

Harada, Patricia

Subject: RE: Temporary Appointment of Robert Espinosa to Fire Chief

From: El Segundo Firefighters <esfirefighters@gmail.com>
Sent: Monday, May 1, 2023 7:38 PM
To: George, Darrell <dgeorge@elsegundo.org>
Cc: ALL ELECTED OFFICIALS <ALLELECTEDOFFICIALS@elsegundo.org>
Subject: Temporary Appointment of Robert Espinosa to Fire Chief

City Manager Darrell George,

It has come to our attention that the City is appointing retiree Robert Espinosa as the Interim Fire Chief for the El Segundo Fire Department. Our labor organization respectfully asks that you reconsider this resolution due to the following:

1. In May of 2017, the City of Manhattan Beach hired an outside investigator regarding allegations of lying, intimidation and retaliation by Fire Chief Espinosa. The investigator sustained an allegation that Fire Chief Espinosa intimidated an employee.
2. On January 18, 2018, the Manhattan Beach Fire Association declared a vote of no confidence in Fire Chief Espinosa.
3. A lawsuit filed by two Manhattan Beach Firefighters alleges dangerous and ineffective management of the Manhattan Beach Fire Department by Fire Chief Espinosa, including overbearing, unethical, command and control over the MBFD through, deception, retaliation, and favoritism.

In light of the above, we believe that the decision to hire Mr. Espinosa within the El Segundo Fire Department would continue a very stressful work environment and inhibit a path back towards healthy city/employee relations. We have attached public documents to substantiate our concerns.

It has always been our best intention to work with and communicate as best we can for the health and wellness of El Segundo and its employees. We respectfully request that the City review the attached materials and are hopeful that, after doing so, you will agree that hiring Mr. Espinosa is not in the best interest of the citizens of El Segundo or its employees.

Best,

El Segundo Firefighters' Executive Board
Geoff Gerny, President
Curt Crowson, Vice President
Dan Engler, Vice President
Matthew Goodenough, Secretary
Chase Long, Treasurer

For Immediate Release:

March 2, 2018

Manhattan Beach Firefighters Present Vote of No Confidence at City Council Meeting 3/6/18.

Problematic Manhattan Beach Fire Chief rescinds retirement resignation, receives 87% unfavorable rating and 84% Vote of No Confidence amid reports of degraded emergency response programs, failed public safety efforts and gross waste of taxpayer dollars.

After years of costly and exhaustive attempts at conflict resolution and in order to protect public safety and prevent further personal retaliation, the Manhattan Beach Firefighters Association (Firefighters) overwhelmingly approve a Vote of No Confidence in their Fire Chief, Robert Espinosa.

This ongoing grave situation has led to a lack of critical and effective communication, delayed Paramedic transport times, and wasteful spending on costly consultants, studies and investigations. Recently, Hermosa Beach Fire Department contracted with the Los Angeles County Fire Department for fire and ems services, substantially changing automatic aid agreements affecting Manhattan Beach. During this time, Chief Espinosa's failure to foresee, establish and execute beneficial agreements with other neighboring agencies (Redondo Beach and El Segundo) has led to an increase in emergency response times, resulted in insufficient resources, and caused delays in patient care and needless confusion for dispatch personnel. Paramedic responders are now forced to travel extended distances from County affiliated cities located in Hawthorne, Gardena, Lennox, Inglewood and Lawndale to respond into Manhattan Beach.

"For years we've worked tirelessly to communicate our concerns about the Chief's failed safety programs and his disturbing pattern of targeted retaliatory actions," said Captain Dave Shenbaum. "We are a part of this community. We've been patient as requested by the City and Council. We put our heads down and went to work for years in hopes it would get better. City Manager, Mark Danaj accepted the Chief's resignation in October 2017 for a reason. The City was aware he was problematic. We don't want to see the community hurt or more taxpayer dollars wasted. We simply can no longer stand back without letting the public know the facts. Now that he has been brought back and rescinded his retirement, the citizens and Firefighters need protection." he concluded.

In October of 2017 the Fire Chief announced his retirement effective 12/23/2017. On 12/18/2017, five days before his planned retirement, he rescinded that decision. Firefighters continued to meet with Council and City Manager to address emergency response concerns and retaliatory actions with no resolution. The Firefighters feel they have worked diligently and in good faith to offer solutions, but believe that all non-community impacted options, resources and avenues of communications have been exhausted. The firefighters now request that Chief Espinosa immediately honor his stated retirement intentions and that a previously interviewed interim Fire Chief be hired, one of which is retired Fire Chief, Dennis Groat. They further offer to work in collaboration with the interim Chief and administration to establish optimal automatic aid agreements with neighboring agencies, an effective ambulance program for the citizens and to fulfill adequate department staffing needs.

"Over the past few years we have worked diligently with the City Manager's office, City Council, an Investigative team, and three different leadership consultants to remedy our situation. We have done everything that was asked of us," stated Rudy Mejia. "We're just firefighters. We're the guys who rush to your door when called for an emergency and we just want to be able to properly do our job," he concluded.

*The Firefighters will present at the Manhattan Beach City Council meeting at 6pm on Tuesday 3/6/2018. They encourage the community to come out and support or write letters on their behalf. They will be onsite and available for questions and interviews. **For more information contact: Captain Tom Desmond 310.293.7798** **Captain Dave Shenbaum 310.200.8323** or Firefighter President Rudy Mejia 310.801.3917*

LOCAL NEWS

Manhattan Beach firefighters' grievances about outgoing chief burst into open

By **DAVID ROSENFELD** | drosenfeld@scng.com | The

Daily Breeze

PUBLISHED: March 7, 2018 at 6:03 p.m. | UPDATED: March 8, 2018 at 6:41 p.m.

Manhattan Beach firefighters, some fighting back tears, aired grievances in public this week against Fire Chief Robert Espinosa, blaming him for alleged workplace intimidation and retaliation as well as an increase in paramedic response times in the beach town.

At a City Council meeting Tuesday night, several firefighters described a mismanaged and toxic working environment that led to a vote of "no confidence" in the chief in January. Of 25 union members who voted, 21 supported the action and one abstained.

Firefighters said they first raised concerns with city officials in 2015, when the first of three consultants was hired to resolve the issues. With relations still strained, Espinosa announced his retirement in October 2017. He had been chief 6 1/2 years and was set to depart Dec. 23.

But, less than a week prior to saying goodbye, Espinosa rescinded his retirement to give the city six months to work through the transition in city managers from Mark Danaj to Bruce Moe.

“The reason we’re moving forward publicly now is because the fire chief and the city have broken their promise for the chief to retire on Dec. 23,” said Capt. Dave Shenbaum, vice president of the union. “Firefighters waited patiently and worked with the city, staff and council through what we thought would be his retirement date. Once that was rescinded, this is why we’re moving forward because it’s now affecting public service in a negative way.”

