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**CITY OF PORTLAND
INDEPENDENT POLICE BUREAU
Confidential Taped Statement
IPR Investigator Eric Berry**

7 **Interview Date:** 06/16/2016
8 **IPR #:** 2016-B-0014
9 **IPR File Name:** 16b0014
10 **Complainant:**

12 **Interviewed:** Commander George Burke

14 **HURLEY:** Hello, this is Lieutenant HURLEY. It's June 16th, 2016. It's about 3:05. We're at City Hall
15 with ERIC BERRY, DEIRDRE PEREZ and Commander GEORGE BURKE. This is about IA case number
16 2016-B-0014. Commander BURKE has been advised that his conduct and/or the conduct of another
17 Bureau member present on April 21st, 2015, at approximately 1638 hours in Harney County, Oregon, is the
18 subject of this investigation. Commander BURKE has reviewed information necessary to be reasonably
19 apprised of the nature of the allegations of the complaint. Commander BURKE has been informed that he
20 is a witness member in the case and that CONSTANTIN SEVERE is in charge of the investigation. I have
21 advised Commander BURKE that he could have an attorney or advocate present during the interview and
22 he has chosen to proceed without an attorney or advocate. Commander BURKE, under the authority of the
23 Major of the City of Portland, I am ordering you to answer all of my questions fully and truthfully. If you
24 fail to respond fully and truthfully, you may be disciplined up to and including dismissal. Do you
25 understand?

26 **BURKE:** Yes.

27 **BERRY:** Commander BURKE, thank you for coming in and talk to us today –

28 **BURKE:** Mm-hm.

29 **BERRY:** – I appreciate it and I appreciate your availability. I'll start – can I ask how long have you been
30 with PPB?

31 **BURKE:** 24 years.

32 **BERRY:** Oh, my gosh.

33 **BURKE:** Almost, July 2nd.

34 **BURKE:** I wouldn't want to be untruthful. July 2nd will be my 24th year.

35 **BERRY:** Oh, my gosh. Well in a – as briefly as you want what kind of assignments have you had across
36 that time?

37 **BURKE:** Let's see I've been just patrol operations, Drugs and Vice Division as an officer, sergeant at
38 North Precinct, sergeant in Fraud, sergeant in Homicide, lieutenant at Central, lieutenant at Chief's Office,
39 lieutenant Professional Standards, captain of Records, commander of Detectives. I think that covers all of
40 them.

41 **BERRY:** Yeah, that's a good brief list. I didn't realize you had rotated through professional standards.

42 **BURKE:** I was the equivalent to BOB BERGONI only I was better.

43 **BERRY:** Do I understand it correctly, are you currently in command of Detectives?

44 **BURKE:** Correct.

45 **BERRY:** Okay. Will you describe your duties and responsibilities in that position?

46 **BURKE:** Well, I'm responsible for all of the members in the Detective Division, so we have several
47 different details broken up based on types of crime, so we have Sex Crimes Unit, Robbery Unit, homicide
48 detail, assault, burglary, white collar crime, sex trafficking, sex offender registration. I think I hit them all
49 didn't I? So, I'm basically responsible for the day-to-day operations in the division –

50 **BERRY:** Okay.

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51 **BURKE:** – and financial management, you know, fiscal responsibility, budget, budgetary responsibility,
52 overall oversight for the division. I report to an assistant chief.

53 **BERRY:** Okay, and that would be AC HENDERSON, correct?

54 **BURKE:** Correct.

55 **BERRY:** Okay. Well to jump right into the matter at hand, do you remember when you first heard about
56 Chief O'DEA's negligent discharge incident?

57 **BURKE:** The details of it or the rumor of it?

58 **BERRY:** Well, let's do both. How about we'll start with the rumor.

59 **BURKE:** So, the rumor would have been the day – I'm trying to remember, the day before or the day of the
60 release so.

61 **BERRY:** Okay, and when you say release –

62 **BURKE:** When it came out in the media.

63 **BERRY:** Okay.

64 **BURKE:** Because that was a Friday afternoon because it came out ironically right after the Friday updates.

65 **BERRY:** Okay, so that Friday afternoon, and then how about when you learned the details of the incident?

