

**Office of the City Auditor
Independent Police Review**

Confidential Investigative Report

Date: 01/23/17
Case #: 2016-B-0030
Complainant: City of Portland

Citizens Interviewed:

Forensic examiner Joel Brillhart
Administrative Assistant Diane Haman

Involved Members Interviewed:

Assistant Chief Michael Crebs, [REDACTED]
Assistant Chief Robert Day, [REDACTED]
Assistant Chief Donna Henderson, [REDACTED]
Assistant Chief Kevin Modica, [REDACTED]
Captain Derek Rodrigues, [REDACTED]

Witness Members Interviewed:

Commander George Burke, [REDACTED]
Commander David Hendrie, [REDACTED]
Sergeant Richard Steinbronn, [REDACTED]

Applicable Directives:

Directive 315.30 – Satisfactory Performance (Second Revision Effective 12/04/14)
Directive 330.00 – Internal Affairs, Complaint Intake and Processing (Third Revision Effective 10/30/14)

Allegations:

1. Portland Police Bureau Assistant Chief Michael Crebs, [REDACTED], failed to take appropriate action after being informed that Portland Police Bureau Chief Lawrence O’Dea, [REDACTED], was involved in an off-duty negligent discharge of a firearm, which resulted in injury. (CONDUCT) (Directive 315.30 – Satisfactory Performance)
2. Portland Police Bureau Assistant Chief Robert Day, [REDACTED], failed to take appropriate action after being informed that Portland Police Bureau Chief Lawrence O’Dea, [REDACTED], was involved in an off-duty negligent discharge of a firearm, which resulted in injury. (CONDUCT) (Directive 315.30 – Satisfactory Performance)
3. Portland Police Bureau Assistant Chief Donna Henderson, [REDACTED], failed to take appropriate action after being informed that Portland Police Bureau Chief Lawrence O’Dea, [REDACTED], was involved in an off-duty negligent discharge of a firearm, which resulted in injury. (CONDUCT) (Directive 315.30 – Satisfactory Performance)

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4. Portland Police Bureau Assistant Chief Kevin Modica, [REDACTED], failed to take appropriate action after being informed that Portland Police Bureau Chief Lawrence O’Dea, [REDACTED], was involved in an off-duty negligent discharge of a firearm, which resulted in injury. (CONDUCT) (Directive 315.30 – Satisfactory Performance)
5. Portland Police Bureau Captain Derek Rodrigues, [REDACTED], failed to initiate an administrative investigation after being informed that Portland Police Bureau Chief Lawrence O’Dea, [REDACTED], was involved in an off-duty negligent discharge of a firearm, which resulted in injury. (PROCEDURE) (Directive 330.00 – Internal Affairs, Complaint Intake and Processing)

Note: All Police Bureau personnel are referred to by the rank during the period that is the scope of this investigation

Incident Overview:

Portland Police Bureau (PPB) Chief Lawrence O’Dea, [REDACTED] traveled to the area of the Pueblo Mountains, in eastern Oregon, with a group of friends, between 04/17/16 and 04/21/16. On 04/21/16, while members of the group were shooting at Belding ground squirrels (also called sage rats) and cans, Chief O’Dea caused a negligent discharge of his .22 caliber rifle, which struck and wounded his friend Robert Dempsey. Although the Harney County Sheriff’s Office (HCSO) opened an investigation into the matter, the Independent Police Review (IPR) did not learn of the incident, or HCSO’s investigation, until *Willamette Week* published an article about the incident on 05/20/16.

On 05/23/16, following the publication of this article, IPR opened an investigation regarding the matter, under case #2016-B-0014. Originally, case #2016-B-0014 was intended to investigate the actions of Chief O’Dea. As the investigation progressed, its scope was enlarged in order to also investigate the actions of Assistant Chiefs (ACs) Michael Crebs, [REDACTED], Robert Day, [REDACTED], Donna Henderson, [REDACTED], and Kevin Modica, [REDACTED], as well as Professional Standards Division Captain Derek Rodrigues, [REDACTED] after they learned of the incident.

In addition to being investigated by IPR, Chief O’Dea is also under criminal investigation by the Oregon Department of Justice (Oregon DOJ). Citing the ongoing criminal investigation, Oregon DOJ staff directed HCSO not to grant IPR access to its investigative materials, [REDACTED] [REDACTED] [REDACTED]. To date, Oregon DOJ has not indicated when it will complete its criminal investigation of Chief O’Dea. As a result, the completion of IPR’s investigation of Chief O’Dea’s conduct has been substantially delayed.

In order to investigate the conduct of at least some involved members in a timely fashion, on 08/25/16 IPR split its existing investigation into two cases. Case #2016-B-0014 comprises IPR’s investigation of Chief O’Dea’s conduct during and after the negligent discharge. Case #2016-B-0030 comprises IPR’s investigation of the conduct of ACs Crebs, Day, Henderson, and Modica, as well as Captain Rodrigues.

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The following investigative report describes IPR's investigation of ACs Crebs, Day, Henderson, Modica, and Captain Rodrigues. For details of IPR's investigation of Chief O'Dea, refer to the investigation report for IPR case #2016-B-0014.

Investigation Narrative:

[REDACTED]

[REDACTED]

[REDACTED]

Interview with Chief of Police Lawrence O'Dea, [REDACTED] IPR Director Constantin Severe and Investigator Berry interviewed then-Chief of Police Lawrence O'Dea, #18924, on 05/24/16. On 06/26/16, Chief O'Dea retired from PPB. [REDACTED]

[REDACTED]. On June 26, 2016, Chief O'Dea announced that he was retiring from the Police Bureau. Subsequently, Investigator Berry attempted to arrange a follow-up interview with Chief O'Dea, his attorney Derek Ashton denied IPR permission to interview his client, [REDACTED]

NOTE: When interviewed on 05/24/16, Chief O'Dea was questioned about a number of issues related to his negligent discharge incident; his conduct and statements following the incident; and his contact with and statements to other involved PPB members. The following summary in large part describes Chief O'Dea's statements to others regarding the incident. Chief O'Dea's statements regarding his own conduct and statements are summarized separately, under IPR case #2016-B-0014.

The 05/24/16 interview with Chief O'Dea was recorded, and subsequently professionally transcribed. Refer to the audio recording and transcript for details. In summary, Chief O'Dea indicated: During April 2016, he and a group of friends took a trip to eastern Oregon, in the area of the Pueblo Mountains. On 04/21/16, while Chief O'Dea and his friends were shooting .22 firearms, his friend Mr. Dempsey was struck by a bullet. Initially, Chief O'Dea thought Mr. Dempsey shot himself while re-holstering a pistol. Chief O'Dea later realized he shot Mr. Dempsey.

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Chief O’Dea indicated at 0700 on Monday, 04/25/16, he called Mayor Charlie Hales and informed him of the incident. Chief O’Dea stated, “I don’t know what he [Hales] was going to do at this point because it was – this is what we know, I thought my friend shot himself. I accidentally did, but the investigations ongoing.” Chief O’Dea indicated Mayor Hales told him he would inform some members of his staff, including Josh Alpert, Sara Hottman, and Deanna Wesson-Mitchell of the incident. Asked if he and the Mayor talked about what would happen next, or what actions people would take, Chief O’Dea stated, “No, he [Hales] actually was really supportive. He [Hales] talked about, you know, a personal event that had happened to him, so he was, you know, being – had a supportive role.”

When asked, Chief O’Dea indicated he and Mayor Hales did not discuss notifying IPR of the incident. When asked, Chief O’Dea indicated he and Mayor Hales did not discuss whether or not the Bureau of Human Resources (BHR) conduct an administrative investigation regarding the incident.

Chief O’Dea indicated at 0800 on 04/25/16, he attended a standing meeting with his four ACs. Chief O’Dea indicated AC Crebs, AC Day, AC Henderson, and AC Modica attended the meeting. Chief O’Dea stated, “I told my four assistant chiefs at eight o’clock that morning, told them the whole story that, you know, I thought my friend had shot himself, but it ends up that I did.”

Asked if he and the ACs discussed how PPB would respond to the investigation regarding the incident, Chief O’Dea stated, “The only thing I remember talking about was needing to keep the information secure, so you know, until the [HCSO] deputy’s able to follow up and finish his investigation.” Asked what he meant by keeping the information secure, Chief O’Dea stated:

I don’t remember the exact words, but it was – the discussion was around – this isn’t some big wholesale notification right now, because the investigation is still ongoing. The deputy’s not available and there is some key new information he doesn’t have yet.

Asked if he and the ACs formulated a plan for how to respond to the incident, Chief O’Dea stated, “No, I mean, my thinking was I’m going to be talking to the deputy in a couple weeks and I guess we’d figure it out then, that’s kind of how I was probably thinking.” During the interview, Chief O’Dea indicated AC Henderson is the AC of Investigations. Asked if he spoke to AC Henderson about what steps she would take regarding the incident, Chief O’Dea stated, “No.”

Chief O’Dea indicated following his meeting with the ACs, he also described the incident to Captain Rodrigues, as well as some of his own staff. Chief O’Dea stated, “I told Derek Rodrigues at 11:00 AM that morning. He’s the Captain of Professional Standards as you know, and then I also told my executive assistant and my adjutants, so that’s Lieutenant Terry Kruger and Diane Hammon, so I told those eight people that Monday.”

Asked to describe his conversation with Captain Rodrigues, Chief O’Dea stated:

I kind of laid out what happened. Here’s what happened, I was on vacation, that I thought my buddy had shot himself and it ends up that I shot him and there’s an investigation going on about that.

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Chief O'Dea described Captain Rodrigues' reaction as "compassionate." Asked if he spoke to Captain Rodrigues about whether the City would investigate the incident, Chief O'Dea stated:

I didn't say that to him I, you know, presume in telling him that I was involved in an, you know, an accidental discharge that hit somebody. That – but I had conversation with the ACs saying I'm going to notify Derek [Captain Rodrigues] next because of – you know, he's a Professional Standards Divisions captain, it would be a follow up investigation.

Asked if he was aware it was possible the City would investigate the matter, Chief O'Dea stated, "I didn't think of it as a possibility. I thought that it would happen." Chief O'Dea stated, "I mean, I thought that that was part of protocol." Chief O'Dea stated, "I remember Donna [AC Henderson] that had made some remark about that, that it was smart to do right up in the beginning."

Asked if he ever spoke with anyone about informing IPR of the incident, Chief O'Dea stated, "I never considered doing that because I'm telling our liaison with IPR, is Professional Standards." Chief O'Dea stated, "That's how we work every time we have a case or, you know, something like that, you know, we tell Derek [Captain Rodrigues]. Derek has regular meetings with IPR."

Interviews with Assistant Chief Michael Crebs, [REDACTED]

Investigators Perez and Berry interviewed AC Crebs on 06/06/16, as a witness member, and again on 06/16/16 as an involved member. IA Sergeant Pashley was present for the interview in 06/06/16, and IA Lt. Hurley was present for the interview on 06/16/16. Both interviews were recorded and subsequently professionally transcribed. Refer to the audio recordings and transcripts for details.

In summary, AC Crebs indicated: He joined PPB in 1992, though he started his law enforcement career in 1980, in Utah. When this investigation was initiated, he was the Assistant Chief of Services. As AC of Services, he is responsible for supervising several units within PPB, including the Personnel Division, the Training Division, the Fiscal Division, and the Strategic Services Division. He first learned of the shooting incident on Monday 04/25/16, during a standing meeting the ACs have with Chief O'Dea. Near the end of the meeting, the Chief typically dismisses his support staff, and he and the ACs discuss confidential or sensitive issues. On 06/06/16, AC Crebs described the end of the 04/25/16 meeting, stating:

I don't know if he [O'Dea] said they were hunting or camping or whatever, but they knew they were over in Eastern Oregon. I knew they were shooting guns and he said at one point he [O'Dea] was – they were shooting and he didn't describe how they were shooting or if they were standing in a line, anything like that. He [O'Dea] just said that we were out shooting and he noticed that one of his friends – he never named the gentleman. He [O'Dea] just said one of his friends. He [O'Dea] noticed he was bleeding from the left side.