Delayed response

At the top of their list of grievances is the automatic aid agreement the city has with Los Angeles County for paramedic services.

Before the county took over the Hermosa Beach Fire Department last year, the two cities had a cohesive mutual aid agreement, Shenbaum said. But now county paramedics come from adjacent cities to the east, including Hawthorne, Lawndale and Lomita, rather than Hermosa Beach.

The change has delayed paramedic transfer services to area hospitals, often by 20 minutes or more, according to firefighters. City Manager Bruce Moe said response times average five minutes or less 70 percent of the time.

Shenbaum said the chief is negligent in not working to establish agreements as they had in the past and forging a new agreement, possibly with El Segundo. But, Espinosa said in an interview, it’s out of his hands.



Manhattan Beach Fire Chief Robert Espinosa. File photo

"I can't force the county into accepting an automatic aid agreement," said Espinosa, who made the case that the county has actually increased the amount of resources available in terms of fire engines and other services.

"Coming from Hawthorne and Lawndale, geographically it's farther than Hermosa, but we have other options if there are extended times to arrival," Espinosa said.

Management issues

Among other complaints, the firefighters say the city has wasted taxpayer money on disciplinary investigations and workplace consultants, spending well over \$100,000. They say the department purchased a \$50,000 software program that did not meet their expectations.

Firefighters also say the chief is responsible for a breakdown in communication with L.A. County lifeguards, who have stopped coordinating with MBFD. They said Espinosa threatened to terminate firefighters who performed ocean rescues.

Relations apparently reached a boiling point in December, when all fire captains certified as acting battalion chiefs resigned from their positions and gave up pay solely out of concern for working under the chief.

After an outside law firm investigated workplace matters last year, it produced a report acknowledging one instance where the chief was potentially intimidating. The report, which is available for public review with redactions, found all other claims unfounded.

Espinosa denied he was ever disciplined.

At Tuesday's council meeting, City Manager Moe took responsibility for asking Espinosa to stay on for an additional six months. There was just too much going on, he said, when he first took over in December as acting city manager. The City Council had just put former Danaj on paid administrative leave less than a week before Espinosa was set to retire. And the department still needed to appoint an interim chief.

“I find this action unnecessary and unfounded as it could negatively impact our ability to recruit the next fire chief,” Moe said at the meeting. “Most importantly, there has been no impact on public safety.”

Espinosa denied he was ever urged or pressured to retire.

“It just made sense that it was a good time for me to go and I felt like the city was ready for new leadership,” Espinosa said.

Difficult decisions

Before coming to Manhattan Beach, Espinosa served as the fire chief in Rialto for 2 1/2 years and worked for the Long Beach Fire Department for 24 years. Before that, he served in El Segundo and as a firefighter in the Army.

“I do love the community of Manhattan Beach,” Espinosa said a few days before the council meeting. “The Fire Department is an outstanding department. We have some really fine people who work for the Fire Department who really do care about the community.”

Shenbaum said it was not an easy decision for the 26-member Fire Department to air its grievances in public. For three years, the firefighters have worked quietly behind the scenes, he said.

“This has been extremely difficult internally,” Shenbaum said. “We have put our heads down and just tried to deliver outstanding customer service to our community. But this is really tearing us apart. This is a group of firefighters that has always had a good relationship with past city officials, past fire chiefs and fire administrations.

“We have done everything that was asked of us to work through the process to resolve our differences and we finally got a resolution — and then the fire chief and the city reneged on that promise.”

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David Rosenfeld has worked as a professional journalist for more than 20 years at newspapers, magazines and websites. He's covered murder trials, interviewed governors and presidential candidates and once did a loop in a biplane for a story assignment. Before joining The Daily Breeze in 2017, David worked as a journalist in Oregon writing about health care, election integrity and the environment. In his free time, David loves outdoor sports such as sailing, mountain biking and golfing. David has a bachelor's degree from the Walter Cronkite School of Journalism at Arizona State University.

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LOCAL NEWS

Manhattan Beach fire chief retires amid controversy with union

By **DAVID ROSENFELD** | drosenfeld@scng.com | The Daily Breeze

PUBLISHED: March 28, 2018 at 6:49 p.m. | UPDATED: March 29, 2018 at 9:31 a.m.

Three weeks after Manhattan Beach firefighters publicly aired grievances about Fire Chief Robert Espinosa at a City Council meeting, the embattled chief has announced his retirement effective April 28.

"A city should never be in a position where the community is asked to choose between its fire chief and their firefighters," Espinosa wrote in his resignation letter. "I do not desire to hold a public discussion about the differences management and labor have."

Twenty-one of 25 Manhattan Beach firefighters voted "no confidence" against the chief before speaking, some through tears, at the March 6 City Council meeting.



Manhattan Beach Fire Chief Robert Espinosa is retiring effective April 28.

Along with citing Espinosa's management style that seemed to clash with many in the department, a primary grievance of firefighters involved delayed hospital transfers.

While paramedics arrive on scene in five minutes or less 70 percent of the time, based on department records, transfers to a hospital have been delayed by as much as 20 minutes in some cases since Los Angeles County took over fire services in Hermosa Beach.

Before the takeover in January, a mutual aid agreement with Hermosa Beach provided ambulances for medical transfers. But following the takeover, the county is offering ambulances only from nearby cities to the east, such as Hawthorne, Lawndale and Lomita. In 2016, when the county takeover was being discussed, Espinosa speculated the change could have negative effects on response times.

The department already possesses a second ambulance but it is staffed infrequently, often just one day per week. A study session to discuss future paramedic staffing in Manhattan Beach will take place April 16.

Espinosa originally announced he would be stepping down in December, but after former City Manager Mark Danaj was let go and Bruce Moe took over in City Hall just a week later, Moe said he asked Espinosa to stay on for an additional six months as the city looked for a replacement. That decision had unintended consequences, however, as it frustrated many firefighters who said they were looking forward to the chief's departure.

In bidding farewell, the chief said he had no hard feelings.

"It's been a long journey and I have made many friends along the way," Espinosa wrote. "I cannot imagine a better city or team to which I will end my career. Thank you all for being a part of (my) life and career."

As the city looks to appoint an interim fire chief, Espinosa said he wanted to avoid the perception of undue influence.

“Now that the city has begun the recruitment of my replacement, I believe it is fair to the candidates and our fire department that I retire before the perception that I could have undue influence on the process,” he wrote.

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Capt. Dave Shenbaum, vice president of the union, said that while firefighters were pleased the chief would be leaving, they were still concerned about his possible replacement and they want a resolution to the mutual aid issues and delayed ambulance services.

