 2015 and July 15, 2015 representatives of the City of Newberg consulted with and received advice from CIS specifically related to the Newberg-Dundee Police Department and Chief Casey. Those representatives were the City Manager, the Human Resources Director and the City Attorney.”