AC Crebs indicated: Chief O'Dea never talked about anyone drinking alcohol during the incident. Chief O'Dea did not describe how his friend was shot. Chief O'Dea indicated he shot his friend, but he did not describe how he came to that conclusion. Chief O'Dea indicated initially, he thought his friend shot

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himself while re-holstering a pistol, but he later determined he had shot his friend. On 06/06/16, AC Crebs stated:

I don't remember exactly what he [O'Dea] said, you know, I'm using the word manipulation, but I don't remember exactly if he said that he picked it up or if he touched it somehow, but the gun went off and they were able to extrapolate back like, you know, the angle of this guy's wound to where Larry [O'Dea] was and where the gun was and that the – it was most likely that Larry had fired the gun that shot the gentleman in the lower side or or the back or whatever it may be.

AC Crebs indicated: Chief O'Dea described speaking to a police officer or deputy about the incident, and AC Crebs had the impression police knew Chief O'Dea shot his friend. On 06/06/16, AC Crebs stated, "It was fully my belief that the deputy knew that it was Larry that had shot his friend." Chief O'Dea indicated this deputy was on leave, but would contact Chief O'Dea again when he returned to work.

AC Crebs indicated during this meeting, Chief O'Dea also described who else he notified of the incident. On 06/06/16, AC Crebs stated:

Larry [O'Dea] had said that he had contacted the Mayor and the Mayor was fully aware of it. Larry then said that after he told us he would then be going down to contact Professional Standards. I don't remember if he mentioned Derek Rodrigues particularly or if he just said, going down to contact Professional Standards, which made me believe he was going to contact Derek because he is the gate keeper for all that comes in on stuff like this.

AC Crebs indicated he believed Captain Rodrigues would inform IPR Director Severe of the incident, and that the City would likely investigate the matter. AC Crebs stated, "What I took is that as soon as he [O'Dea] contacts Derek Rodrigues, then Derek contacts IPR and there'd be like a concurrent or ongoing investigation of the two."

AC Crebs indicated: He did not prepare any documentation regarding the incident. Chief O'Dea did not direct him to take any action regarding the incident, nor did he direct any other ACs to take action. As AC of Services, he does not typically take part in administrative investigations, unless the investigation concerns someone he supervises. He does not recall Chief O'Dea directing the ACs to keep the incident confidential. On 06/06/16, AC Crebs stated, "I don't recall Larry [O'Dea] ever saying, 'Okay guys you can't talk about this to anybody.'"

AC Crebs indicated: He had a one on one meeting with Chief O'Dea, shortly after he disclosed the shooting incident. During that conversation he spoke in a supportive manner to Chief O'Dea about the incident, but they did not discuss details of the incident. When the incident was first reported by media, he called Chief O'Dea. On 06/06/16, AC Crebs stated, "I said, 'Hey Larry keep your head up partner,' you know, just, you know, this will pass, just let it play out." As time went by, more details about the incident

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emerged, including allegations members of the hunting party were drinking during the incident. These details greatly surprised AC Crebs.

AC Crebs indicated he spoke to the other ACs about the incident, but only in terms of how Chief O'Dea was doing. When asked, AC Crebs indicated he and the other ACs did not discuss whether the incident would be administratively investigated.

AC Crebs indicated Captain Rodrigues used to be his adjutant, and they have worked together for a long time. AC Crebs indicated as more details about the incident emerged, the PPA and the PPCOA called for Captain Rodrigues to step down from Professional Standards. AC Crebs stated he knew Captain Rodrigues would be "devastated" and he went to go see him. AC Crebs stated:

I went down there and Derek [Rodrigues] – just checking in on you, partner. He was very, very, very, very, very emotional. I just want to say, you know, I care about you Derek and just coming to say hi and I, you know, he goes yeah, you know, people don't care about me up here, you know, and I said – up on the fifteenth floor no one cares about me and I said, Derek I care about you. Take care of yourself, you know, and then I tried to distract him, hey, you know, how's it going, how's your sons doing, those kind of things.

Asked how PPB should respond, when it learns a member is being criminally investigated, AC Crebs stated the AC of Investigations should be informed. AC Crebs indicated the AC of Investigations should coordinate and discuss investigations with the Professional Standards Captain, and the IPR Director. AC Crebs stated:

When I'm sitting in this room and learning about a criminal investigation, the Assistant Chief of Investigations is sitting right next to me and I'm being told that the Chief is going to contact IAD to tell them, which would then tell IPR that hey guess what the Chief shot somebody and the next step would be is that Derek Rodrigues or somebody, a detective depending what the situation might be, someone is going to be calling Harney County and say, 'Hey dude I need the reports. We're starting an investigation here.'

Asked if, with the benefit of hindsight, there were other actions he might have taken, AC Crebs indicated he would have spoken to Captain Rodrigues or IPR Director Severe, if he had known the shooting incident was not being investigated. On 06/16/16, AC Crebs stated, "I had no reason to believe that people were not doing their job. I had no reason to believe they were doing otherwise." AC Crebs stated, "I guess if I could go back, 20/20 hindsight, we should probably have a policy in place that talked about misconduct by the chief of police and what is the next steps."

Asked to respond to the allegation he failed to take appropriate action after he learned of Chief O'Dea's negligent discharge incident, on 06/16/16 AC Crebs stated:

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I don't like it. I don't feel good about it. I think I did everything that I was supposed to do as a branch assistant chief based on the information that I had. The information I have now I would probably act differently because it appears there was a breakdown in the system. I would act differently. At the time – at the time I was there listening to this information, I had a chief that told me that I felt that Harney County Sheriff knew that he had shot that person. I felt confident that occurred. It didn't even cross my mind otherwise. I knew that the chief of police had told me he would contact his supervisor, Mayor Charlie Hales. I knew that. I knew the Assistant Chief of Investigations was in that room hearing the exact same allegations as me. I knew the Assistant Chief of Investigations has a role, a major role and oversight of criminal investigations both externally and internally in the organization. I knew that. I knew the chief had told me he was going to contact the Professional Standards Division who is supposed to contact IPR. I knew that.

On 06/16/16, AC Crebs further stated:

With the information I had at that time, I would say that I acted appropriately based on the information that I had at the time. If I wanted to go off the information I have now, I should have done more. If I knew that my coworkers had not – were not doing their job and that I had to step in and then I would have to step in, but I didn't know they weren't doing their job, and maybe – and that is the paper saying maybe they didn't do their job. So, maybe they did do their job, I don't know. I don't know where the breakdown actually came.

Interview with Assistant Chief Robert Day, [REDACTED]

Investigators Perez and Berry interviewed AC Day on 06/21/16. Also present were IA Lt. Hurley and AC Day's attorney Steven Myers. The interview was recorded, and subsequently professionally transcribed. Refer to the transcript and audio recording for details.

In summary, AC Day indicated: He joined PPB in 1990, and was promoted to AC of Operations in January 2015. As AC of Operations, he is responsible for personnel assigned to PPB's three precincts, and he is also responsible for critical incident call outs. He and the other ACs have a standing meeting with Chief O'Dea on Monday mornings. AC Day first learned of Chief O'Dea's negligent discharge incident during one such AC meeting, on Monday, 04/25/16.

When asked, AC Day indicated he did not remember the exact words Chief O'Dea used to describe the incident. AC Day stated:

To the best of my recollection he [O'Dea] was emotional and wanted to share with us that there had been an incident over the weekend or an accident over the weekend as he characterized it. It wasn't particularly clear at that time if we – what his role was. He

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appeared to be processing that with us, but it was clear that a friend of his had been shot and he was explaining to us that, you know, he thinks there may have been some responsibility on his part.

AC Day stated that during the 04/25/16 meeting, he was “uncertain” whether or not Chief O’Dea said he shot somebody, as opposed to being present at a shooting. AC Day stated the distinction was “never entirely clear” to him. AC Day stated, “Could have had a role in it, could have had a responsibility, but not – I don’t remember a specific statement where I’m owning this, but, you know, it’s possible.” AC Day indicated Chief O’Dea did not describe how the shooting occurred, and he does not know details, like what kind of firearm was involved. AC Day stated, “I just remember that he [O’Dea] returned to his friend and his friend had been shot and that’s what they’re trying to piece together.” AC Day stated Chief O’Dea’s explanation of the incident was “very general, very broad.” AC Day stated, “I don’t remember a specific, you know, I shot my friend comment.”

AC Day indicated Chief O’Dea described who he notified of the incident. AC Day stated, “He [O’Dea] told us that he’d already spoken with the Mayor about this. He told us that he had talked to Harney County deputies at the scene and that he was in touch with the Professional Standards Division.” AC Day indicated Chief O’Dea did not describe what he told police about the incident. Asked if Chief O’Dea specifically mentioned speaking to HCSO deputies, AC Day stated, “I’m fairly confident that he [O’Dea] said Harney County because it just – it rings a bell with me.” AC Day indicated Chief O’Dea indicated HCSO was continuing to investigate the incident.

Asked if Chief O’Dea talked about how he described the incident to Professional Standards, AC Day stated, “I don’t know exactly what he [O’Dea] reported to Professional Standards.” AC Day stated, “I do know that we clarified that PSD had been notified, but I do not recall a name or time other than it had occurred.”

AC Day stated Chief O’Dea did not direct any of the Assistant Chiefs to take any action, stating, “The only direction he gave at the end of the conversation was he did not want it discussed outside of that room.” AC Day indicated he interpreted that to mean Chief O’Dea wanted the information to remain confidential. Asked to describe his understanding of his next actions, AC Day stated:

Well my understanding was that he had – there was an outside agency involved, the Mayor, which is his supervisor, was notified, and the Professional Standards Division had been notified and I’d been directed not to speak of it, so my actions going forward were to maintain that confidential – confidentiality and allow the investigation to play out.

AC Day indicated: He took no action regarding the incident, after Chief O’Dea described it. He did not prepare any documentation regarding the incident. He spoke with Chief O’Dea regarding the incident “a couple different times.” He spoke to Chief O’Dea on a Friday, likely 05/06/16, regarding the upcoming weekend. During that conversation, Chief O’Dea indicated he was having dinner with the friend he shot. It was during this conversation that Chief O’Dea indicated he shot his friend. AC Day stated, “At that

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point it was pretty clear, I believe in his [O'Dea's] mind that that is what had occurred." During this conversation, Chief O'Dea also told him "the deputy" was on vacation or was otherwise not available, but he was hoping to get the matter "cleared up." Hearing Chief O'Dea mention the deputy solidified AC Day's impression the matter was being investigated.

AC Day indicated: After *Willamette Week* published an article about the shooting on 05/20/16, AC Day sent Chief O'Dea a text message, stating, "Keep your head up." He also spoke briefly by telephone to Chief O'Dea during the weekend, regarding a critical incident PPB responded to. During that conversation, he asked Chief O'Dea how he was doing, in light of the article. Chief O'Dea indicated he was struggling, and stated something like it was one of the "hardest things he's ever gone through."

AC Day indicated: More news articles about the shooting incident were published over the weekend. He, AC Henderson, AC Modica, and Chief O'Dea attended the next AC meeting on Monday, 05/23/16. AC Crebs was not present. During that meeting, AC Day urged Chief O'Dea to discuss the incident publicly, as well as with PPB staff. AC Day stated:

We never discussed the facts of the case, but I was very frustrated that at that point, you know, there was all of this energy being generated, you know, primarily through the media, but largely claiming, you know, this was a cover up and really felt strongly that my integrity was being challenged and I really was very direct with the Chief that at that point, you know, I know that we've been ordered not to discuss this, but it needed to get out.