“We’re pleased, but I just got this news a few hours ago,” Shenbaum said Wednesday. “Our issues bleed over into his managers, who have adopted his management style. ... Removing this chief and just bringing up one of the current battalion chiefs would continue our problem of lack of communication and wouldn’t address any of the emergency response issues and would really be kicking the can down the road until we get a new chief.”

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Author **David Rosenfeld** | Reporter

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INVESTIGATIVE REPORT

Client: City of Manhattan Beach Fire Department

Complainant: MBFA Executive Board,
Rudy Mejia, Tim O'Brien, and John Dulmage,
On behalf of Manhattan Beach Fire Association

Subjects: Robert Espinosa, Chief
Ron Laursen, Battalion Chief
Mike Boyd, Battalion Chief
Scott Hafdel, Battalion Chief

Investigator: Lauren M. Monson, State Bar No. 242819
Renne Sloan Holtzman Sakai LLP

Date: August 30, 2017



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I. INTRODUCTION

On or about May 10, 2017, the City of Manhattan Beach ("the City") retained Lauren M. Monson ("the Investigator"), a licensed attorney with the law firm Renne Sloan Holtzman Sakai LLP, to investigate allegations of misconduct, including but not limited to retaliation, dishonesty, intimidation and retribution committed by Fire Chief Robert Espinosa ("Espinosa") and Fire Department command staff as asserted by the Manhattan Beach Fire Association. The City asked the Investigator to investigate the allegations, gather facts and make factual findings, which the City will use to assess a recommendation as to both the merits of the allegations and the appropriate course of action. The scope of the investigation is limited to the following:

- 1. Is there sufficient evidence to determine a prima facie basis of dishonesty, harassment, intimidation and/or retaliation perpetrated by Fire Chief Robert Espinosa or the three Battalion Chiefs, together who comprise the Fire Department Management Team; and*
- 2. Provide factual findings and credibility determinations, where necessary and appropriate.*

II. EXECUTIVE SUMMARY

Based on the evidence gathered, the Investigator makes the findings summarized below and discussed at greater length herein.

1. There is insufficient evidence to find that the Chief was purposefully dishonest or misleading toward the Firefighters or Association.
2. Some of the Chief's actions did intimidate an employee of the Fire Department and therefore this allegation is sustained.
3. The allegation that the Chief retaliated against certain firefighters for speaking out is unfounded.
4. The allegation that any of the Battalion Chiefs intimidated, harassed, or retaliated against any firefighter is not sustained.

III. INVESTIGATIVE PROCEDURE

The Investigator obtained evidence through witness interviews and review of relevant documentary evidence.

A. Interviews

The Investigator conducted the following interviews.

Witness	Position	Date of Interview
		May 16, 2017
		May 16, 2017
		May 16, 2017
		May 23, 2017
		May 23, 2017
		May 23, 2017
		May 24, 2017
		May 24, 2017
		May 24, 2017
		May 24, 2017
		May 24, 2017

		May 24, 2017
		May 24, 2017
		May 25, 2017
		May 25, 2017
		May 25, 2017
		May 25, 2017
		June 1, 2017
		June 1, 2017
		June 1, 2017
		June 1, 2017
		June 1, 2017
		June 1, 2017
		June 1, 2017
		June 15, 2017
		June 15, 2017
		June 15, 2017

		June 15 & June 27, 2017
		June 27, 2017
		June 27, 2017

B. Documentary Evidence

The Investigator reviewed and relied upon the following documentary evidence in making the findings discussed herein.

Ex.	Document Description
1	March 22, 2017 email from Manhattan Beach Firefighters' Association to Mark Danaj, cc R. Mejia, J. Dulmage, T. O'Brien Subject: Follow up to March 6 meeting (Complaint)
2	MBFA Timeline on Efforts to Restore MBFD/City Leadership Integrity and Accountability
3	December 30, 2016 email from Rudy Mejia to Robert Espinosa, cc J. Dulmage, T. O'Brien, Subject: Association Concerns
4	April 7, 2017 email from M. Danaj to List – Fire Association, Subject: Working Conditions Survey of Firefighters, Engineers and Captains
5	February 19, 2017 email chain between J. Dulmage and M. Danaj, cc N. Nader, R. Espinosa, R. Mejia, T. O'Brien, T. Zadroga-Haase, Subject: Meeting Request
6	Department Policy #143 Transfers and Assignments (dated 3/23/15)
7	Personnel/Risk Management Instruction Manual, Policy # P-10, Policy Against Discrimination and Harassment

8	Personnel/risk Management Instruction Manual, Policy # P-27, Uniform Disciplinary Documentation Procedure
9	MBFA 2017 Membership Survey MBFD Leadership Evaluation powerpoint
10	Fire Department Joint Operational Analysis, Cities of Hermosa Beach and Manhattan Beach, February 16, 2015
11	Various emails sent by _____ and _____ in follow up to the investigatory interviews
12	Documents from Chief Hafdel in response to the investigatory interview
13	May 17, 2016 email from Michael Murrey to List - Fire Association RE PM coordinator and AO spot
14	Documents from Chief Espinosa in response to the investigatory interview
15	Transcribed witness interviews

IV. BACKGROUND OF EVIDENCE

A. Manhattan Beach Fire Department

The Manhattan Beach Fire Department (“MBFD” or “Department”) provides a wide array of emergency response and support services to the community of Manhattan Beach. The Mission of the Manhattan Beach Fire Department is to preserve life, property, and the environment through decisive action, strong leadership, teamwork, and dedicated community partnerships. Through that mission, it provides fire protection, suppression and prevention, emergency medical services, and community outreach and education.

The Manhattan Beach Fire Department consists of two fire stations, thirty career Firefighters and twenty-four volunteer personnel who are trained to provide the highest level of fire, medical and rescue assistance. The firefighters are staffed on 48 hour shifts, working and living at one of the two fire stations during their shifts. MBFD is a three-platoon department, and each firefighter is assigned to one of three shifts, A, B, or C Shift. The stations are staffed 365 days a year,

requiring nine firefighters staffed per shift: a Battalion Chief, two Fire Captains, two Fire Apparatus Engineers, and four Firefighters. All firefighters below the rank of Battalion Chief are required to be Los Angeles County licensed paramedics.

B. Culture at MBFD

MBFD is a small department, employing a total of 26 firefighters, including six captains. The command staff consists of the top-ranking Fire Chief as well as three Battalion Chiefs. The Battalion Chief rank was not added to the Department until approximately 1998. Every firefighter interviewed expressed a love for their job, a love for their community and a desire to provide excellent service to the community.

Prior to the creation of the Battalion Chief rank, captains were considered part of management and were historically very involved in operational decision making. Captains' meetings were started as an opportunity for captains to meet with the Chief to discuss ideas and brainstorm. The monthly meetings continued after the Battalion Chief rank was created, to communicate and keep captains informed of decisions affecting the department. However, based on declining attendance and participation, the meeting schedule was revised by the current Battalion Chiefs in early 2017 to occur less often.