66 **BURKE:** The details was right after I saw the release because as soon as I saw it the first thing that came to
67 my mind was – because there was – there was a statement in there that the Mayor and IP – or the Mayor
68 and Professional Standards had been notified. I'm pretty good friends with Captain RODRIGUES. So, I
69 called there and I just asked and I said hey did you really know about this? And his response was well yeah.
70 And I said well this just came out in the paper, so you might want to read the article.

71 **BERRY:** Excellent. During that – do you remember when that phone contact with Captain RODRIGUES
72 was?

73 **BURKE:** It was right after – I mean –

74 **BERRY:** Right after, so sometime on that Friday?

75 **BURKE:** As soon as it hit the media, I read it and I saw that it had mentioned DEREK and I just called
76 him.

77 **BERRY:** Okay. During that conversation that you had with him, did you have any discussion about
78 whether there was an administrative investigation going on?

79 **BURKE:** No, because I wouldn't have known whether there was or wasn't.

80 **BERRY:** Okay. Did you have any discussion during that conversation with him about anyone contacting
81 Harney County or anything like that – Harney County Sheriff's Office?

82 **BURKE:** I'm trying to think because that first conversation DEREK got pretty – I don't know how to say
83 it. He wasn't very happy with me.

84 **BERRY:** Yeah.

85 **BURKE:** Because I was concerned for DEREK and I asked him, I said did you – did anybody let anybody
86 outside of the organization know? Did we contact IPR? Did we – and he said it was an accident. That's all
87 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
88 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
89 text from CONSTANTIN. He goes well CONSTANTIN is reaching out to me, so I probably ought to find
90 out what's going on. So, that was the gist of that conversation.

91 **BERRY:** How long would you say that call was?

92 **BURKE:** Pretty quick.

93 **BERRY:** Pretty quick.

94 **BURKE:** 2 minutes –

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95 **BERRY:** All right.

96 **BURKE:** – I’m guessing.

97 **BERRY:** So, it sounds like a – I’m asking because I don’t want to put words in your mouth, it sounds like

98 you called him when you read the story.

99 **BURKE:** Yeah.

100 **BERRY:** You asked him if he had talked to IPR or talked to anyone else in the organization. Do I

101 understand that right?

102 **BURKE:** It was - I’m trying to remember exactly what I said to him.

103 **BERRY:** Yeah.

104 **BURKE:** But my, my first – because, I mean, I understand – DEREK and I work together on all kinds of

105 criminal investigations and if I remember correctly when it came out it was pretty clear that it was a

106 criminal investigation.

107 **BERRY:** Mm-hm.

108 **BURKE:** And my question to him was hey who – I mean, does anybody know about this because I didn’t

109 know about it. So, and I wouldn’t. It used to be, I think, it used to be the Detective Division would assign

110 the liaison to the investigating agency, but that changed and I don’t remember when that changed, but now

111 it’s the responsibility of Professional Standards Division to assign a liaison to the investigating agency.

112 And I don’t know if it was in that conversation or another conversation with DEREK where he basically

113 said I didn’t know there was a criminal investigation going on. He said the Chief didn’t tell me that police

114 responded. And so I, I mean to me it was like okay. I guess that would be why you wouldn’t assign a

115 liaison to the investigating agency.

116 **BERRY:** Well and how many, how many conversations in total would you say you’ve had with Captain

117 RODRIGUES?

118 **BURKE:** Well, I know there were at least two and I will tell you – I mean none recently. DEREK –

119 **BERRY:** Yeah.

120 **BURKE:** – has been gone [REDACTED] I mean I talked to him, was just checking in with him [REDACTED]

121 [REDACTED] but that was it.

122 **BERRY:** Yeah.

123 **BURKE:** We haven’t talked at all about this.

124 **BERRY:** Okay.

125 **BURKE:** But my, my initial, obviously my initial concern with him was the exposure piece for him. He

126 made it pretty clear he didn’t feel like he had any, and we had two conversations that I can think of and he

127 was pretty adamant. As a matter of fact, both of them led to him getting pretty angry at me so I just

128 stopped. I was done with it.