Asked to describe how PPB must respond when it learns a member is the subject of a criminal investigation, AC Day stated:

Well there's the responsibility to notify the boss. Whoever your immediate supervisor is, you know, there's a responsibility to notify the Professional Standards Division. The Professional Standards Division is required to contact Independent Police Review, as well as contact the outside agency and form a liaison with them for the course of the investigation and its very specific that, you know, we're not to issue undue influence or, you know, on the case once the case has been initiated.

AC Day stated it was his "assumption" Professional Standards would investigate the shooting incident, as that unit is responsible for determining when investigations will be initiated. When asked, AC Day stated he did not have any contact with Captain Rodrigues about the incident. Asked why, AC Day stated:

I've been a captain or commanding officer since 2009. I have reviewed – I have referred multiple cases to Internal Affairs or the Professional Standards Division for review. And I do not follow up once it's sent to find out the status of that case. I don't call IPR to make sure that they're notified, certainly as a commanding officer that could be seen as trying

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to have that influence, so, you know, in this particular case I had – never had a reason to believe that Chief O’Dea wasn’t a man of his word and hadn’t followed through and I’ve never had experience or reason to believe that Captain Rodrigues and Professional Standards Division weren’t completely – excuse me, weren’t completing their responsibilities

Asked if an assistant chief does have a responsibility to act if they suspect the Chief has engaged in wrong doing, AC Day stated, “Yes, if we believe that they’ve engaged in wrong doing, yes.” AC Day stated in this instance, he had “no prior history to believe that the Chief hadn’t followed those steps properly” or that Captain Rodrigues had not started the administrative investigation process. AC Day stated that he was “comfortable with the decisions made,” but “disappointed in the process and how it’s occurred.”

AC Day indicated on 05/24/16, after he learned IPR had not been notified of the incident, he advised IPR Director Severe of people he should talk to, in addition to which members needed to be issued Communications Restrictions Orders in an attempt to facilitate the administrative investigation.

Asked whether he identified any shortcomings in PPB policies which contributed to the situation, AC Day stated PPB needs “to build in some type of protection in regards to investigations involving the Chief of Police.” AC Day suggested a policy where a PPB member not assigned to the Chief’s Office would act as a liaison to the Professional Standards Division, and he indicated Professional Standards was not formerly a direct report to the Chief and that this was only recently changed.

Asked to respond to the allegation he failed to take appropriate action after he learned of Chief O’Dea’s negligent discharge incident, AC Day stated, “I believe that I – that my action was appropriate given the circumstances.” AC Day further stated:

At the time of the initial notification it was unclear to me whether there had been this – whether there was a criminal nexus to it, a criminal conduct, but I knew that there was an outside agency involved, I knew the Mayor had been notified. I was told that Professional Standards Division was notified, so the three qualifications required for our processes piece were in place and then being ordered not to speak about it puts me in the directive with laws, rules, and orders and an understanding of what that would mean to discuss it.

Anonymous complaint raises concerns about statements reportedly made by AC Day

On 06/13/16, IPR received an online complaint form from an anonymous individual using the pseudonym “Ziggy Ratfield.” In the complaint form, Ziggy Ratfield indicated: East Precinct Commander Dave Hendrie, #28637, called a staff meeting on approximately 06/02/16, shortly after Chief O’Dea’s negligent discharge incident was reported in the media. AC Day attended this meeting. In the complaint form, Ziggy Ratfield stated:

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When questioned by supervisors, including [Sergeant] Rich Steinbronn, about his duty to report suspected misconduct, Assistant Chief Day reportedly said that these rules were made for people holding the rank of Officer and not people holding the rank of Assistant Chief.

Ziggy Ratfield stated he or she has no firsthand knowledge of the incident. Ziggy Ratfield stated, "Normally I would not report what amounts to a rumor, but I believe the seriousness of the allegation and the current IPR investigation merit the reporting." Ziggy Ratfield stated he or she contacted IPR anonymously because he or she fears "serious formal and/or informal retaliation."

After IPR received Ziggy Ratfield's complaint form, Investigators Berry and Perez consulted with IPR Director Severe. Director Severe directed that Ziggy Ratfield's concerns regarding AC Day be investigated and addressed during IPR's investigation of Chief O'Dea's negligent discharge incident.

Accordingly, Investigators Berry and Perez interviewed Commander Hendrie on 06/21/16. IA Lt. Hurley was also present. Investigators Berry and Perez also questioned AC Day about the issue during his 06/21/16 interview. Investigators Berry and Perez interviewed Sergeant Richard Steinbronn, [REDACTED], on 10/28/16. IA Sergeant Pashley and PPA President Daryl Turner were also present. These interviews were recorded and subsequently professionally transcribed. Refer to the audio recordings and transcripts for details.

During his 06/21/16 interview, AC Day indicated the following: After Chief O'Dea's negligent discharge incident was reported in the media, he attended several roll calls at the Precincts. He also attended a meeting of East Precinct sergeants, along with Commander Hendrie; Captain Robert King, [REDACTED]; and Lieutenant Peter Mahuna, [REDACTED]. Asked if he ever indicated PPB directives didn't apply to assistant chiefs, AC Day stated, "Absolutely not."

AC Day indicated: During the meeting, Sergeant Steinbronn noted Directive 333.00 states a member must "immediately" notify their supervisor when they are the subject of a criminal investigation. Sergeant Steinbronn noted Chief O'Dea waited "a few days" before he notified the Mayor. Sergeant Steinbronn "was somewhat sarcastic in his tone," asked what he should tell his officers, and asked if members now had several days to make a report. AC Day stated, "I said, no. I said the policy is the policy and it applies to all of us the same."

AC Day indicated after he answered Sergeant Steinbronn's question, Commander Hendrie made a follow-up comment regarding the policies, which AC Day felt "came across as if it didn't apply to the Chief or didn't apply to the ACs." AC Day stated, "Well you can imagine the room, you know, for lack of a better term lost its mind – rightly so." AC Day indicated Commander Hendrie apologized, and clarified what he meant. AC Day stated he then "reiterated to everybody and including Sergeant Steinbronn that all of these directives apply to all of us top to bottom."

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During his 06/17/16 interview, Commander Hendrie indicated: He first learned of Chief O’Dea’s negligent discharge via a text message after the story appeared in the media on or around 5/20/16, but he does not remember who sent him the text. The matter was a “distraction” to the department and in particular, to the patrol officers at East Precinct. AC Day attended several staff meetings for East Precinct over an approximate two-week period, to assuage concerns of officers about the direction of the department, perceived lack of community support, staffing issues, shift reconfiguration, and concerns raised regarding Chief O’Dea’s negligent discharge incident. In one such meeting, likely held on 06/06/16, AC Day met with a group of East Precinct sergeants. Commander Hendrie believes this meeting was held before Chief O’Dea was placed on administrative leave.

Commander Hendrie described AC Day’s demeanor at all of these meetings as “matter of fact,” and “very human.” Commander Hendrie described AC Day’s statements to the sergeants, stating:

He [AC Day] just kind of said this is what we’re going through, I’m sorry, this is where we’re at. I don’t know what the process is going to be. I don’t know what that’s – I don’t know where this ends. But, you know, kind of the reassurance that we’re going to figure out a way through this and you guys focus on what you’re doing here at East.

Commander Hendrie indicated: During the meeting Sergeant Steinbronn asked a question regarding what directives applied to the Chief, and whether there was a double standard regarding investigating patrol officers versus the Chief. He believes Sergeant Steinbronn asked such a question due to a “little sense of frustration” regarding whether the Chief was being held to the same standards as patrol officers. Commander Hendrie stated:

And it was a pretty – I’m going to use the term I think I’m using it right, a cheeky comment. It was more rhetorical in nature from the sergeant [Steinbronn] and what I could tell you from where I sat it was – that sergeant and the feeling from the other sergeants was that this issue about, you know, the Chief, they were really driving home this accountability piece and they felt like they were slighted. And so I think the comment, in my opinion, came from that frustration and so it was kind of like well what directive are we using for the Chief or something similar to that.

Commander Hendrie indicated AC Day responded to Sergeant Steinbronn’s question. Commander Hendrie stated, “AC Day was clear it’s just one directive. You know, we all follow the directives.” Commander Hendrie indicated he himself then spoke about how directives apply to the Chief. Commander Hendrie stated:

I remember I made a comment like, you know, when the directives were written it wasn’t written for the Chief of police and I didn’t get a chance to even follow up on that conversation before the, you know, they’re like ‘Ah!’ You know, I’m like, ‘Just stop’ and I said what I mean is is like for the reporting requirement and that was the one that was kind of being talked about is that from the reporting requirement piece, you know, the

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Chief has one boss and that's the Mayor, right, who they report to and I said it's a different thing and they said well I could report it to a sergeant and I'm like really do you see the head of the organization reporting to calling one of you guys?

When asked, Commander Hendrie indicated he could not recall AC Day making any concerning statements. Commander Hendrie indicated any statements AC Day made regarding what directives apply to investigating the Chief were "taken out of context." Commander Hendrie stated, "I don't remember him saying directives don't apply to assistant chiefs or the Chief." Commander Hendrie stated, "I think there was some talk about it being difficult and if any comment was made I can say for me I said something similar to they weren't written for – with the Chief of police in mind."

Commander Hendrie stated the feeling the Chief was not bound to the same standard of accountability really "sidetracked" the meeting to the point "we couldn't get past that." Commander Hendrie stated a majority of officers feel as though they are constantly "being judged by one level of standard" while command staff are held to a separate, more lenient standard. Commander Hendrie stated, "I think a lot of their ire was raised by this because at least on the initial media blast it appeared that there was, you know, that the Chief had not followed through on what he was required to by policy." Commander Hendrie stated he believes the "reporting piece" of Directive 333.00 is problematic in that a line officer has a number of supervisors, ranging from multiple sergeants and lieutenants they can report to, as opposed to the Chief, who only reports to the Mayor. Commander Hendrie stated, "This whole incident kind of brought up a lot of the frustrations that are happening in the bureau right now."

During his 10/28/16 interview, Sergeant Steinbronn indicated the following: He is currently assigned as a patrol sergeant at East Precinct. He first learned of Chief O'Dea's negligent discharge incident on 05/20/16, when the *Willamette Week* article came out. At the start of summer 2016, he attended an East Precinct supervisor's staff meeting, along with the other sergeants and lieutenants from each East Precinct shift, Captain Robert King, Commander Hendrie, and AC Day.

Sergeant Steinbronn indicated one of the reasons AC Day attended the meeting was to address issues relating to Chief O'Dea's negligent discharge incident. Sergeant Steinbronn stated during the meeting, AC Day said all four assistant chiefs and Captain Rodrigues were notified of the incident, after Mayor Hales was notified. Sergeant Steinbronn indicated AC Day said not all incidents involving off-duty conduct are made public. Sergeant Steinbronn stated:

We did talk a little bit about the directives and how the directives apply to the chief and whether necessarily, you know, they apply. So what he said was the directives may not necessarily apply to the chief. That was one of the statements that he made. I did not take it as the directives do not apply to the chief. What I took it as the wording of the directives are a little vague when it comes to the chief.

Sergeant Steinbronn mentioned his tenure as an IA Sergeant and stated he "certainly had some questions about how the process was handled." He indicated that he asked AC Day about the reporting requirement of PPB Directive 333.00 and stated:

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One of the questions that I asked was about the reporting requirement under the directive when you become subject of a criminal investigation and my understanding is whether charges are going to be filed or not, it's still a criminal investigation. The investigation of the negligent wounding of another person.