Due to the small size of the Department, firefighters and captains are given significant opportunities to participate in various offsite and onsite training and in the implementation of Department changes. For example, committees have been formed to develop a Water Rescue training program, implement the Telestaff staffing system, or order and outfit a new fire rig.

C. Issues Leading Up to March 22 Email to City Manager Danaj

On March 22, 2017, the Association sent an email to Mark Danaj ("Danaj"), Manhattan Beach City Manager. The letter outlined the Association's general concerns alleging dishonesty, intimidation, retaliation/retribution, and favoritism by Chief Espinosa. The letter also listed ten measurable goals to address the concerns raised by the Association. Though not a formal complaint, for the purposes of this investigation, the March 22, 2017 letter is considered the "complaint". The following events led up to the letter.

On April 4, 2016 the Association Board met with the City Manager and discussed concerns over the Chief's leadership approach. According to the Association, the representatives asked the City Manager to engage so as to help avoid future incidents of intimidation and retaliation by the Chief and his command staff.

In response to the Association complaints, the City Manager provided communication coaching to the Department. On or about June 28, 2016, Association Board members and the Captains met with Sean Spano ("Spano"), a communications consultant, in what would be the first of four

meetings with Spano. The second meeting with Spano occurred on or about August 26, 2016 and also included Association Board members and the Captains. On or around October 13, 2016, Spano held a third meeting, this time including Association Board members, Captains, the Fire Chief and the Battalion Chiefs for communication exercises and discussions.

On November 9, 2016, six of the seven captains and the Association Board members met with Danaj. At this meeting, the employees in attendance expressed concerns and shared examples of the Fire Chief lying, misleading, intimidating and retaliating against fire department employees.

On its own, the Association conducted a membership survey with questions about the leadership and effectiveness of the Chief and his command staff as well as the overall morale of the members. The Association presented the survey results to the City on February 27, 2017. In attendance were the Association Executive Board, the City Manager, the Assistant City Manager, Human Resources Director, the Fire Chief, and the Battalion Chiefs.

On or around March 6, 2017, the Department had the fourth and final meeting with Spano. In what was called a “Badges Off” meeting, those in attendance included Association representatives, the City Manager, the Assistance City Manager, Fire Chief and the Battalion Chiefs. Spano presented materials about communication and the Association representatives were allowed to express concerns about the Department’s leadership.

D. The Complaint

On March 22, 2017, in response to the March 6 meeting with Spano and the City Administration, the Fire Association Board (Rudy Mejia, John Dulmage and Tim O’Brien) sent an email from the Manhattan Beach Firefighters’ Association email to City Manager Danaj. The email subject was “Follow up to March 6 meeting” and outlined “general concerns and specific action items” related to an ongoing discontent with Department leadership, specifically with regard to Chief Espinosa. (Exhibit 1). In particular, the email highlighted “concerns of dishonesty, intimidation, [and] retribution” as well as frustration that these concerns continued to be unresolved. In the email, the Association alleged that Chief Espinosa had lied, misled, and had been vindictive, punitive and retaliatory toward Fire Department employees. The email also asserted the Association had brought these complaints to the attention of the Chief and City Manager on multiple occasions to no avail. The email does not contain any specific examples of alleged misconduct.

Through in depth interviews with each member of the department, the Investigator was able to ascertain the following specific issues:³

- Various members of the Association allege that the Chief is dishonest and misleading in his communications with the Department and staff.⁴
- Various members of the Association feel the Chief has said things that are intimidating and make them fearful for their job security.
- In general, people feel like if they question the Chief or are outspoken they will be treated differently. The majority of firefighters referenced _____ and _____ discipline as examples. In addition, some members of the Association feel that certain decisions by the Chief were in retaliation for the Fire Captains' complaining to City Manager Mark Danaj in November 2016. Certain individuals also have issued complaints of retaliation against the Chief that are discussed in more detail in Allegations and Findings below.
- With regard to allegations against the Battalion Chiefs, the majority of witnesses feel that the Battalion Chiefs are acting at the Chief's direction. However, several members described preferential or disparate treatment in training approvals, that the Battalion Chiefs approached several Captains telling them they should not have met separately, and that Battalion Chiefs call out complaining firefighters to the Chief in command staff meetings.

V. ALLEGATIONS & FINDINGS

In weighing the evidence, the general civil standard of proof was applied. An incident was found to have occurred if the preponderance of the evidence obtained during the investigation supported that conclusion – *i.e.*, that it was more likely than not that an event happened. Credibility determinations were made where appropriate.⁵

³ There are no allegations of harassment in the complaint and no complainant or witness alleged harassment during investigatory interviews. Accordingly, although the scope includes harassment, there is no evidence to support the allegation and thus it is unfounded.

⁴ Although dishonesty is not specifically included in the written scope of this investigation, the allegation was included in the witness notices and the investigator was asked to include it in the investigation by Human Resources Director, Teresia Zadroga Haas.

⁵ Pursuant to the City's request, the following terminology was used to describe the below findings: Please use the following terminology to describe your findings: Unfounded - The investigation clearly established that the allegation is not true; Not Sustained - There is

A. Credibility Determinations

Overall, the witnesses appeared forthright and honest during their interviews, and their complaints were sincere. By the Investigator's assessment, there definitely appears to be a generalized discontent within the department based on changes to prior practices and a feeling by the firefighters (in particular the Captains) that they are not being included in managements'⁶ decision-making process.

It is unclear whether the discontent is specific to Manhattan Beach. It is a small department and historically the captain-level had input before. Now, they are not part of decision-making process and no longer have measureable input. Furthermore, employees believe that the Chief and administrative staff are poor communicators. What is clear is that the majority of issues and allegations stem from a small number of firefighters, in particular Captains, whose opinions and perspective on the Chief and management trickles down the ranks. There is no evidence of bullying or intimidation by the Firefighter Association toward members to influence their views. However, it is this Investigator's assessment that peer pressure and/or group mentality, which is not unusual for fire departments, union environments, or small organizations, is in play here.

For example, of the 26 firefighters, over half had not specifically experienced any alleged misconduct, defined as seeing, hearing, or witnessing examples of dishonesty, intimidation, harassment, or retaliation. However, nearly all of those same firefighters said they agreed with the contents and tone of the March 22, 2017 email complaint.

In a small workforce where employees work closely together for long periods of time, it is not unusual for members to rely on and take as true the complaints of their colleagues, especially those from higher ranked individuals. For example, a number of witnesses said that they had no reason to not believe the complaints toward the Chief articulated by [redacted] and [redacted].