129 **BERRY:** Yeah, well you said you think it was in the first or second that he told you that no one told him

130 the police were investigating it?

131 **BURKE:** I think – I’m trying to say I’m thinking it was – because we weren’t on the phone that long on the

132 first one.

133 **BERRY:** Mm-hm.

134 **BURKE:** And then on the second conversation, which would have been shortly thereafter, within a day or

135 two I believe –

136 **BERRY:** Okay.

137 **BURKE:** – and I don’t think – I’m pretty sure we were in person. I’m trying to remember.

138 **BERRY:** Yeah.

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139 **BURKE:** Because I had another conversation with him in person where we were talking about an officer
140 involved shooting and he didn't like my comments there either but, so it's kind of hard to ferret out which
141 time it was, but I'm pretty sure it was just in a phone conversation where I was talking to him and I just – I
142 was trying to explain to him this is where the exposure is. You know, you're going to get asked about why
143 you didn't do this. I mean, how could you possibly not notify IPR if there is a criminal investigation. And
144 he said because I didn't know there were police involved. That was –

145 **BERRY:** So it sounds like he described it initially as an accident and –

146 **BURKE:** Correct.

147 **BERRY:** – there was follow-up conversations that he wasn't aware that the – that there was a police
148 investigation.

149 **BURKE:** He didn't know that there was a police investigation.

150 **BERRY:** Okay. Was there some – have you ever talked to AC HENDERSON about this?

151 **BURKE:** I'm sure I have after the – I'm trying to think because she's my boss.

152 **BERRY:** Yeah.

153 **BURKE:** I'm trying to think if we talked about any details. I probably talked to her about my conversation
154 with DEREK.

155 **BERRY:** Yeah, but you said probably do you think you or did or do you think you didn't?

156 **BURKE:** Well, I'm trying to remember. I'm trying to think what I would have talked to her about, but it
157 certainly is possible that yeah I probably did.

158 **BERRY:** Okay. Do you remember any details about that, about talking to her about it?

159 **BURKE:** No, because like I say I'm trying to think of any conversation we had, but if it was it would have
160 been specific to any concerns as far as notifications. I do remember sitting and talking to her about how I
161 feel like the system is set up that I believe is flawed.

162 **BERRY:** Yeah.

163 **BURKE:** The fact that we no longer have a liaison. So, I may have talked to her. The fact that we no
164 longer have a liaison from our division working on criminal investigations outside jurisdictions I thought
165 was problematic and I can see why we would want to have a liaison for Professional Standards, but I also
166 think we should have - it should dual responsibility because there are criminal questions, there are criminal
167 aspects that really our investigators focus on much, in much more detail –

168 **BERRY:** Yeah.

169 **BURKE:** – than Professional Standards does. So, we were having that conversation, so I must have – I
170 must have had the conversation with her about the fact that that notification had not taken place or that
171 DEREK didn't know that there was police involvement. I, you know, I'll say this, DEREK RODRIGUES,
172 DEREK and I are friends. There are a lot of folks who probably wouldn't say that. DEREK can be – he can
173 come across kind of angry. He's very intense, but the one thing that I will say about DEREK is the guy
174 does not lack integrity and when he said to me I didn't know the police were involved, I 100% believe he
175 didn't know that the police were involved.

176 **BERRY:** Can you tell me, in as much detail as you feel like, what's your understanding of how the Bureau
177 is supposed to respond when it learns a member is the subject of a criminal investigation?

178 **BURKE:** How the Bureau is supposed to respond?

179 **BERRY:** Yeah.

180 **BURKE:** Well, now that we have it set up, I think I described it already, but it's supposed to be
181 notification so the Professional Standards Division captain is responsible for making notification to IPR
182 and to assign a liaison to the investigating agency if it's outside. And I'm trying to think – the AC, I don't

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183 think it's the assistant chief of investigations. Any criminal allegation and here's where I get a little
184 confused, inside the City, all that goes to the AC of investigations.

185 **BERRY:** Yeah.

186 **BURKE:** But when it's outside the city and it's just an IPR, internal affairs professional standards issue,
187 the captain in Professional Standards is a direct report to the Chief. So, my understanding is that the captain
188 would notify the Chief. Well in this particular case, the Chief is the subject.