Sergeant Steinbronn stated the directive says "a direct supervisor needs to be immediately notified when you become the subject of an investigation." He described his question to AC Day as follows:

What I was trying to get at is, was there two standards? Was there a standard for the chief and was there a standard to the officer and how do we reconcile that and is – if there's a change, then our officers need to know that there is a change. That it's not immediately a reporting requirement. What I'm trying to get at is, my officers had a lot of questions as to this immediate reporting requirement and why it wasn't done immediately. Why did it wait four days, so does that mean they don't have to? I thought it was a fair question. I was trying to review the directives and I was trying to apply them evenly from the officer to the chief of police and I was trying to get clarification on that procedure.

Sergeant Steinbronn indicated he did not remember AC Day's exact words, but summarized it as follows:

I preface this with I don't believe this is what he [Day] meant. I believe his [Day's] response was something to the effect of the directives don't necessarily apply to the chief, but again, I go back to I think it was nonintentional wording. I don't think it was the – his [Day's] intent behind that statement was that when you're the chief of police and you're required to report your direct supervisor, the direct supervisor would – in his [Day's] words, you know, would be the mayor and, you know, he [O'Dea] did that four days, you know, later. There is no well, should I report it to my assistant chief even though he's not my direct supervisor. Should I report it to a supervisor? It gets a little – I believe that there was a little bit of a grey area.

Sergeant Steinbronn indicated there was "surprise" from the meeting participants because "the directives do say members and we are all sworn members and the directive is very clear on members will [immediately report being the subject of a criminal investigation to their supervisor]." Sergeant Steinbronn stated AC Day's response was "just miswording. It was not intent at all." Sergeant Steinbronn indicated Commander Hendrie attempted to clarify AC Day's statement and explained "the directives can be a little vague in direction when you are the chief of police."

Interviews with Assistant Chief Donna Henderson, [REDACTED]

Investigators Perez and Berry interviewed AC Henderson on 05/27/16, as a witness member, and again on 06/17/16 as an involved member. IA Lt. Hurley was present for both interviews, and AC Henderson's attorney Angela Ferrer was present for the 06/17/16 interview. Both interviews were recorded, and subsequently professionally transcribed. Refer to the transcripts and audio recordings for details.

In summary, AC Henderson indicated: She has been with PPB for 28 years, and in that time has held many different assignments. When this investigation was initiated, she was the Assistant Chief of

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Investigations. As AC of Investigations, she is responsible for supervising numerous units within PPB including Family Services, Information Technology, Property, Forensic Evidence, and the Drugs and Vice Division. She first learned of the shooting incident on Monday 04/25/16, during a standing meeting the ACs have with Chief O'Dea. ACs Crebs, Day, and Modica were also present when Chief O'Dea described the incident.

On 05/27/16, AC Henderson stated Chief O'Dea disclosed the incident to the ACs to let them know that he would "be upset for a while" and he did not want the Assistant Chiefs "to think that if my mood is a little off that I'm mad at you." On 05/27/16, AC Henderson stated:

He was sad and he said he's not quite sure what happened. They – he had a .22 rifle and he said he went to lay his rifle down, and I'm trying to think exactly what he said because of course the media has said all sorts of things, so I just want to make sure. I know he said he laid his rifle down. I thought at the time he said like on a rock or something, but I'm not positive of that. And the next thing he knows, he hears his buddy make a noise and he looks up and his buddy has been shot, and he told us that he thought that the buddy shot himself because he put his – he was wearing a shoulder holster and he put the weapon into the shoulder holder and it must have gone off and shot himself.

AC Henderson indicated Chief O'Dea did not describe how the accidental discharge happened. On 05/27/16, AC Henderson stated, "He did not realize until a couple of days later that he was the one that had shot his buddy. He didn't go into detail on how he found that out." When asked, AC Henderson indicated Chief O'Dea never mentioned anyone drinking alcohol during the incident.

AC Henderson indicated: During the meeting, Chief O'Dea said he notified the Mayor and Captain Rodrigues of the incident. Chief O'Dea did not provide details regarding how the Mayor reacted. On 06/17/16, AC Henderson stated, "I get the sense that he [O'Dea] said the Mayor was supportive, but I can't really remember exactly." Chief O'Dea likewise did not provide details regarding what he told Captain Rodrigues, or how he responded.

AC Henderson indicated: She believes Chief O'Dea mentioned talking to police after the incident, but she is not certain whether he said that, or she later read it in a news story. During the meeting, Chief O'Dea indicated the investigator who was investigating the shooting was going on a two-week vacation, and would contact Chief O'Dea when he returned. AC Henderson assumed Chief O'Dea was talking about an HCSO deputy. Chief O'Dea indicated he would inform his assistant Diane Haman of the incident, as well as his adjutant, Lt. Kruger. AC Henderson assumed Chief O'Dea would also notify PPB's Public Information Officer Sergeant Pete Simpson, [REDACTED] but she later learned he did not. At the end of the meeting, Chief O'Dea stated, "I expect you to keep this to yourselves."

AC Henderson indicated: She had occasional contact with Chief O'Dea following his disclosure of the incident. On one occasion she saw him in a hallway, on another occasion she spoke to him in his office, and she may have spoken to him a third time. She has a Master's degree in counseling, and she could

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tell the incident was negatively affecting Chief O'Dea. During these contacts, she asked Chief O'Dea if the HCSO investigator had contacted him yet, and he said no. During these contacts, AC Henderson urged Chief O'Dea to contact the HCSO Investigator, in order to help put the incident behind him.

Asked what actions she thought she needed to take, after learning of the incident, on 05/27/16, AC Henderson stated, "There was absolutely nothing for me to do." On 05/27/16, AC Henderson stated, "He [Chief O'Dea] had notified the Mayor, so the Mayor knew and he had notified Internal Affairs, Derek [Captain Rodrigues], and that obviously they would notify IPR, so that that whole process would get moving."

AC Henderson indicated she expected Chief O'Dea's negligent discharge incident would be criminally investigated by HCSO. Asked how PPB must respond, when it learns a member is the subject of a criminal investigation, on 05/27/16 AC Henderson stated:

It depends on the type of criminal investigation, what it is. There are times that they're placed on the 10-2. There are times that their police powers are taken away and they're put in TRU [Telephone Reporting Unit], but regardless, Internal Affairs is notified, IPR – Internal Affairs notifies IPR, obviously if it's a criminal investigation internally, I mean in Multnomah County my Detectives Division would be responsible for doing the investigation. [Commander] George Burke [REDACTED] would be in contact with Derek [Captain Rodrigues] on a regular basis just to make sure there's a good relationship on Internal Affairs trying not to mess up an investigation because in a criminal investigation there's certain things that we have to follow that Internal Affairs doesn't have to follow, so George Burke and Derek have a good working relationship there. If it's outside criminal investigation then the liaison is Internal Affairs.

AC Henderson indicated: Once Chief O'Dea's negligent discharge incident was publicized, she spoke to Commander Burke. She did not ask Commander Burke about whether Detectives Division staff were taking part in investigating the matter. During her contact with Commander Burke, he mentioned calling Captain Rodrigues, after he learned of the incident. She herself did not contact Captain Rodrigues regarding whether Chief O'Dea's negligent discharge incident was being investigated.

AC Henderson indicated: She believed IPR would be told of the incident, because Chief O'Dea said he notified IA, but she was not told definitively whether IPR was informed of the incident. On 05/27/16, AC Henderson stated, "Even when you notify Captain Rodrigues and they notify IPR, IPR doesn't call us and let us know that they've been notified, so we just assumed that they had been and it wasn't until I read the newspaper and thinking, holy moly."

Regarding policy issues that may have contributed to this situation, on 06/17/16 AC Henderson stated:

I think we have very good policies except as it relates to the Chief. One of the reasons it was changed – the internal affairs report to the Chief is because there were past issues

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and so Chief O'Dea said the best practice is to have the captain of internal affairs report to the Chief of police. With that said, there is no checks and balances for the Chief of police. I would have never in a million years believed that this chief would have conducted himself the way he has. Now that obviously it's brought to everyone's attention, we're going to have to look at some sort of dual reporting for the [Internal Affairs] captain.

AC Henderson indicated she did not have any conversation with anyone in the Mayor's Office concerning whether or not IPR was aware of the situation. On 05/27/16, when asked to describe her contact with the Mayor's Office, AC Henderson stated she contacted the Mayor's Chief of Staff Josh Alpert after Chief O'Dea was issued a Communications Restrictions Order to tell him what Chief O'Dea had told the Assistant Chiefs about the incident. AC Henderson indicated she referenced the initial *Willamette Week* article in addition to other newspaper articles that had been published throughout the week which had additional details from the Harney County Sheriff's Office. On 05/27/16, AC Henderson stated she told Mr. Alpert she did not think Chief O'Dea was "going to be able to come back from this." On 05/27/16, AC Henderson stated she told Mr. Alpert following the intense media attention and the negative publicity, Chief O'Dea "can't be at work. He can't be here." AC Henderson indicated Mr. Alpert informed her the Mayor wanted to wait until the investigation was over before determining whether to place Chief O'Dea on leave. AC Henderson stated the day after this conversation, a "big, final article" was published. On 05/27/16, AC Henderson described the ensuing conversation with Mr. Alpert as follows:

I called Josh up as I'm coming to work saying have you read it? I said, you can't leave him here, he has got to be placed on administrative leave. This is not going to be good and that's when I stressed, he is not going to recover from this, so I had that conversation and then when they placed him on administrative leave, the mayor brought me in and said that you were going – that I was going to be acting [chief] or you were going to be acting.

Asked if an assistant chief has a responsibility to act, if they suspect the Chief engaged in wrongdoing, on 06/17/16, AC Henderson stated:

I think that it's incumbent upon me to follow procedures and those procedures as they were told to me were followed. I don't have, nor should I try to interfere in administrative investigations or criminal investigations that aren't my purview because it would look as though I'm trying to taint investigations.

Asked if, with the benefit of hindsight, there were other actions she might have taken, on 06/17/16 AC Henderson stated:

Knowing if somebody had come and told me that my chief of police did not give the full information, did not tell – that told Captain Rodrigues of what happened, that Captain

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Rodrigues wasn't going to do his job, yes I would say, oh if Captain Rodrigues isn't going to do his job, then I'm going to go ahead and notify IPR. If I had been told that Chief O'Dea was going to tell me one story and that he had told Harney County another story, then yes I would have contacted Harney County and say did you know this?