Also, a number of firefighters positively characterized [redacted] and [redacted] as an "open book" with regard to their complaints surrounding recent disciplinary issues. Whereas, they feel that the administration and its decisions regarding the same are shrouded in mystery.

While it would be inaccurate to say [redacted] and [redacted] are the only firefighters or Captains who had complaints, these two are the most outspoken complainants and are currently challenging their disciplinary actions. This Investigative Report is limited to the analysis of

insufficient evidence to determine whether the alleged conduct occurred; and Sustained - The alleged conduct occurred.

⁶ Management refers to the command staff, including the Chief of the Department and its three Battalion Chiefs.

and testimony, as well as the testimony of other witnesses, to the extent that they were directly involved in or witnessed events described by or . I did not give weight to allegations that were not experienced or witnessed first-hand by an individual. I did not find any evidence of overt credibility issues with any of the complainants or witnesses. Rather, any discrepancies were determined to be a matter of personal perception or understanding of events.

B. Allegation 1: The Chief is dishonest and misleading in his communications with the Department and staff.

1. Complainant's Allegations

Complainants allege that the Chief is dishonest and misleading in his communications with the Department and staff. In particular, the Chief was alleged to be dishonest in his representation of the status of any merger with Hermosa Beach and the related Citygate study. Association members allege that the Chief told them he was not pursuing a merger. However, his actions during City Council meetings and in sending to an administrative position in Hermosa Beach were perceived as showing otherwise. Other cited examples of misrepresentation and dishonesty include the Chief's explanation and plan for the use of the Telestaff program within the Department. The Chief told the Department that Telestaff could be used to fulfill any staffing needs of the Department, when in reality it cannot. In addition, the Chief was described as not forthcoming with his intent to use the Telestaff system for overtime staffing. Many members feel that the Chief was not genuine in his reasoning for the 2017 shift change, and alleges that while he was acting Battalion Chief the Chief asked him to "sell" the shift change to the group a certain way that was different than the underlying reason for the change.

It is alleged that the Chief was dishonest when he denied saying he was going to "turn up the heat"⁷ on and force him to retire; that the Chief was dishonest when he told the Department that the change in fire house lock codes was unrelated to termination; and that the Chief is generally unclear, misleading or misrepresents facts in his communication style. For example, in response to a specific inquiry from and , the Chief allegedly denied having ever used his rank to get out of a traffic violation. However, his wife later informed that the Chief recently did that exact thing. He also allegedly told the Association Board that rookies were not part of the Association and therefore were not entitled to time to exercise each day, which turned out to be untrue. The Chief has allegedly provided inaccurate or misleading information about whether he had any control in

⁷ This comment was reported by and was allegedly said to privately during the time he was a temporary Battalion Chief.

receiving holiday pay as an acting Battalion Chief and whether he could assist in workers' compensation care.

2. **Substantive Finding: There is insufficient evidence to find that the Chief was purposefully dishonest or misleading toward the Firefighters or Association.**

There is no evidence to show that the Chief was purposefully misleading or dishonest toward the firefighters or the Association regarding any of the above allegations. Rather, as the Chief of the Department, Espinosa was privy to more information than rank and file firefighters or the Association. He was also subject to direction from his superiors and was not required, nor in a position, to share that direction with firefighters.

For example, there appear to have been a number of complicating issues that may not have been fully communicated to the firefighters or Association with regard to the Citygate study and any potential merger with Hermosa Beach Fire. According to Espinosa, despite his recommendation to the contrary, the Manhattan Beach City Council and City Manager wanted to explore a merger with Hermosa Beach and asked the Chief to investigate and report back on any potential impacts of Hermosa's potential merger with L.A. County. In the creation of that report, both the Hermosa Chief and Espinosa agreed to jointly fund and share

to write the report and temporarily share administrative duties with Hermosa while was injured and on temporary modified duty. Despite Espinosa's personal belief that the merger was not feasible, he was required to follow the direction of the City Manager and City Council.

The Chief was also not dishonest in his explanation of the capabilities of Telestaff. The Association's MOU has very specific requirements in the scheduling of overtime but it was not economically feasible to alter Telestaff to meet those requirements. However, because the Association chose not to change their overtime scheduling rules to meet Telestaff's capabilities, this resulted in a purported lack of full function of the Telestaff program. According to

, Telestaff has the capability to program overtime, but the program cannot manage the allocation of overtime as required by the Association MOU, which is why Telestaff is only used for rostering and payroll at MBFD. Many firefighters felt that Telestaff was forced on them and is ultimately not as great as the Chief advertised. For example, one firefighter feels the program made more work and does not offer personal overtime like they had planned. However,

, a member of the Telestaff committee who worked closely with the Chief in rolling out the Telestaff program does not feel the Chief was dishonest, but admits that he has "his own spin on things." assisted the Chief in drafting language explaining the function and roll out of Telestaff to the Department. He explained that while the Chief changed some of the wording proposed, he admits the Chief may have had a valid reason for using the wording he did. The Investigator finds that the Chief's choice of words in

how to explain a decision or situation is not the same as lying. Rather, the Chief chose what information to focus on based on his managerial discretion. Putting a “spin on things” does not amount to dishonesty or lying.

Many of the allegations related to dishonesty or misrepresentation result from rank and file fire fighters feeling like they need to be included in decisions. For example, one allegation is that Espinosa was not forthright in the reason for changing the lock codes at the Station. Fire fighters wanted to know the reason for the lock changes, which was not disclosed. Instead, the allegation is that the Chief specifically said the change was not related to [redacted] who was under investigation, when in reality it was directly related to the investigation of that individual. The Chief does not recall that statement, but says he explained that for overall security of the station they were having the codes changed. He says that he had to try to generalize why they were doing it because he wasn't at liberty to discuss personnel matters. [redacted] one of the people who questioned the lock changes, now admits that the Chief did the appropriate thing by not sharing the specific reason for the lock change. It would have been wrong for the Chief to say the City changed the locks because it was a personnel issue and the individual was under investigation.

Similarly, many firefighters feel that the Chief pushed out [redacted] forcing him to retire early. Chief Espinosa admits that [redacted] had performance issues and says that multiple firefighters, including the Association, complained to him about [redacted]. For example, [redacted] described [redacted] as the person you would give something to if you didn't want to do it because he would lose any paperwork you gave him. [redacted] said that [redacted] was sometimes unable to get things done as quickly as the Chief wanted. However, the management of [redacted] performance and ultimate retirement is a good example that how Espinosa manages his employee's performance, disciplinary or otherwise, is confidential. It is the ultimate responsibility of the Chief to deal with personnel issues especially those on his command staff. Personnel decisions, especially in the public sector, implicate privacy interest and disciplinary matters are not open for discussion amongst other firefighters or the Association. These kinds of allegations – allegations where fire fighters may have felt slighted for not being included in a discussion – are without merit because fire fighters are not privy to such conversations or decisions.