189 **BERRY:** Yeah.

190 **BURKE:** So, I don't know. That's where, you know, this kind of single reporting – this is what led to my
191 discussion with AC HENDERSON about how the system is set up that when we went to a system and it
192 was under Captain FAMOUS, that's when they changed who the captain reported to. It used to be the AC
193 of Services and then, of course, the AC of Services reports to the Chief. They changed that to a direct
194 report to the Chief citing that it was national best practice, which it very well – it might be, but the problem
195 is that you still have a single report and that all came about as a result of some other stuff that happened
196 when MIKE REESE was chief where some information went to the AC of Services and nothing – it didn't
197 go any further. So, that change took place. I don't remember what year it was, but it was – DAVE
198 FAMOUS was the captain when it went to a direct report to the Chief. So, it's a long-winded way of saying
199 I don't know necessarily outside the City of Portland. I just know the responsibility for the captain of
200 Professional Standards.

201 **BERRY:** Yeah, well I appreciate your making that distinction. That's one I should have drawn when I
202 asked you the question. It sounds like detectives or investigations has a lot more responsibilities if the
203 alleged criminal activity occurred within city limits.

204 **BURKE:** Correct.

205 **BERRY:** Because you would be the agency investigating –

206 **BURKE:** Correct.

207 **BERRY:** – the crime or alleged crime. But outside of city limits –

208 **BURKE:** We're not involved in it.

209 **BERRY:** – not involved. Used to be responsible for assigning a liaison, no longer.

210 **BURKE:** Correct. The only time that we are involved in outside is if one of our members uses deadly force
211 in another jurisdiction, then we'll assign somebody from our division to work with that if they're doing an
212 officer involved shooting investigation.

213 **BERRY:** Okay.

214 **BURKE:** We have typically – like if Gresham has a shooting or if we have one of our officers take action
215 in Gresham we'll assign somebody to assist with that investigation. We did that when we had an officer in
216 his home shoot somebody in another county. We assigned investigative liaisons back then too. Under the –
217 with the new change, I'm not sure whether we would or not. It might still just fall under Professional
218 Standards now.

219 **BERRY:** Other than AC HENDERSON, can you think of any other assistant chiefs you've talked to about
220 this?

221 **BURKE:** I don't – I don't think so.

222 **BERRY:** Okay.

223 **BURKE:** I mean it – it's hard to say because everybody's talking about it.

224 **BERRY:** Well, yeah.

225 **BURKE:** And so since I can tell you that since the investigation has started and the communication
226 restrictions have all been put in place, people are not talking to each other about the details of it. It's, you

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227 know, you're just kind of keeping it, keeping it to yourself. Well obviously I haven't been in a position
228 where I've had a communication restriction.

229 **BERRY:** Yeah.

230 **BURKE:** So, I'm just trying to think of who – I can't think of who specifically I've had any conversations
231 with. It's just been general. I mean, everybody is talking about it.

232 **BERRY:** Okay. And you have described some contact you've had with Captain RODRIGUES. Can you
233 think of anyone else at Professional Standards you talked to about this?

234 **BURKE:** No. I mean, I'm trying to think of other than general conversation. I mean, I talk to a lot of
235 people in the agency.

236 **BERRY:** Right.

237 **BURKE:** I just can't –

238 **BERRY:** Oh, I imagine. Yeah.

239 **BURKE:** – I can't think of anybody specifically that I've had a conversation with.

240 **BERRY:** All right. You had any contact with anyone from the Mayor's office or anything like that?

241 **BURKE:** I don't think so.

242 **BERRY:** Okay.

243 **BURKE:** No, not that I can think of.

244 **BERRY:** You had any contact from anyone from the Harney County Sheriff's Office?

245 **BURKE:** No.

246 **BERRY:** Did I already ask you that?

247 **BURKE:** No, you didn't but no I haven't.

248 **BERRY:** All right. How about – I think OSP might have taken over the investigation for them. Have you
249 had any contact with OSP or Oregon DOJ?