On 06/17/16, asked to respond to the allegation she failed to take appropriate action after she learned of Chief O'Dea's negligent discharge incident, AC Henderson produced a document and indicated she had prepared a written statement. On 06/17/16, AC Henderson stated:

Up to May 23rd, 2016, I believed Chief Larry O'Dea was an honorable man who acted with integrity. When he told us about the accident, it was obvious how upset he was and that he could make – how upset he was that he could make such a monumental mistake and he repeated several times that he wasn't that guy. He didn't make those mistakes. O'Dea said that the [HCSO] investigator was on vacation. He would be contacted upon his return. I had no reason to suspect or to question the truthfulness of those statements. I did not learn the truth until the Oregonian published the story about the shooting. I had no reason to believe that Chief O'Dea did not inform Harney County of what actually happened and to this day I feel betrayed, personally and professionally. O'Dea stated that he had reported the incident to the captain of Internal Affairs, which is keeping with the PPB directives and policy. Internal Affairs is a direct report to the chief. The process was created specifically to prohibit other members of PPB command or officers from attempting to influence, intimidate or corrupt an investigation. Directive 0300, internal affairs complaint intake and process states once a complaint is received by Internal Affairs, the authority for processing, investigating or referring the complaint is delegated by the chief of police to the Professional Standards Division captain or designee. No bureau official has the authority to stop, intercede or suspend or in any way direct or influence the substance of Internal Affairs administrative investigation. Due to the sensitive nature of this responsibility of Internal Affairs, any suggestion that I or other assistant chiefs should have inserted ourselves into the Internal Affairs investigation is in conflict with the entire Internal Affairs process or investigation. O'Dea told us about the shooting on April 25th, 2016, and the Oregonian article was published May 23rd, 2016. That's a total of 28 days from the time it happened to the time it was reported in the Oregonian. Criminal investigations, as well as administrative investigations, take time, especially when the lead detective was on vacation and Harney County – Harney is a small county with limited resources. As proof that they take time, the investigation is still going on. As with all investigations of this type, I am not privy to the status of the investigation until it is completed. According to O'Dea's statement to us, the captain of Internal Affairs had been notified pursuant to PPB directives. There was nothing to indicate to me that O'Dea did not notify Internal Affairs. The chief of police misled the mayor, his senior staff and Internal Affairs about the incident. From my perspective, I had no reason to disbelieve the account given to me of the incident, no reason to believe that he had not followed procedure by notifying Internal Affairs and no reason to suspect

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that Internal Affairs had failed to act. There was no information given to me that would have led me to believe that investigations were not underway beginning April 25th. So, I don't think I failed to perform my duties. I think all of that explains why I did what I did.

Interviews with Assistant Chief Kevin Modica, [REDACTED]

Investigator Perez interviewed AC Modica on 05/31/16, as a witness member, and again on 06/21/16 as an involved member. IA Lt. Hurley was also present for both interviews. Both interviews were recorded and subsequently professionally transcribed. Refer to the audio recordings and transcripts for details.

In summary, AC Modica indicated: He has been with PPB for 30 years, and in that time has held many different assignments. When this investigation was initiated, he was the Assistant Chief of Community Services. As AC of Community Services, he is responsible for supervising numerous departments within PPB, including the Traffic Division, Transit Police, the Youth Services Division, the Tactical Operations Division, and the Gang Enforcement Team. He first learned of the shooting incident on Monday 04/25/16, during a standing meeting the ACs have with Chief O'Dea. ACs Crebs, Day, and Henderson were also present when Chief O'Dea described the incident. On 05/31/16 AC Modica stated:

Chief O'Dea was pretty contrite and said he needed to speak with all of us and sat down and said that he was hunting with a friend, that his friend had been shot, that he was responsible for that, and that he had notified the Mayor and made other notifications as necessary. And then he was pretty specific and said it needed not to be discussed outside of that room.

AC Modica indicated: The incident occurred while Chief O'Dea and his friends were hunting. Chief O'Dea did not discuss people drinking alcohol. Chief O'Dea did not explicitly tell the Assistant Chiefs how his friend got shot. Chief O'Dea did not describe how he concluded he shot his friend. On 06/21/16, AC Modica stated:

He [O'Dea] was talking about it. I mean, I could not factually quote what he said about it, but you know, the rendition is that – thought my friend shot himself, but for some reason it was my weapon that discharged and he was wounded and, you know, the Chief's talking about how awful he felt and that kind of thing.

AC Modica stated Chief O'Dea stated he made "all the notifications." AC Modica indicated Chief O'Dea said he spoke to the Mayor about the incident, and the Mayor "was really great about it" and was understanding and supportive. Asked if Chief O'Dea described notifying Captain Rodrigues of the incident, AC Modica stated, "I don't remember that. What I remember the Chief saying about notifications was that he had made the notifications like, broad statement." Asked if Chief O'Dea described having contact with HCSO, AC Modica stated he "presumed" Chief O'Dea spoke to law enforcement, because by law police are required to respond to and investigate anyone who presents at a hospital with a gunshot wound. AC Modica indicated Chief O'Dea did not direct the ACs to take any action regarding the incident.

During both interviews, AC Modica confirmed Chief O'Dea directed the ACs not to discuss the incident. On 05/31/16, AC Modica stated, "I didn't have any doubts, right? I mean, the Chief says I want to share

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this with you but I don't want you to discuss it, that's kind of like an order." AC Modica indicated he did not agree with this approach, but he complied with Chief O'Dea's direction not to discuss the incident. On 05/31/16, AC Modica stated, "If something like this happens, you've got to tell the world. You've got to tell everyone." On 05/31/16, AC Modica stated:

I've been there 30 years. We've had two members that I know of involved in hunting accidents that unfortunately resulted in fatalities. The moment that happened, it was disclosed, right? To the public. To the press. To everybody that would need to know, right? Lots of condolences and heartfelt just compassion for the victims and the victims' families, but also compassion for the Bureau member.

AC Modica indicated: Following the 04/25/16 meeting he traveled to a conference, and traveled to his child's wedding, returning to Portland sometime during the week of 05/16/16 – 05/20/16. After he returned, he saw a news article about the shooting incident. During the following weekend, he saw Chief O'Dea at another conference. He asked Chief O'Dea how he was doing, and Chief O'Dea said things were "rough" and his incident was receiving media coverage. AC Modica did not discuss things further with Chief O'Dea, because they were in a public setting, and because Chief O'Dea previously directed him not to discuss the incident.

AC Modica indicated: On Monday 05/23/16, he and ACs Day and Henderson attended their standing meeting with Chief O'Dea. AC Crebs was not present. Before the meeting began, ACs Day and Henderson talked about urging Chief O'Dea to respond to the media reports regarding the shooting incident. On 06/21/16, AC Modica stated, "I think most of the concern was just that they had found that what we were told might not have been what was really the case." Initially, he did not fully understand their concerns. On 06/21/16, AC Modica stated, "I really wasn't getting that nobody knew." During that meeting, AC Day urged Chief O'Dea to respond to the media reports. AC Day told Chief O'Dea rank and file members were "upset" about the incident, and believed they would have been treated differently. Asked how Chief O'Dea responded, on 06/21/16 AC Modica stated:

I don't want to imagine what he [O'Dea] might have said. I just – what I recall was just general conversation. He might have reiterated that he made his notifications and, you know, there was nothing to talk about, but I really – I have to say that morning was strange because I wasn't getting it. I didn't know what the challenge was for the Chief.

AC Modica indicated shortly after that, he was served with a CRO regarding the incident. AC Modica indicated he may have heard the HCSO deputy assigned to investigate the incident was on leave, but he does not remember when he heard the information, or whether it was Chief O'Dea or someone else who told him it.

AC Modica indicated: He has not discussed the incident with OSP. He did not discuss the incident with anyone from the Mayor's office. He did not discuss the incident with Captain Rodrigues. He did not inquire whether there was an administrative investigation regarding the matter. He does not typically receive updates on the status of ongoing administrative investigations, unless the investigation concerns someone he supervises. Asked why he did not inquire whether there was an open administrative investigation, on 06/21/16, AC Modica stated, "I didn't have any reason to ask." Asked whether an AC

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has a responsibility to take action, if they suspect a member of wrong doing, on 06/21/16 AC Modica stated:

Generally speaking anyone that's a Bureau member should proceed forward either with notification or asking the question if they suspect wrong doing or if they have knowledge of wrong doing, you know. I'd have to only speak personally for myself, which is I didn't suspect any wrong doing.

Asked how the Bureau should respond when it learns a member is the subject of a criminal investigation, on 05/31/16, AC Modica stated, "Disclose it. That there's a criminal investigation that's ongoing. You don't have to give details." On 05/31/16, AC Modica stated:

If it's not the Chief, you know, it's up the chain to the appropriate assistant chief. To the Professional Standards Division, IA, and then the presumption is that the Chief would notify his direct report, which is the police commissioner, and decisions are made, right?

Asked what steps the applicable Directive states PPB should take, when an outside agency is conducting a criminal investigation regarding a member's conduct, on 06/21/16 AC Modica stated the Chief, the AC of Investigations, and the District Attorney should be notified. On 06/21/16 AC Modica stated in his capacity of AC of Community Relations, he would "not necessarily" be notified of a criminal investigation of a member's conduct.

When asked, AC Modica indicated he had not considered whether there are shortcomings in PPB policy which contributed to the incident. Asked if he had identified other actions he could have taken, on 06/21/16, AC Modica stated, "I think given the information that was provided to me, no." Asked to respond to the allegation he failed to take appropriate action after he learned of Chief O'Dea's negligent discharge incident, on 06/21/16 AC Modica stated:

As I've said, the Chief articulated that he made the notifications, that he had spoken to the Mayor that his friend was accidentally shot. I had no knowledge that it was a negligent discharge. I had no knowledge that it had been a firearm malfunction. I was not there in Harney County. I'm only reliant upon – I think reacting and taking action on what I was told and what I perceived to have been an order.

Interviews with Captain Derek Rodrigues, # [REDACTED]

Investigator Berry interviewed Captain Rodrigues on 05/25/16, as a witness member. Investigators Perez and Berry interviewed Captain Rodrigues on 06/22/16, as an involved member. IA Lt. Hurley was present for both interviews. Captain Rodrigues' attorney Mark Makler was present for the 06/22/16 interview. At the time this investigation was initiated, Captain Rodrigues was the Captain of the Professional Standards Division (PSD). Both interviews were subsequently professionally transcribed. Refer to the transcript and audio recording for details.

In summary, Captain Rodrigues indicated: As the PSD Captain, he reports directly to Chief O'Dea. He typically attends a standing meeting Chief O'Dea has with his Assistant Chiefs at 0800 on Mondays, and he typically has a standing meeting with Chief O'Dea at 1100 on Mondays. He first learned of Chief

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O'Dea's negligent discharge incident during his meeting with Chief O'Dea on Monday, 04/25/16. After they concluded their "normal business," Chief O'Dea said he wanted to tell Captain Rodrigues something. Chief O'Dea said he went on a camping trip with a group of his friends, to Harney County in eastern Oregon. Chief O'Dea said during the trip, he and his friends were standing in a line, shooting at ground squirrels. On 05/25/16, Captain Rodrigues described Chief O'Dea's account of the incident, stating:

They were in a line, either sitting in a line and shooting their weapons, and then he's [O'Dea is] telling me at one point one of his friends, I believe to the right, just went over in pain. And then he [O'Dea] said they didn't know what happened, and at some point it became apparent that he got shot in the side, not in the back, in the side of the stomach and the area. And he [O'Dea] said, you know, they had to do a caravan and, you know, because they were out in the middle of nowhere. They had to do a caravan and go to a place. I guess 911 was called and then they had to Life Flight his friend.

Captain Rodrigues indicated: Chief O'Dea said Bob Dempsey was his friend who got shot, but Captain Rodrigues did not recognize the name. Chief O'Dea also said Steve Buchtel and Mike Lieb went on the camping trip, and Captain Rodrigues recognized their names as retired PPB officers. Chief O'Dea never mentioned alcohol, or if he or anyone else in the hunting party had been drinking prior to Mr. Dempsey being shot.

On 05/25/16, Captain Rodrigues stated:

The chief was very humbled. He was very emotional. It bothered him. And then he said, you know, after that, and I don't know how long after, he said while him and his friends, I guess, were talking about it, retired Sergeant Lieb, I guess – when they were trying to figure out what happened, he said retired Sergeant Lieb told him, "Hey, it came from you," from him. And then he was, like, you know – then I asked him kind of how did it happen, and he said, "I didn't know." He said he doesn't know. I didn't go into the details. He said, "I don't know if I was putting the gun down, taking the gun out," or whatever, and he was very somber, and that was the extent of our conversation.