With regard to the February 2017 shift change, as described in more detail below in section V. D.2., that decision was made by the Battalion Chiefs. The only involvement the Chief had was to approve their recommendation. There is no evidence of dishonesty with regard to this allegation. Similar to the roll out of Telestaff, this is an example of the Chief choosing which details to emphasize as opposed to being dishonest or lying. It is management's prerogative in how to describe a decision and there is no evidence that the way the change was explained to staff amounts to dishonesty or lying.

Regarding the allegation that he lied about getting out of a ticket by using his rank, Espinosa provides a different explanation than that of the Association Board. His version concludes that his wife was the one who said she was a nurse and got them out of the ticket. There is insufficient information to conclude which version is the truth, and even if the Association Board's version of the story is closer to the truth, it would not amount to enough information to conclude a violation of policy occurred.

The remaining allegations fall into the category of misunderstandings or miscommunication and cannot be considered outright lying or dishonesty. For example, with both the rookie exercises and Battalion Chief holiday pay allegation, the Chief's actions are more accurately explained by his misunderstanding of the rules and/or the historical application of those rules. When he had a better understanding of the rules and policies, he was able to properly apply them. While it may be ignorance of the policies and practices, I could not determine that the Chief lied.

There is no evidence the Chief purposefully lied or was dishonest with regard to any of the above allegations. If anything, certain issues may have been poorly communicated but this does not amount to dishonesty or lying.

C. Allegation 2: The Chief's Conduct Is Intimidating.

1. Complainant's Allegations

Various members of the Association feel the Chief has said things that are intimidating and make them fearful for their job security. There is an overall feeling that if you do not fall in line or have the same mindset as the administration your career may suffer. In addition, it was expressed that the Chief is intimidating because of his rank. Witnesses also described specific interactions with the Chief that they felt were intimidating, making him unapproachable. For example:

- During a transition in the water rescue program, the Chief allegedly intimidated members by comments he made at a water rescue meeting, telling firefighters something to the effect of, "If you go in the water before this program is finished, without direct orders from a supervisor, a Battalion Chief, a Fire Chief, I will fire you." When questioned about the logic of disciplining a firefighter for saving a life, the Chief told them, "If I don't get you now, I will get you in six months from now"⁸;

⁸ It is unclear who was actually at this meeting and heard this comment. A variation of the statement was reported to me by multiple firefighters and has traveled through the department as a kind of urban legend that has allegedly made firefighters fearful of their job security.

- Some members expressed intimidation in the investigation and discipline process, saying that the experiences of [redacted] and [redacted] make them feel like their job may be at risk if they also speak out or criticize the Chief;
- Witnesses also expressed perceiving intimidation in how the Chief communicates during administrative staff meetings, giving an example of the Chief highlighting a complaint by a firefighter about a healthcare questionnaire, appearing as though the Chief was singling out that employee for questioning the process;
- Members expressed feeling intimidated after the Chief “snapped” at [redacted] after being questioned about Citygate and the intent to add another Battalion Chief position to the administrative staff;
- [redacted] and [redacted] reported witnessing the Chief intimidate a witness, [redacted], in disciplinary appeal hearing. In particular, it is alleged that the Chief told [redacted] prior to his testimony that he was friendly with the Chief at the Department [redacted] was applying to for a firefighter position. This made [redacted] feel like the Chief could influence his hiring based on his involvement in the [redacted] appeal;
- In another example, several members reported that the Chief was intimidating when he glared at a group running hills for exercise near Station 1;
- The Chief was intimidating when he raised his voice with O’Brien, accused him of lying, and made him justify his position as Fire Marshal; and
- The Chief intimidated [redacted] on several occasions, while acting as Battalion Chief and as a firefighter. In particular, early in the Chief’s tenure at Manhattan Beach and in response to a challenge to a decision by [redacted], the Chief told [redacted], “I know a captain just like you in Long Beach. I know how to handle you.”

2. **Substantive Finding: Some of the Chief’s actions did intimidate an employee of the Fire Department and therefore this allegation is sustained.**

As Chief of the Fire Department, Espinosa is the chief executive of the Department, a paramilitary organization. Many firefighters expressed feeling intimidated by the Chief, simply because of his rank. In discussing the allegations of intimidation with the Chief, he portrayed no intent to intimidate any member of the department.

The City’s Uniform Disciplinary Documentation Procedure policy outlines "Harassing, threatening, intimidating, or coercing any other employee, customer or visitor, including any violation of the City’s Harassment Policies" as examples of impermissible conduct that may result in disciplinary action. (Policy # P-27). There is no definition of intimidation in the policy.

In analyzing this sections' allegations, I used the reasonable standard and whether a reasonable person would be intimidated by the statement. In evaluating all the circumstances below, I find that the statements made by the Chief to _____ prior to his testimony in _____ appeal hearing, a reasonable person would be intimidated by the Chief's allusion to personal contact with a fellow Chief, who was the Chief of the Department where _____ was applying for a job. For the remaining allegations, however, I do not find that the Chief was intimidating. The simple fact that an employee feels intimidated by the rank of an individual or a supervisor's management style does not rise to the level of intimidation.

For example, the Chief admitted to getting upset on occasion, and regretfully, to responding abruptly to _____ when he inquired about a potential Deputy Chief position. Espinosa says he was frustrated by earlier meetings with the Association about a proposed Deputy Chief position and felt the Association didn't do enough to support the position with the City Manager. In addition, Espinosa was upset that he was being blamed for not supporting the Deputy Chief position, which he felt was unwarranted. Espinosa was also upset because Mejia, the Association President, did not correct _____ allegations. Mejia knew what had gone on behind the scenes and felt that Mejia was telling people the Chief was unsupportive of the position, which was untrue.

The reality is that the Chief is responsible for maintaining expectations of his department, promulgating rules and regulations, and implementing discipline if those rules are violated. For example, Espinosa admitted to having concern with firefighters running the hills near the fire station because of how far away they were from the station and the potential for firefighters not being able to return to the station in time to respond to a call within their required response time. Other than being concerned, and later addressing that concern with the Battalion Chiefs, he expressed no intent to intimidate the firefighters about this issue. With respect to water rescues, the Chief admits to telling _____ to obey a lawful order if told not to jump off the pier to do a rescue. Espinosa says that when he first got to Manhattan Beach, he was aware that _____ had received at least two medals of valor for a rescue from the pier. Espinosa became concerned that there were no policies or procedures about who was qualified to jump in the water to make a rescue. If there were no policies or procedures in place, he felt there was a serious risk of firefighters getting injured or killed while making a rescue from the pier. Accordingly, he formed a committee to create standard operating procedures around water rescues.