250 **BURKE:** No, the only – I'm trying to think. I sat in a meeting with RICH EVANS, but we didn't talk
251 about this at all. He just told me to pass on my – his best to LARRY.

252 **BERRY:** So, I want to – I think I have a sense of involvement is probably not the word – your awareness
253 of the situation. It sounds like you became aware of it via a media article –

254 **BURKE:** Mm-hm.

255 **BERRY:** – called Captain RODRIGUES, had a conversation with him, after that had another conversation
256 with him a day or two later. You had some contact with AC HENDERSON and discussed kind of
257 procedural issues – how the event might have happened or not been disclosed. It doesn't sound like any
258 ACs have directed you to take any action –

259 **BURKE:** No.

260 **BERRY:** – or anyone has directed you to take any action on it.

261 **BURKE:** Not that I'm aware of.

262 **BERRY:** All right. Prepared any kind of documentation or anything about this incident?

263 **BURKE:** No, no. The only thing I'll correct you on is is – and I don't remember if it was the day before or
264 the day of, there was a rumor that something like this had happened and I was kind of there's no way.
265 There's no way that happened.

266 **BERRY:** Right.

267 **BURKE:** And then when I heard it happened it was pretty shocking that it was what it was.

268 **BERRY:** All right. I forgot to ask you earlier, have you had any conversation with Chief O'DEA about
269 this?

270 **BURKE:** No.

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271 **BERRY:** No, okay and you said the day before the rumor was going around – was that the day before it
272 came out in the paper?

273 **BURKE:** Yes.

274 **BERRY:** Okay.

275 **BURKE:** And I can't – I don't remember if it was the day before or earlier that day. I'm just trying to
276 remember because that was the first I heard of it and I just remember thinking there's no way that could
277 have happened.

278 **BERRY:** Yeah. Do you have any idea when that contact with AC HENDERSON might have taken place?

279 **BURKE:** Yeah, I meet with her every week, so I meet with her routinely throughout the week, so and it
280 could have been – I mean we could have had conversations about it again up until – once she had a
281 communication restriction, she made it really clear that we're not going to talk about this.

282 **BERRY:** Yeah.

283 **BURKE:** So, I mean like I said – it's a general conversation. The organization is kind of on its head trying
284 to figure out where we're going to go and so the conversation partially, you know, you have to talk about
285 the elephant in the room because the members of this organization are – I don't want to say they're in
286 panic, but people are sitting and waiting for things to move one direction or another and there are a lot of
287 things going on in this agency right now away from this and all people can talk about is when are we going
288 to know what's going on. So, the ability to say just anything that I know at a particular time, it's just about
289 trying to calm the ideas, the thoughts, the nerves, the hearts and minds best we can do to get people to
290 continue to work. You know, to do the day to day operations.

291 **BERRY:** Yeah.

292 **BURKE:** So, I really couldn't even begin to tell you how many times I've talked to AC HENDERSON.
293 You know, I have – I have conversations with AC DAY. I don't remember specifically talking to him about
294 this, but I'm sure we have had conversations about it. I don't think I've talked to AC CREBS and I'm
295 pretty sure I didn't talk to AC MODICA. As a matter of fact, I'm positive I didn't talk to AC MODICA
296 about it. He's been kind of in and out. I just – it's not normal.

297 **BERRY:** Well, you identified maybe a potential problem – problem area being detectives not assigning a
298 liaison for these things. Can you think of other policies, procedures, SOPs that might have led to the delay
299 in this matter being brought to light or investigated?

300 **BURKE:** Other policies. Well, I mean, first and foremost, if a member of this organization describes an
301 event to you that sounds like criminal activity, you have an obligation to report that. Whether – it doesn't
302 matter what position you are in the organization. So, I mean, again I don't know factually, all I know is or
303 what I think I know is that if the Chief told people that he notified everybody who needed to be notified,
304 meaning I told my boss, I told the captain from Professional Standards, there's nothing for anybody else to
305 do. He has done all the notifications that need to be made. Now, what happens from there I don't know, but
306 he did – I mean, based on what I know, that's his responsibility. He told his boss. He told the captain from
307 Professional Standards. That's all I would have done. If there's an allegation of criminal conduct, I would
308 have gone to my boss who would have had a conversation with the captain of Professional Standards. So, it
309 sounds to me like those things all took place right at the very beginning. Well, not the very beginning, but I
310 don't know when Chief O'DEA gave the information to the ACs with the captain, but, you know,
311 obviously it happened on the 21st. I think it was – the paper reports 4 days or later whenever when he
312 notified his boss.