Captain Rodrigues indicated Chief O'Dea did not say he spoke to HCSO regarding the incident. When asked, Captain Rodrigues indicated Chief O'Dea did not say he needed to speak to the investigating deputy and did not talk about the investigating deputy being on leave. On 05/25/16, Captain Rodrigues stated if Chief O'Dea had mentioned speaking to police, it "would have gotten me in a different realm." Asked if he was aware Chief O'Dea was the subject of a criminal investigation, on 05/25/16 Captain Rodrigues stated, "Absolutely not."

Captain Rodrigues indicated: During the conversation, Chief O'Dea did not say he spoke to his ACs about the incident. Chief O'Dea did not say he spoke to the Mayor about the incident. Chief O'Dea did not discuss whether there would be an administrative investigation regarding the matter. Chief O'Dea did not discuss PPB contacting HCSO, or setting up a liaison. He and Chief O'Dea did not discuss or mention IPR. On 05/25/16, Captain Rodrigues stated, "We never discussed anybody else. It was our conversation. I don't know who knows what or what and nothing."

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During his 06/22/16 interview, Captain Rodrigues indicated his conversation with Chief O'Dea likely lasted approximately 15 minutes. Captain Rodrigues indicated Chief O'Dea did not provide Captain Rodrigues with any documentation, and did not instruct Captain Rodrigues to take any action in writing or otherwise during or after this conversation. Captain Rodrigues indicated between this talk on 04/25/16 and when the incident was publicized 05/20/16, Chief O'Dea and Captain Rodrigues did not discuss the shooting or the potential for an internal investigation. On 05/25/16, Captain Rodrigues stated, "It never was brought up again. We never discussed it. I never shared it."

On 05/25/16, Captain Rodrigues stated, "For me it was, you know, he was letting out, he was just kind of venting." Captain Rodrigues stated he "felt kind of bad" for Chief O'Dea, and attempted to encourage him after he disclosed the incident. Regarding this conversation with Chief O'Dea, on 05/25/16, Captain Rodrigues stated:

I didn't know it was an official notification, and so it's – I felt a little – I felt a little played, if you will. I felt a little – and, again, I like the chief. He's been respectful to me. I've known him for a while, but, you know, semantics aside, yeah, sure. I was notified, but to me, a notification is, "Hey, I need to tell you something that occurred, and you need to know this because this may impact," – and so I felt a little betrayed. Again, it's just me, personally, and then I have a part in this obviously. I didn't forward it like I should have, and it just didn't resonate with me.

Asked what action he intended to take, after he learned of the incident, on 05/25/16 Captain Rodrigues stated, "Nothing." On 05/25/16, Captain Rodrigues stated:

There is nothing that in me resonated, "Hey, I've got to contact IPR. I've got to contact somebody." There's nothing for me that caused me any concern. It was, in my mind, you know, just an off-duty incident. It's a hunting incident. He was sharing something with me that occurred. No excuse, but apparently it resonated in others that, you know, I should have made a – reported it, and I get that, and I understand that, but it just never resonated in me that, "Oh, Internal Affairs." It just didn't, so I thought it was a confidential conversation, and I didn't share it even with Lieutenant Hurley which I share everything with at work, nobody. You know, obviously not Constantin [Severe] – and there was no follow up. There was no status. I was not provided with an email from the chief saying, "Hey, Derek, this is what's happening," or a memo or something. "Hey, I need to" – you know, there certainly was not a discussion or anything brought up about law enforcement contact I think which have – and I'm not making any excuses, but that kind of would have ramped up my, I guess, alert level from being there and being supportive to him of okay, there's a police report here. There's something. That was never brought up.

Captain Rodrigues indicated he did not discuss the incident with other bureau members after Chief O'Dea disclosed it to him. On 05/25/16, Captain Rodrigues stated:

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I'm very well aware of the city code in which any allegations of misconduct in Portland Police Bureau of the rank of captain or above is handled by IPR. That would have been a five – less than a five-minute conversation with Constantin [Severe]. I would call him. I would say, "Hey, Constantin. There's a police report. This is what happened here. We'll liaison, and we'll get the reports and give it to you all because you all would take it." It's not like I had to think about this. This is, like – this process is set up that way so there is no conflict of interest or fear in conducting investigations of higher ranking individual.

Captain Rodrigues indicated: He did not have any communication with IPR Director Severe about Chief O'Dea's negligent discharge incident until after it was made public on 05/20/16. After the incident was publicized, Commander Burke called him to ask if he knew about the shooting and why he didn't start an investigation. Shortly after this call, he received a call from IPR Assistant Director Anika Bent-Albert and a text message from Director Severe. He called Director Severe and informed him he had "no clue" an investigation into the matter should have been started. He was also interviewed by Oregon DOJ and OSP after the incident was publicized.

Captain Rodrigues indicated he has not had any investigations involving accidental discharges in his approximate thirteen-month tenure as the Internal Affairs Captain. On 06/22/16, when asked, Captain Rodrigues stated he has investigated approximately 30-40 shootings over the course of his law enforcement career. On 06/22/16, asked if he is aware police will respond to and investigate any person who arrives at a hospital with a gunshot wound, Captain Rodrigues stated, "Now that I have time to reflect on it, yes." Asked if he had an expectation that the police would investigate the shooting of Mr. Dempsey, he responded, "Not during the context of that conversation. My mind as the chief of police is talking to me in an emotional state, my mind is as a human being."

Captain Rodrigues stated when the conversation took on a more personal tone, Chief O'Dea mentioned the potential for Captain Rodrigues [REDACTED] In the 06/22/16 interview, Captain Rodrigues indicated:

So what I wanted to say is that what I didn't share last time is that once we got this business over, and he started talking about this hunting accident, you know, he became a little emotional. So – and then he knows that I'm going through [REDACTED] So to comfort him I tried to also talk about what I'm going through. And so at the end when we were done, he shook my hand and hugged me, [REDACTED]

Asked if, with the benefit of hindsight, there were other actions he could have taken, on 06/22/16 Captain Rodrigues stated, "I would have made that 5-minute phone call to Constantin." Asked to identify potential policy shortcomings that led to this incident, on 06/22/16 Captain Rodrigues responded, "Maybe language giving a policy very clear whether negligent discharge of firearms whether on or off duty, vacation capacity, whether you're on authorized leave or not."

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During the 06/22/16 interview, Captain Rodrigues indicated Chief O’Dea did not direct him to not investigate the matter, he never directed him to not discuss the incident, and he never offered Captain Rodrigues financial incentives. Captain Rodrigues clarified the discussion he had with Chief O’Dea about the [REDACTED]

[REDACTED]

But, no. He didn’t offer me anything, benefit or anything, no.

Asked to respond to the allegation he failed to initiate an administrative investigation after learning of Chief O’Dea’s negligent discharge incident, on 06/22/16 Captain Rodrigues stated, “Based on this pure – yes, I failed to do that, yes. Based on this pure – obviously, there’s a lot more involved, but yes I failed to do that.” On 06/22/16, Captain Rodrigues’ attorney Mr. Makler stated:

There are some assumptions that I want to be clear that he has indicated. He didn’t know that there was alcohol involved and the extent of the injury. He didn’t know about the statements that had been given, didn’t know about Harney County Sheriff’s Office they had him talk to you about, didn’t know that there was a criminal investigation or that the police had been called to the – actually I don’t know whether they were called to the incident. If I remember correctly from looking at the transcript from the 25th, they’d said something about a caravan.

Interview with Commander George Burke, [REDACTED]

Investigators Perez and Berry interviewed Commander Burke on 06/16/16. IA Lt. Hurley was also present. This interview was recorded and subsequently professionally transcribed. Refer to the transcript and audio recording for details.

Commander Burke indicated: he heard a rumor about the shooting, likely on 05/19/16, the day before the incident was publicized. One of his lieutenants told him of the rumor, and he did not initially believe it to be true. He later learned the details of the incident after the *Willamette Week* article was published on 5/20/16.

Commander Burke indicated he called Captain Rodrigues after reading the story in *Willamette Week*. Commander Burke stated:

As soon as I saw it the first thing that came to my mind was – because there was – there was a statement in there that the Mayor and IP – or the Mayor and Professional Standards had been notified. I’m pretty good friends with Captain Rodrigues. So, I called there and I just asked and I said hey did you really know about this? And his response was well yeah. And I said well this just came out in the paper, so you might want to read the article.

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Commander Burke stated during the conversation, Captain Rodrigues “wasn’t very happy with me.” Commander Burke stated:

I was concerned for Derek [Rodrigues] and I asked him, I said did you – did anybody let anybody outside of the organization know? Did we contact IPR? Did we – and he said it was an accident. That’s all he said, he goes it was an accident. I don’t – what are you talking about? And I said I don’t know. I said all I know is that if IPR wasn’t called they’re not going to be very happy and while I was on the phone he got a text from Constantin [IPR Director Severe]. He goes well Constantin is reaching out to me, so I probably ought to find out what’s going on.

Commander Burke estimated this conversation lasted two minutes. Commander Burke indicated he believes he had one more telephone conversation with Captain Rodrigues, likely 1-2 days after their first conversation. Commander Burke indicated he may also have spoken briefly to Captain Rodrigues in person, but he does not remember when. Commander Burke indicated Captain Rodrigues told him he did not know police were investigating Chief O’Dea’s negligent discharge incident. Commander Burke stated, “He [Rodrigues] said the Chief didn’t tell me that police responded.” Commander Burke stated:

I’m pretty sure it was just in a phone conversation where I was talking to him [Rodrigues] and I just – I was trying to explain to him this is where the exposure is. You know, you’re going to get asked about why you didn’t do this. I mean, how could you possibly not notify IPR if there is a criminal investigation. And he [Rodrigues] said because I didn’t know there were police involved.

Commander Burke stated Captain Rodrigues was “adamant” he had acted correctly. Commander Burke stated, “He [Rodrigues] just said are you trying – basically said are you trying to irritate me? And I said no Derek I’m not trying to irritate you. I’m just trying to let – trying to help you see what the issue is here.” Commander Burke stated, “As a matter of fact, both of them [conversations] led to him [Rodrigues] getting pretty angry at me so I just stopped. I was done with it.” Commander Burke stated:

I’ll say this, Derek Rodrigues, Derek and I are friends. There are a lot of folks who probably wouldn’t say that. Derek can be – he can come across kind of angry. He’s very intense, but the one thing that I will say about Derek is the guy does not lack integrity and when he said to me I didn’t know the police were involved, I 100% believe he didn’t know that the police were involved.

Commander Burke indicated if a PPB member is under criminal investigation within Portland city limits, the Detective Division conducts the investigation. Commander Burke indicated under previous PPB protocol, the Detective Division would establish a liaison with an outside law enforcement conducting a criminal investigation involving a PPB member. Commander Burke indicated under current PPB protocol, the Professional Standards Division is responsible for establishing a liaison with the outside law enforcement agency.

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Commander Burke indicated he reports directly to AC Henderson. Asked to describe his contact with AC Henderson about the incident, Commander Burke indicated they briefly discussed the shooting before she was issued a Communications Restrictions Order. Commander Burke indicated he believes he told AC Henderson that Captain Rodrigues did not know police responded to investigate Chief O’Dea’s negligent discharge incident. Commander Burke stated:

I do remember sitting and talking to her [Henderson] about how I feel like the system is set up that I believe is flawed. The fact that we [Detectives] no longer have a liaison. So, I may have talked to her. The fact that we no longer have a liaison from our division working on criminal investigations outside jurisdictions I thought was problematic and I can see why we would want to have a liaison for Professional Standards, but I also think we should have - it should dual responsibility because there are criminal questions, there are criminal aspects that really our investigators focus on much, in much more detail than Professional Standards does.