Espinosa says the ultimate decision about who can jump in the water lies with the incident commander, Battalion Chief or ranking person on scene. In a staff meeting, the Chief explained this expectation to his crew, and that if an incident commander says don't jump, you don't jump. Espinosa recalls _____ saying he would jump anyway and the Chief responded that he

_____ was a part-time fire inspector with the Manhattan Beach Fire Department.

needed to follow the lawful order or be fired for disobeying a command. To disobey an order is clearly insubordination, which can be the basis for discipline. The investigator finds that the Chief was setting normal expectations for his employees based on valid operational and safety concerns. Although perceived as intimidating by some of the firefighters, the Chief was simply drawing a clear line by explaining the consequences for defying an order which does not violate the City policy. At worst, the Chief was guilty of conveying in too brusque of a manner what is obviously a difficult message for a firefighter to hear– that the need obey the chain of command subordinates an individual firefighter’s instinct to rescue a citizen in need.

With regard to [redacted] and [redacted], separate disciplinary proceedings, the Chief is not allowed to discuss the reasons behind either firefighters’ discipline. However, according to [redacted] and [redacted] and multiple other witnesses, [redacted] and [redacted] are not shy about sharing their interpretation of the disciplinary proceedings with whomever asks. Accordingly, the firefighters here are only hearing one side of the issue, which is biased toward the most prolific narrators – [redacted] and [redacted]. The Chief cannot control other people’s perceptions of events. He cannot respond to questions about confidential personnel actions from rank and file firefighters. He cannot present his reasons for imposing discipline. If a firefighter breaks a rule or direct order, they are subject to discipline up to and including termination. The Chief has the authority – in conjunction with the City Human Resources – to discipline employees for misconduct. Discipline alone does not amount to intimidation, but is part and parcel of managing employees.¹⁰

As stated above, the only finding of intimidation exists in the allegations related to [redacted]. The Chief admitted to speaking with [redacted] about applying to Manhattan Beach Fire and career opportunities with El Segundo. Espinosa says he pulled [redacted] aside when he learned [redacted] was interested in applying to Manhattan Beach for a full time position. Espinosa was aware that [redacted] was being offered a position with El Segundo Fire and was waiting for the background check to be completed. Espinosa had also received a call from an El Segundo background investigator who said that the El Segundo Chief wanted to know if Espinosa would hire away from El Segundo in the future. According to Espinosa, his intent was to offer advice to [redacted].

¹⁰ The Chief does not recall the allegations related to [redacted] or comments about a firefighter questioning a healthcare questionnaire in a staff meeting. Nor does the Chief say he yelled at [redacted]. However, he does admit to asking him to justify his reasons for wanting to stay beyond eighteen months in the Fire Marshal position based on their poor working relationship. Ultimately, [redacted] wanted to come back to the Fire Marshal position and pursuant to the MOU, both [redacted] and [redacted] were interviewed by a panel including an Association Board member (Mejia), Chief Boyd and the human resources director who unanimously chose [redacted] to be the next Fire Marshal.

and encouraged [redacted] to follow through with the El Segundo opportunity. He advised him to focus on successfully finishing probation in El Segundo and not be distracted with applying at Manhattan Beach. The Chief explained that if he wanted to apply later, he would be welcome. In addition, Espinosa admitted to speaking with [redacted] about playing golf with the Chief Donovan of El Segundo. He told [redacted] he would like Chief Donovan. Espinosa did not feel like he had any control over who Chief Donovan chose to hire.

Espinosa admitted that at that time he was aware [redacted] was testifying in [redacted] appeal hearing, but said it didn't bother him and that wasn't the reason for the conversation. Espinosa explained that he was happy for [redacted] because he had failed a prior firefighter exam and it wasn't guaranteed he would pass the next Manhattan Beach exam either. He was happy he got a full time job. The investigator finds that despite Espinosa's intent, the two conversations with [redacted] were intimidating given the fact that [redacted] had expressed interest in applying to Manhattan Beach. In addition, based on Espinosa's testimony, Espinosa was sensitive to El Segundo's concern that Manhattan Beach may hire [redacted] away from them. Accordingly, based on the simple position of authority that Espinosa holds, any advice or discussion about potential job opportunities, especially with a potential witness to an adversarial appeal hearing, could be construed as intimidating.

D. Allegation 3: The Chief Retaliates Against Those That Speak Up and Don't Agree With Him.

1. Complainant's Allegations

Some members of the Association feel that certain recent decisions by the Chief were in retaliation for firefighters speaking up about their discontent with the Chief. In particular, the Fire Captains feel that several decisions were initiated in response to their complaint about the Chief to the City Manager in November 2016:

- The February 2017 shift change (aka "shift shake up");
- The December 2016 reduction in number of Captain meetings; and
- The decision to exclude Captains from the Appraisal of Promotability ("AP") process for the Engineer promotional exam.

In general, many interviewees feel like if anyone questions the Chief or are outspoken, they will be treated differently. The majority of firefighters reference [redacted] and [redacted], discipline as examples of this.

Certain individuals also have particular complaints of retaliation against the Chief based on their performance issues in the Fire Marshall's office [redacted] getting "in the middle" of the Chief

retaliating against a Long Beach firefighter () filing workers' compensation claims and being supportive of his team members that are complaining about the Chief's management style

2. **Substantive Finding: The allegation that the Chief retaliated against certain firefighters for speaking out is unfounded.**

The City's Policy Against Discrimination and Harassment (Policy #P-10), "assures that no retaliatory action or reprisal shall be taken against those persons who: (a) oppose practices prohibited by this policy; (b) file complaints or reports of harassment; or (c) assist with or participate in a harassment investigation, proceeding, or hearing conducted by the Human Resources Department or an outside agency." The Policy prohibits "harassment or discrimination based on race, sex, national origin, age, disability, sexual orientation, religion, marital status, or any other protected characteristic ... [and] prohibits unlawful harassment in any form, including verbal, physical and visual harassment."

There is no evidence of any complaint or "speaking out" over any category covered by the City's discrimination and harassment policy. In particular, none of the complaints outlined in the March 22, 2017 email to the City Manager, or any of the complaints expressed during the extensive investigatory interviews with members of the Fire Department expressed any concern that the Chief was treating people differently based on any of the protected categories outlined in the policy. Rather, the complaints center on generalized management issues in the Department.

Significantly, the specific complaints regarding the February 2017 shift change, the change to the timing of the Captain Meetings, and the change in the AP process and "shift shake up" were not initiated by the Chief. It was the Battalion Chiefs, on their own, who decided to make the changes with final approval from the Chief.

Moreover, alleged retaliatory decisions have legitimate business explanations. For example, the February 2017 Shift Change was promulgated by the Battalion Chiefs pursuant to the current Transfers and Assignments policy. According to () the shift change was done to break up the silos and give people who haven't worked together the opportunity to work together.