313 **BERRY:** Well, and I'm sorry to bounce around a little bit, but I – talk about him having a telephone
314 conversation with Captain RODRIGUES the Friday that the news story broke –

315 **BURKE:** Correct.

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316 **BERRY:** – the second conversation you think is a day or two later.
317 **BURKE:** Yeah, I didn't remember exactly when I had the second one, but that's – and I'm pretty sure it
318 was the second conversation with him where he basically said I didn't have anything to report to anybody.
319 It was an accident and I talked about well it's, you know, it's your responsibility if there's a criminal
320 investigation. He goes I didn't know there was a criminal investigation. So, he made it really clear that that
321 was not information he had at the time. And like I say I believe DEREK 100%.
322 **BERRY:** Yeah, and forgive me if I've asked this before, was it the first or the second contact where he
323 said he didn't know there was a criminal investigation?
324 **BURKE:** I think it was the second one.
325 **BERRY:** Think it was the second.
326 **BURKE:** Yeah, because the first one was very short because CONSTANTIN had sent him a text while I
327 was on the phone with him –
328 **BERRY:** Yeah.
329 **BURKE:** – and he was in a grocery store or something and he just got irritated and even the second one he
330 just said are you trying – basically said are you trying to irritate me? And I said no DEREK I'm not trying
331 to irritate you. I'm just trying to let – trying to help you see what the issue is here.
332 **BERRY:** Yeah. Can you think about anything else about that conversation that stands out in your mind?
333 **BURKE:** No, it was – I was just surprised when he said he didn't know that there was an investigation.
334 **BERRY:** Yeah, yeah. Well, that's all the questions that I had prepared for you. Investigator PEREZ, is
335 there anything you would like to ask?
336 **PEREZ:** Just a few. When DEREK RODRIGUES told you that he didn't know that police were going to
337 be involved, did he mention that the victim had gone to the hospital?
338 **BURKE:** Well, I think everybody knew that the victim was life flighted at that point.
339 **PEREZ:** Okay.
340 **BURKE:** So, I don't know if he knew that at the time. I don't – I don't remember if we talked about that or
341 not.
342 **PEREZ:** So, did he ever say I didn't know how badly the victim was hurt or anything like that?
343 **BURKE:** No, he just said it was an accident. He just kept saying, you know, he was kind of like and I'm
344 trying to remember the analogy, but it was kind of like, well it's kind of like a car accident. It's an accident.
345 **PEREZ:** Mm-hm.
346 **BURKE:** And I told him I go well if you look at our policy it's called negligent. It's not an accident.
347 **PEREZ:** Mm-hm. And is it your experience as a law enforcement officer when anyone presents to a
348 hospital with a gunshot wound that a criminal investigation is started?
349 **BURKE:** You know, so I'm almost embarrassed to say this. I didn't know that that was a hospital protocol.
350 **PEREZ:** Okay.
351 **BURKE:** I did learn that since this.
352 **PEREZ:** And my last question just has to do with how you heard about the rumor. Do you remember who
353 told you?
354 **BURKE:** You know, it was – it was one of my lieutenants, yeah.
355 **PEREZ:** Did they come to you privately or was it just like a big conversation?
356 **BURKE:** No, we were standing in the hallway and he made a comment about it and I said there's no way
357 and that was pretty much it and we kind of went about our way.
358 **PEREZ:** Okay, that's all I have. Thank you.
359 **BERRY:** Lieutenant HURLEY, anything you want to ask?

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360 **HURLEY:** No, I don't have anything.

361 **BERRY:** Thank you so much for coming in.

362 **BURKE:** Okay.

363

364 16b0014trs-burke.george – IPR

365 Transcribed 06/24/2016 @ 5:57 p.m. Cathy Daley