Asked how the Bureau is supposed to respond to a criminal investigation involving one of its members, Commander Burke responded:

Any criminal allegation and here’s where I get a little confused, inside the City, all that goes to the AC of investigations. But when it’s outside the city and it’s just an IPR, internal affairs professional standards issue, the captain in Professional Standards is a direct report to the chief. So, my understanding is that the captain would notify the Chief. Well in this particular case, the Chief is the subject. So, I don’t know. That’s where, you know, this kind of single reporting – this is what led to my discussion with AC Henderson about how the system is set up that when we went to a system and it was under Captain Famous, that’s when they changed who the captain reported to. It used to be the AC of Services and then, of course, the AC of Services reports to the chief. They changed that to a direct report to the Chief citing that it was national best practice, which it very well – it might be, but the problem is that you still have a single report and that all came about as a result of some other stuff that happened when Mike Reese was chief where some information went to the AC of Services and nothing – it didn’t go any further. So, that change took place. I don’t remember what year it was, but it was – Dave Famous was the captain when it went to a direct report to the Chief. So, it’s a long-winded way of saying I don’t know necessarily outside the City of Portland. I just know the responsibility for the captain of Professional Standards.

Commander Burke indicated: He did not speak to any other ACs, aside from AC Henderson, about the incident. He did not speak to other PSD staff, HCSO, Oregon DOJ, or OSP regarding the incident. He did not speak to Chief O’Dea about the incident. He did not prepare any documentation regarding the incident.

Asked if it was his experience as a law enforcement officer that when anyone presents to a hospital with a gunshot wound that a criminal investigation is started, Commander Burke responded, “I’m almost embarrassed to say this. I didn’t know that that was a hospital protocol. I did learn that since this.”

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Investigators Perez and Berry interviewed Administrative Assistant Diane Haman on 06/07/16. This interview was recorded, and subsequently professionally transcribed. Refer to the transcript and audio recording for details.

NOTE: When interviewed, Ms. Haman was questioned regarding her contact with Chief O’Dea, his Assistant Chiefs, and other PPB staff. The following summary describes Ms. Haman’s statements regarding her contact with the Assistant Chiefs and Captain Rodrigues. Ms. Haman’s contact with Chief O’Dea is summarized separately, under IPR case number 2016-B-0014.

Ms. Haman indicated: She learned of the shooting at approximately 0830 on 04/25/16 during a meeting in which only herself, Chief O’Dea’s Executive Officer, now-retired PPB Lieutenant Terry Kruger and Chief O’Dea were present. She does not recall if this meeting occurred before or after he had notified the four ACs. Ms. Haman stated:

I don't remember the exact words but he's [O'Dea is] like it was on the last day of their vacation. They were getting ready to pack things up. He [O'Dea] was sitting in the chair and he got up from the chair and set his gun down and he took a couple steps and he heard somebody make a noise like a ugh, you know, almost like they were hurt kind of noise but he said like it was like a ugh noise.

Ms. Haman indicated: Chief O’Dea said initially, they thought his friend shot himself. Chief O’Dea said he later got a telephone call, and realized he was responsible for shooting his friend. Chief O’Dea did not say who called him, or how he determined he shot his friend. Ms. Haman stated:

He [O'Dea] went on to say that he wanted us to know because there will be an investigation so he said if there's, you know, phone calls and meetings and if I'm not acting myself, I want you to know this is the reason why and he [O'Dea] said I just want this to stay, you know, between us and – and then that's when he said because I want it to stay between us.

Ms. Haman indicated the only people who were informed of the shooting were “the ACs and then there was Terry and myself and the Mayor and Derek.” Ms. Haman stated, “None of the other admins or other, you know, like the lieutenants” had knowledge of the incident. Ms. Haman indicated aside from former Lt. Kruger, there were two other lieutenants in the Chief’s Office who did not know about the shooting.

Asked if she scheduled any meetings with Captain Rodrigues, Ms. Haman responded:

He had a standing one-on-one meeting always on Monday so if I ever had to cancel it and reschedule it – regarding this, not to my knowledge, no. Just – he just had his regular one-on-one meetings with him. So yeah, I would schedule them because sometimes we would have like a mayor's meeting or something and I'd have to cancel Derek and reschedule him but that had – that was just everyday stuff.

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Ms. Haman indicated: The standing meetings usually took place every Monday, from 1100-1200. She did not coordinate any additional meetings aside from their standing one-on-one meetings.

Ms. Haman stated that she “never even spoke with any of the Assistant Chiefs about it until after it came out in the media.” Ms. Haman indicated she had the most conversation about the incident with AC Day. Ms. Haman stated:

Bob, you know, what are you thinking? He [Day] goes well, it's right there on paper, you know, and it's like I know so it's like so what does it mean? I was more like what does it mean and again, thinking about what, you know, Chief O'Dea was going through just mentally and everything. It was just like that's – because I feel like, you know, yes, I work for him but I know him, you know, because I've worked around him for so long and it's just like it's just devastating.

Efforts made to review text messages and emails prepared by involved members and witnesses
During the course of this investigation, IPR Director Severe determined IPR should obtain and review text messages and emails from Chief O'Dea, AC Crebs, AC Day, AC Henderson, AC Modica, Captain Rodrigues, Lieutenant Kruger, PPB Executive Assistant Diane Haman, Mayor Hales, Mayoral Chief of Staff Josh Alpert, Mayoral Deputy Chief of Staff Tera Pierce, and Mayoral Communications Director Sara Hottman, for the time period 04/21/16 through 06/07/16.

Email correspondence for the above-listed individuals, for the time period 04/21/16 through 06/07/16, was obtained with the assistance of staff from Portland's Bureau of Technical Services (BTS). Investigator Berry reviewed this email correspondence. He found no correspondence from the involved members listed in this investigation (AC Crebs, AC Day, AC Henderson, AC Modica, and Captain Rodrigues) which appeared related to Chief O'Dea's negligent discharge incident.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Text Messages of AC Crebs

[REDACTED] downloaded text messages from AC Crebs' cellular telephone, for the requested time period. Investigators Perez and Berry noted three text message exchanges extracted from AC Crebs' telephone, which appear to be related to Chief O'Dea's negligent discharge.

At 1623 on 05/20/16, AC Day sent AC Crebs a link to the 05/20/16 *Willamette Week* article which first publicized Chief O'Dea's negligent discharge incident. AC Crebs responded, "Thanks." At 1659 on 05/23/16, PPB PIO Sgt. Simpson sent AC Crebs an HCSO press release concerning the incident. AC Crebs responded, "Thanks." At 1927 on 05/31/16, Sgt. Simpson sent AC Crebs a link to an *Oregonian* article titled, "Portland police Chief Larry O'Dea's 4 top aides knew early on of his off-duty shooting." AC Crebs responded, "Thanks."

Exchanges between AC Day and AC Henderson

[REDACTED] downloaded text messages from AC Day's and AC Henderson's cellular telephones. Investigators Perez and Berry noted AC Day and AC Henderson frequently corresponded with each other via text message. These exchanges are described below.

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At 1554 on 05/05/16, AC Henderson texted AC Day, "I am going to throw him out the window." At 1555, AC Day responded, "I can help."

At 1736 on 05/21/16, AC Henderson texted AC Day, "U [sic] busy." At 1736, AC Day responded, "Nope what's up."

At 0736 on 05/24/16, AC Day texted AC Henderson, "Sorry I missed u [sic] this morning. Thanks for your work this morning with the boss. Call me when u [sic] r [sic] free to catch me up." At 1148 on 05/24/16, AC Day texted AC Henderson, "Larry is looking for u [sic.]" AC Henderson responded, "Thank you," at 1149 on 05/24/16. AC Day texted AC Henderson at 1201 on 05/24/16, "I took care of everyone except your branch." At 1201 on 05/24/16, AC Henderson responded, "Thank you." At 1803, AC Day texted AC Henderson, "What a day! U [sic] were a rock star! Hang in there this shud [sic] be interesting."

At 1008 on 05/25/16, AC Day texted AC Henderson, "Not good..." accompanied by a link to an Oregonian article titled, "Portland police chief shaking, had alcohol on breath when he first described hunting accident." At 0700 on 05/26/16, AC Henderson texted AC Day, "You busy." AC Day responded at 0702 on 05/26/16, "Nope just making breakfast." At 0702 on 05/26/16, AC Henderson sent AC Day a text which read, "Call me when u [sic] are on the road." At 0706, AC Day replied, "Roger it will be about 7:30. Glad to talk now everyone is asleep? Or in a little bit as well...." At 0708 on 05/26/16, AC Henderson responded, "No its [sic] fine I just want to scream about article. I can do that all day [two smiling emoji with tongues sticking out.]" AC Day responded at 0712 with an unidentified emoji.

At 1455 on 05/27/16, AC Henderson texted AC Day, "Im [sic] on my way home, your [sic] it thank you." AC Day responded on 1455 at 05/27/16, "Enjoy your trip, see Wednesday." At 1234 on 06/02/16, AC Day texted AC Henderson, "Just checking in are you doing OK." AC Henderson did not respond via text. On 1921 at 06/12/16, AC Day texted AC Henderson, "Nice job!" She responded at 1922 with two smiley face emoji.

Text Messages of AC Henderson

AC Henderson also sent text messages to people other than AC Day. At 1519 on 06/01/16, AC Henderson texted Mayoral Chief of Staff Josh Alpert:

Hello I told Deanna I was meeting with you tomorrow and she told me that you were slammed trying to learn Chinese and that you do not need anyone else lobbying you for the interim chief job. I wanted to talk about a few things besides the job given that you are meeting with Wheeler on a transition plan. I wanted to talk about timelines of decisions and the turmoil folks are experiencing not knowing what is coming next. I also wanted to talk about how to help transition wheeler and his staff to the workings of the police bureau. And finally I wanted to discuss the latest Oregonian article as it related to IPR but I can talk about all this later. So you have an hour free tomorrow and I hope your trip goes well.

At 1849 on 06/01/16, Mr. Alpert responded, "Thanks Chief! I appreciate all that and definitely want to sit down and discuss all of it with you."

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Text Messages of AC Day

AC Day also sent text messages to people other than AC Henderson. At 1613 on 05/20/16, AC Day texted Chief O'Dea, "I saw the WW article. Keep your head up!"

At 1253 on 05/23/16, AC Day texted Mr. Alpert, "Welcome back??!" At 1414 on 05/23/16, Mr. Alpert responded, "Ha...thanks." At 1416 on 05/23/16, AC Day responded, "I hope the time away was good because the next few days could be really rough." At 1416, Mr. Alpert responded, "How so?" At 1417, AC Day responded, "The Chiefs [sic] story is burning down PPB....." At 1417, Mr. Alpert responded, "Yeah..figured. Ugh." At 1737, AC Day texted Mr. Alpert, "Busy?" At 1757, Mr. Alpert texted AC Day, "Just finishing up." At 1759, AC Day texted Mr. Alpert, "Let me know if u [sic] want to catch up. No rush."

At 0724 on 05/24/16, AC Day texted Mr. Alpert, "I am around this morning for a few." At 0807, AC Day texted Mr. Alpert, "Josh, tough day, no need to call just want to be available to support you or the mayor going forward. If u [sic] need anything let me know. Bob." At 1831, Mr. Alpert responded, "Thanks Chief-sorry I've been incommunicado-been running ragged trying to figure this all out. I think it worked out as well as it could today! Do know we went with Donna because she doesn't want the job permanently. Thank you for your support-it means a lot to me." At 1843, AC Day responded:

No worries, I get it and Donna and I work great together. Being in the big chair is not a priority for me. If considered I am flattered but with these [sic] chain of events and a new mayor in 6 months, who knows? I am serious if you or the mayor want to bounce anything off me I am a [sic] available but not expected. Maybe coffee after the holiday. Take care

At 1200 on 05/24/16, AC Day, sent a group text message to several PPB members, including AC Modica, as well as then-Lieutenant Jeffrey Bell, #38996, Lieutenant Michael Fort, #26379, Commander Hendrie, Commander Michael Leloff, #17573, Captain Bryan Parman, #28328, Catherine Reiland, #91757, Captain Kelly Sheffer, #19192, then-Commander Chris Uehara, #23999, then-Captain Matthew Wagenknecht, #24983, Commander Sara Westbrook, #28654, and an unknown number. In the message AC Day wrote:

In about 10 minutes the mayor will be putting the chief on admin leave and Donna will be acting. Press release from the mayor shortly. I do not have any further details. Look for the press release within the next few minutes I assume.

