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**DA'S CHARGING DECISION**

DA Case #

Suspect/defendant: **TERRY TIMEUS**

Charges: **Driving Under the Influence of Intoxicants**

Date of Incident: **05/16/2017**

Victim(s): State of Oregon

Officer: Detective Andy Hays

Agency Case Number: HBS 50-172430871

On July 11, 2017, our office was asked to independently review concerns that West Linn Chief of Police Terry Timeus drove under the influence of intoxicants the evening of May 16, 2017. The Washington County Sheriff's Office assigned Detective Andy Hays to conduct a criminal investigation into the matter. On September 1, 2017, Detective Hays provided me with a 10 page report containing statements made by Officers Cody Tadlock and Chad Jones, along with interviews of Terry Timeus and Mike Stradley. During this investigation, Detective Hays also obtained copies of a Linn City Pub receipt and photos of a debit card belonging to Terry Timeus. I have reviewed all of these materials and conclude that the state cannot prove that Terry Timeus drove while under the influence of alcohol beyond a reasonable doubt.

This matter came to the City of West Linn's attention when Officer Cody Tadlock resigned. Tadlock wrote a two page memorandum describing an encounter with Chief Timeus on May 16, 2017 in the parking lot of the Linn City Pub. Officer Tadlock and his field training officer, Chad Jones, were picking up a carry-out order at the Asian Kitchen, when Chief Timeus and his girlfriend drove up and spoke to them. Officer Tadlock wrote that the chief had bloodshot and watery eyes, and a "loose" demeanor. Officer Tadlock could not tell whether Chief Timeus was slurring his words because Chief Timeus was chewing tobacco at the time. Chief Timeus made inappropriate comments to both Officer Tadlock and Officer Jones. Officer Tadlock wrote that during the conversation he "began to suspect more and more that Chief Timeus was intoxicated." Officer Tadlock ended the memo by writing, "whether Chief Timeus was driving drunk or not, the perception of it stuck with me, and ultimately became a contributing factor in my resignation."

Officer Jones later wrote a memo in which he described the same inappropriate conversation. Officer Jones noted that Chief Timeus had a strong odor of alcohol, glassy eyes and slurred speech. Officer Jones (who now works for the Marion County Sheriff's Office) stopped short of concluding that the chief drove under the influence, but wrote that had this been a normal traffic stop he "would have asked the driver to perform field sobriety tests" as part of a DUII investigation.

Officer Jones noted that he and Officer Tadlock discussed the incident and later informed Sergeant Rollins, who reported their concern to Lieutenant Mike Stradley. Detective Andy Hays spoke to Mike Stradley on August 1, 2017. Lt. Stradley said that he and Chief Timeus had a phone conversation the evening of May 16. The call occurred at 8:52 pm and lasted three minutes. Lt. Stradley said that when he spoke with Chief Timeus on the phone he did not detect any sign that Timeus was intoxicated and no DUII investigation occurred.

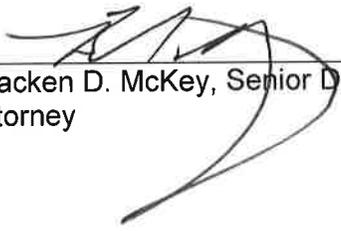
On July 27, 2017, Detective Hays and Washington County Detective Robert Rookhuyzen met with Terry Timeus at his home and conducted a recorded interview. Chief Timeus acknowledged that he is "kind of a smart-ass and jokes around" but was "absolutely not intoxicated" during his interaction with Tadlock and Jones. Chief Timeus explained that he and his girlfriend dined at the Linn City Pub the evening of May 16. Chief Timeus said that he ordered fish and chips or a club sandwich. Chief Timeus went on to say that he drank a pint and a half of Coors Light, his drink of choice, and his girlfriend had two drinks with dinner. Chief Timeus later produced a Linn City Pub receipt, dated May 16, 2017 and time stamped 8:01 pm. The receipt is for one order of fish and chips, one Halibut sandwich, two glasses of Coors light and two "Pendleton" drinks. The total bill came to \$55.48 and was charged to a Visa card with the last four card digits listed on the receipt. Chief Timeus also provided a Chase debit card in his name with the same card number.

Detective Hays concluded his investigation by re-contacting Officers Jones and Tadlock to ask if they had any additional information to add (they did not).

While Jones and Tadlock's observations are obviously concerning, both stop short of concluding that Terry Timeus was under the influence. All criminal investigations become more difficult as time passes, but the natural dissipation of alcohol in the blood makes after-the-fact DUII investigations particularly challenging. In this case, the officers did not describe any impaired driving. No field sobriety tests were conducted and there are no blood alcohol tests to review. Most officers would conclude that Officer Jones and Tadlock's observations support conducting a complete DUII investigation, including a search warrant for Timeus' breath or blood. In fact, Jones appears to have reached this conclusion when he wrote that he would have reacted differently "if this was a normal traffic stop on a different subject." Had that that been done, we would not be left to speculate as to Timeus' blood alcohol level. However, given the available evidence, the criminal charge of driving under the influence of intoxicants cannot be proven beyond a reasonable doubt.

This concludes my review of this matter. Public record requests should be made to the City of West Linn and to the Washington County Sheriff's Office.

Date of Decision: September 29, 2017

  
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Bracken D. McKey, Senior Deputy District  
Attorney