() believes this is good for the organization, especially for the fire fighters. The Battalion Chiefs met and discussed who would work well together, who may get an opportunity to grow, or have someone as a mentor in deciding to do the shift change. The change was unrelated to the Captains' complaints to the City Manager and, in fact, () reported that the Chief was initially not on board with the shift change because he had concerns that things could be worse as a result of the change.

() says that the Battalion Chiefs decided to schedule the Captains Meetings less often due to a variety of factors, including poor attendance. All the Battalion Chiefs reported

discussing the change with the Captains on their shift, prior to implementation, and received minimal push back. In particular, _____ says he met with his Captains, _____ and _____ and they agreed with the change and the consensus was to meet five or six times a year. The Battalion Chiefs are also considering adding a training component to revitalize the meetings.

For the engineer's exam, _____, not the Chief, floated the idea that the engineers participate in the AP process. _____ agreed with _____ suggestion because some captains were never engineers and do not know the job as well as the current engineers. _____ felt that the engineers are the subject matter expert for that position. Similarly, _____ feels the engineers were the people who could really evaluate the candidates based on their ability and knowledge. The Battalion Chiefs felt the decision to have the engineers in the AP process was an opportunity for the engineers. There was not a conscious decision to exclude the Captains.¹¹ All of these actions were initiated by the Battalion Chiefs, and not the Chief, and each action was accompanied by a legitimate business reason.

In addition, _____ discipline was based on violating a directive from the Chief and exceeding the Department budget.¹² _____ discipline was also based on _____ decision to unilaterally cancel a training, without permission or input from the Chief or Battalion Chief.¹³ _____ admitted that Espinosa informed him of _____ recognition ceremony in front of the City Council and that he forgot to notify the shift of the event so they could attend.

The exception to the above would be _____, who expressed concerns of being treated differently by the Chief due to his history of on-the-job injuries, and thus, would be a protected category under the City's policy. In particular, _____ alleged that the Chief would not allow him to go the National Fire Academy in retaliation for being hurt often and filing workers' compensation claims related to his injuries. However, there is no evidence that _____ complained about this treatment to the Chief or anyone else and then was treated differently because of that complaint. _____ admits that the Chief gave him the opportunity to provide a doctor's note that would return him to work on light duty and allow him to attend the training, but that if he was not cleared for light duty he could not go. Accordingly, _____ was unable to

¹¹ Ultimately, two captains were included in the AP process for the engineer exam.

¹² _____ has grieved his disciplinary action through the City's appeal process. As _____ chose that administrative process to challenge his discipline, the Investigator does not evaluate the merits of the discipline in this investigatory process.

¹³ As of the writing of this report, _____ discipline had only been recommended and not yet imposed.

attend the training because he was off work, injured. [redacted] was given the opportunity to provide a revised note to allow him to attend the training, but declined.

Accordingly, there is no evidence that the Chief retaliated against any firefighter for making a complaint related to a protected category under the City's Discrimination and Harassment Policy.

E. Allegation 4: Battalion Chiefs have engaged in dishonest, intimidating, disparate and retaliatory conduct.

1. Complainants' Allegations

The allegations against the Battalion Chiefs include allegations that they intimidated several Captains by approaching them to say they shouldn't have gone to the City Manager to complain and approached some Captains to chastise them for having a "secret meeting" with other Captains after the regular Captain Meeting. In addition, there is a general feeling that training opportunities are not offered equally to everyone and that Battalion Chiefs make comments during command meetings that highlight firefighter complaints to the Chief, in effect singling out the complainers for disparate or retaliatory treatment.

2. Substantive Finding: The allegation that any of the Battalion Chiefs intimidated, harassed, or retaliated against any firefighter is not sustained.

None of the Battalion Chiefs recall mentioning a secret meeting to any captain. [redacted] notes that nothing is secret in the fire department and cannot imagine using those words. However, he says he may have mentioned something like "Hey, why are we going back to having a meeting after the meeting?" He recalls executive coach Mike Messina suggesting to the group that they talk about problems with the Captains in the executive meetings instead of having a meeting after the meeting. [redacted] said he was surprised when the Captains went back to having a separate meeting after Messina's recommendation. Laursen also says he may have cautioned [redacted] about what he says or who he speaks to in an advice capacity. [redacted] says there are cliques or silos within the Department and, as a Captain, he didn't want [redacted] actions to be perceived incorrectly by either clique.

Boyd also does not deny that he may have said to [redacted] something to the effect of "Oh, you guys had a meeting after the meeting?" However, the comment had to do with a concern for open communication. Prior to [redacted] arrival, the Battalion Chiefs had communicated to the command staff and Captains that issues should be discussed openly. [redacted] feels that the conversations should include the entire command staff and not just the Captains or that this

conversation should be had with the Association, not with the group of company officers. He was surprised that the Captains were meeting alone after that discussion.¹⁴

Also, there is insufficient evidence to find that training opportunities are awarded disproportionately. [redacted] is the Battalion Chief that oversees training and the training budget. In addition, the MOU allows one training class per firefighter per year. [redacted] says he asks for people to submit their training requests by March 1 so he can assess budget for additional classes. Generally, if an additional class is requested between March 1 and June 30, [redacted] will have the funds to pay for the training and time off. As the end of the year approaches, he has less money in the budget to fund time off, travel, or overtime beyond the cost of the class. However, [redacted] says he does not think he has ever denied a firefighter's request to take a class. He also says there are about 6-7 people who are very dedicated to training and ask to take a lot of classes.

None of the Battalion Chiefs remember the specific comment made about [redacted] in a command staff meeting. [redacted] says that they discuss any issues relevant to the fire department during command staff. [redacted] also did not recall the specific allegation but says that [redacted] is very passionate, very involved and at times can be perceived as outspoken. He says the Chief knows he is passionate and recognizes it comes from a good place. [redacted] himself noted that any issue he had with [redacted] regarding his concerns about the health questionnaire form have been resolved and they now have a good relationship. There is insufficient evidence that firefighter complaints are specifically singled out in command staff meetings as a basis for retaliation. However, based on [redacted] statement, it follows that the command staff uses their private meetings to discuss complaints in the context of how to address, respond or fix issues brought to the command's attention.

VI. CONCLUSION

For the reasons discussed above, the Investigator concludes 1) there is insufficient evidence to find that the Chief was purposefully dishonest or misleading toward the Firefighters or Association; 2) Some of the Chief's actions did intimidate an employee of the Fire Department and therefore this allegation is sustained; 3) the allegation that the Chief retaliated against certain firefighters for speaking out is unfounded; and 4) the allegation that any of the Battalion Chiefs intimidated, harassed, or retaliated against any firefighter is not sustained.

¹⁴ Hafdel does not recall asking the captains about any "Secret meeting" after a Captain Meeting.