At 1426 on 05/29/16, AC Day texted Mr. Alpert:

Josh, anytime to catch up this weekend via phone? Would like to offer some insights going forward that I hope would benefit the city, PPB and others. Certainly not required but I see a very difficult 6 months or more ahead and would like to be available to help however that looks. Let me know. Thanks Bob

At 1726 on 06/02/16, AC Day texted Mr. Alpert:

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Positive meeting today on your end and PPB I hope?? I talked with the mayor at awards ceremony and encouraged him the sooner we can move forward the better. He agreed, whatever that looks like? Thanks Josh.

At 0928 on 06/14/16, AC Day texted Mr. Alpert:

Josh, I am going to ask our assistants to try and find time before u [sic] leave July 1. The purpose is simply to say thanks, and seek your counsel for next steps forward for me and PPB. It is not intended to be a lobbying effort for anything in particular. I value your friendship and our working relationship and I want to be able to share that before you start traveling the world over. Bob

At 0928 on 06/14/16, Mr. Alpert responded, "We must do this!"

At 1205 on 06/26/16 AC Day texted Mr. Alpert, "Josh Marshman interim chief on Monday? Thanks Bob."

At 12:46PM on 05/28/16, Executive Assistant Diane Haman texted AC Day:

I heard about Reese becoming the sheriff. And I just read about Josh Alpert leaving July one! I hate seeing him go. I bet your thoughts are going in a dozen directions. I am looking forward to leadership calming down and moving forward! Waiting is not my strongest personality trait [two winking smiley face emoji]

At 1:04PM on 05/28/16, AC Day responded:

Thanks Diane, I am afraid this will get harder before it gets easier. Once Larry is officially separated from the Bureau it might start to make sense but Wheeler could very well look outside and change all our worlds. I think Burke will be leaving for Tualatin, Marshman could very well go join Reese at the county. I am not going anywhere but the uncertainty is hard. I don't like waiting either. [two smiley face emoji] really appreciate your friendship and help at the office. We will keep moving forward and watch this play out together [thumbs up emoji]

Text Messages of AC Modica

Mr. Brillhart conducted a forensic extraction of AC Modica's cellular telephone. In a partially recovered text message sent on an unknown date and time to an unknown person, AC Modica wrote, "I was just notified that I havee [sic] been demoted out of the Chiefs Office by Interim Chief Marshman. As part of the Chief O'DEA investigation. So havee." The remainder of this message was not recovered. No other messages were located which appeared to be related to Chief O'Dea's negligent discharge incident.

Text Messages of Captain Derek Rodrigues

Mr. Brillhart conducted a forensic extraction of Captain Rodrigues' cellular telephone. Information was found suggesting Captain Rodrigues and Chief O'Dea exchanged text messages on 05/20/16. This date is notable, as it is the day *Willamette Week* first published an article describing Chief O'Dea's negligent discharge incident. The material extracted from Captain Rodrigues' phone suggests multiple messages

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were exchanged, between 0858 and 0917 on 05/20/16. The content of these text messages was not recovered. The total number of messages exchanged, and the order of correspondence was likewise not recovered.

After reviewing this material, Investigator Berry arranged an interview with Mr. Brillhart. On 11/04/16, as the interview was scheduled, Mr. Brillhart sent an email to Investigator Berry regarding the text message correspondence between Chief O'Dea and Captain Rodrigues. Mr. Brillhart wrote:

I took a look at the entries you sent to me. All were found in the iPhone Recents Log. This log stores all of the latest text communications of the phone. It includes notifications for locations, outgoing SMS (no trace for incoming SMS) and emails. The SMS to Larry O'Dea had been deleted. I looked on Mr. O'Dea's phone and saw SMS that were to Mr. Rodrigues at the 9:16-9:17 time frame. These were also deleted.

Interview with Forensic Investigator Joel Brillhart

Investigators Berry and Perez interviewed Joel Brillhart, who is a Certified Forensic Examiner for Professional Forensic Services of Portland on 10/14/16. This interview was recorded and subsequently professionally transcribed. Refer to the audio recording and transcript for details. In summary, Mr. Brillhart indicated: Before retiring from the FBI, he spent 23 years as an FBI Special Agent. He spent the last several years of his career processing digital evidence, including cellular telephones. He is a certified forensic examiner and cellular telephone examiner. The City of Portland hired him to conduct forensic extractions on cell phones used by Chief O'Dea, AC Modica, Captain Rodrigues, and Lt. Kruger. He did not analyze the material he pulled from the phones, as he was only hired to extract it.

Mr. Brillhart further indicated: He used software and hardware to perform the extractions. However, unlike a forensic examination of a desktop computer, the amount of information that can be extracted from a cell phone is sometimes limited, because of the nature of a cell phone's operating system. In this case, he could not obtain a "physical extraction" of the information on the four cell phones he examined for the City. Mr. Brillhart stated, "So, you aren't able to recover as much deleted data as you would if you were able to get a physical extraction." Mr. Brillhart stated, "If you're not able to get a physical extraction, all – not all of the deleted data is going to get recovered."

Mr. Brillhart indicated: He did not recover the content of the messages Chief O'Dea and Captain Rodrigues exchanged on 05/20/16. He was only able to recover "an indicator that the messages were there at one point." He likewise was unable to determine who contacted who, or how many messages were exchanged. Mr. Brillhart stated, "That conversation could have been 20 messages. It could have been four or eight, whatever." It is likely however that billing records associated with the phones would show how many messages were sent, and from what phone.

Captain Rodrigues interviewed regarding his text message correspondence with Chief O'Dea

IPR Investigators Perez and Berry interviewed Captain Rodrigues a third time, on 12/01/16, regarding his text message correspondence with Chief O'Dea. Also present were IA Lt. Hurley and Captain Rodrigues' attorney Mr. Makler. This interview was recorded and subsequently professionally transcribed. Refer to the audio recording and transcript for details.

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In summary, Captain Rodrigues indicated: He exchanged text messages with Chief O’Dea on 05/20/16. He does not recall who initiated the correspondence. He does not recall what he and Chief O’Dea discussed, but it was unrelated to Chief O’Dea’s negligent discharge incident. Captain Rodrigues stated, “I can tell you without any doubt these texts had nothing to do with any of this investigation.” Captain Rodrigues further stated:

I have no recollection about what any of this was about. I can tell you it’s business because we have a business relationship, but nothing to do with – we’ve never communicated besides the time what he [O’Dea] told me in our meeting. Nothing at all whatsoever.

Captain Rodrigues indicated his text message correspondence with Chief O’Dea was possibly related to a Police Review Board (PRB) hearing, or other business-related matter. Captain Rodrigues stated, “It could’ve been a PRB. It could’ve been he’s checking up on anything.”

When asked, Captain Rodrigues confirmed he deleted his text message correspondence with Chief O’Dea. Captain Rodrigues stated, “So I delete all my messages once the communication is complete. There is no reports on my texts. There is nothing that I need to save.” Captain Rodrigues indicated at the time, he deleted all his text messages. Captain Rodrigues stated, “I want for the record to say that I just said that I delete at the time all my text messages, and I want that to be clear on the record.”

Captain Rodrigues indicated: Chief O’Dea also came to his office in person on 05/20/16, likely shortly before 1300. It was “kind of strange” that Chief O’Dea came to Captain Rodrigues’ office, although he did occasionally “sometimes pop in my office.” He does not recall what they discussed, but it was not related to Chief O’Dea’s negligent discharge incident. Captain Rodrigues stated, “He [O’Dea] was checking up on something. I don’t know what it was.” Captain Rodrigues stated, “If he [O’Dea] came into my office, it was for some business. He [O’Dea] didn’t just drop by to check how our family is doing.”

Captain Rodrigues indicated shortly after Chief O’Dea came to his office, he told the Chief he needed to leave for an appointment. Captain Rodrigues stated:

[REDACTED] and I said, hey, Chief, I've got to go. It was kind of funny, I said, I'm going to tell you now I have to leave, but that was it. Absolutely nothing. Nothing about anything about this investigation. I stand firm on that and we text all the time. Maybe he – I don't know what he was asking about, but just – I don't know if there was a PRB. If a PRB was scheduled that day, I give him the updates of the recommendations, but nothing. I've never communicated with him about any of this. Again, don't want to rehash. No text messages, no emails, no memos, nothing to do with this incident at all.

During the interview, Captain Rodrigues indicated he might be able to better recall his contact with Chief O’Dea on 05/20/16 if he reviewed his calendar. Following the interview, at Investigator Berry’s request, Lt. Hurley reviewed Captain Rodrigues’ computer calendar. Following this review, Lt. Hurley advised Investigator Berry that Captain Rodrigues’ calendar indicates he did “admin” work from 0830 through

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1130 on 05/20/16. Lt. Hurley further advised Captain Rodrigues' calendar shows a hold from 1400 onward on 05/20/16, as he left work early for an appointment.

Investigator Comments:

None.

Exhibits:

1. Transcript and recording of 11/14/16 interview with Joel Brillhart
2. Transcript and recording of 06/16/16 interview with Commander George Burke, [REDACTED]
3. Transcript and recording of 06/06/16 interview with Assistant Chief Michael Crebs, [REDACTED]
4. Transcript and recording of 06/16/16 interview with Assistant Chief Michael Crebs, [REDACTED]
5. Transcript and recording of 06/21/16 interview with Assistant Chief Robert Day, [REDACTED]
6. Transcript and recording of 06/08/16 interview with Administrative Assistant Diane Haman
7. Transcript and recording of 05/27/16 interview with Assistant Chief Donna Henderson, [REDACTED]
8. Transcript and recording of 06/17/16 interview with Assistant Chief Donna Henderson, [REDACTED]
9. Transcript and recording of 06/17/16 interview with Commander David Hendrie, [REDACTED]
10. Transcript and recording of 05/31/16 interview with Assistant Chief Kevin Modica, [REDACTED]
11. Transcript and recording of 06/21/16 interview with Assistant Chief Kevin Modica, [REDACTED]
12. Transcript and recording of 05/24/16 interview with Chief of Police Lawrence O'Dea, [REDACTED]
13. Transcript and recording of 05/25/16 interview with Captain Derek Rodrigues, [REDACTED]
14. Transcript and recording of 06/22/16 interview with Captain Derek Rodrigues, [REDACTED]
15. Transcript and recording of 12/01/16 interview with Captain Derek Rodrigues, [REDACTED]
16. Transcript and recording of 10/28/16 interview with Sergeant Richard Steinbronn, [REDACTED]
17. [REDACTED]
18. Written statement provided by Assistant Chief Donna Henderson, [REDACTED]
19. Report, prepared by Joel Brillhart, dated 09/26/16
20. Email from Joel Brillhart, dated 11/04/16, sent to IPR Investigator Eric Berry
21. Letter from Mark Amberg, dated 10/06/16, sent to IPR Director Constantin Severe
22. 06/13/16 anonymous IPR online complaint form, submitted by "Ziggy Ratfield"