

IN THE UNITED STATES DISTRICT COURT IN
FOR THE DISTRICT OF OREGON
JAMES P. CHASSE, JR.; JAMES P.
CHASSE; LINDA GERBER; and MARK
CHASSE, individually and in his
capacity as Personal Representative
of the ESTATE OF JAMES P. CHASSE,
JR.,

Plaintiffs,

v.

CHRISTOPHER HUMPHREYS; KYLE NICE;
CITY OF PORTLAND; CITY OF PORTLAND
JOHN DOE FIREFIGHTERS/PARAMEDICS;
PORTLAND POLICE BUREAU and OTHER
PORTLAND JOHN and JANE DOE
OFFICIALS; BRET BURTON; MULTNOMAH
COUNTY; MULTNOMAH COUNTY JOHN and
JANE DOE DEPUTY SHERIFFS and MEDICAL
PERSONNEL; MULTNOMAH COUNTY JOHN and
JANE DOE SHERIFF'S OFFICE and OTHER
OFFICIALS; TRI-COUNTY METROPOLITAN

TRANSPORTATION DISTRICT OF OREGON;
and AMERICAN MEDICAL RESPONSE

NORTHWEST, INC.,

Defendants.

ORIGINAL

No. CV-07-0189-HU

DEPOSITION OF

PHILIP A. HUBERT, III

Taken in behalf of Plaintiffs

* * *

January 24, 2008

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Portland, Oregon

Shannon K. Krska, CSR

Court Reporter



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APPEARANCES:

For the Plaintiffs:	MR. THOMAS M. STEENSON Attorney at Law 815 S.W. Second, Suite 500 Portland, OR 97204
For the Defendants Humphreys, Nice, and City of Portland:	MESSRS. JAMES RICE and DAVID A. LANDRUM Attorneys at Law 1221 S.W. Fourth, Suite 430 Portland, OR 97204
For the Defendants Burton and Multnomah County:	MS. SUSAN DUNAWAY Attorney at Law 501 S.E. Hawthorne, Suite 502 Portland, OR 97214
For the Defendant AMR:	MS. JEAN BACK Attorney at Law 1211 S.W. Fifth, Suite 1900 Portland, OR 97204

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EXHIBITS

No. 114	Hubert 9-17-06 information report, MC 230079
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1 PORTLAND, OREGON; THURSDAY, JANUARY 24, 2008

2 1:00 PM

3 * * *

4 (DEPOSITION EXHIBIT NO. 114 was marked for
5 identification.)

6 PHILIP A. HUBERT, III

7 called as a witness in behalf of the Plaintiffs,

8 having first been sworn by the Reporter,

9 testifies as follows:

10 EXAMINATION

11 BY MR. STEENSON:

12 Q. State your full name, for the record,
13 please.

14 A. Philip A. Hubert, the third.

15 Q. Mr. Hubert, my name is Tom Steenson. I'm
16 the lawyer representing the Chasse family in a lawsuit
17 they have filed against a number of individuals plus
18 Multnomah County and a couple of other entities. Have
19 you ever given deposition testimony before?

20 A. No, I have not.

21 Q. Let me go through a couple of rules so that
22 you and I understand each other. When I ask you a
23 question and you answer it we will all assume that you
24 understood it, so it's important for you to ask me to
25 clarify anything you do not understand before you

1 answer. Do you understand that?

2 A. Yes, I do.

3 Q. Secondly, your testimony today is under
4 oath. It's as important as if you were in a court of
5 law. If you give an answer at the time of a trial or
6 a hearing in this case that's different than you give
7 today, that can be pointed out to the judge and the
8 jury. Do you understand that?

9 A. Yes, I do.

10 Q. Lastly, anything about your physical or
11 emotional condition, are you taking prescription
12 medication, lack of sleep, anything at all that might
13 interfere today with your ability to give me complete
14 and truthful answers to my questions?

15 A. No, there is not.

16 Q. What was your last shift that you worked?

17 A. I worked last night swing shift.

18 Q. What time did you get off?

19 A. I got off at 11:30.

20 Q. Did you get a good night's sleep?

21 A. Yes, I did.

22 Q. You work for Multnomah County; correct?

23 A. Yes, I do.

24 Q. You're a corrections officer?

25 A. Yes.

1 Q. A deputy?

2 A. A corrections deputy, yes.

3 Q. Okay. How long have you worked for the
4 county?

5 A. Be ten years this May.

6 Q. Hand you what's been marked as Exhibit 114.
7 It looks to be an information report that you prepared
8 regarding Mr. Chasse. Is that correct?

9 A. Yes, it is.

10 Q. Did somebody direct you to prepare it?

11 A. Yes, they did.

12 Q. Who?

13 A. Sergeant Hawkins.

14 Q. And at the time you prepared it, did you
15 know that Mr. Chasse had died?

16 A. Yes, I did.

17 Q. In your -- let me strike that.

18 Have you given any statements or been
19 interviewed by any homicide detectives related to the
20 death of Mr. Chasse?

21 A. No, I have not.

22 Q. Other than talking to a lawyer for Multnomah
23 County, have you talked to anyone about the facts
24 related to Mr. Chasse's time in the jail?

25 A. As far as?

1 Q. Other than county counsel, have you talked
2 to anyone else about the facts related to Mr. Chasse's
3 time in the jail?

4 A. No, I -- I just -- no, I have not.

5 Q. It says, in your report, in the narrative
6 section, that a "Portland Police" officer "and a
7 Multnomah County deputy approached the intake door and
8 stated that they had a combative inmate," I'm assuming
9 you meant to say in the car, "that was spitting and
10 trying to bite the officers." Do you see that?

11 A. Yes, I do.

12 Q. And you -- you wrote that on your own?

13 A. Yes, I did.

14 Q. Overall, were you trying to be complete and
15 truthful when you put this report together?

16 A. Yes, I was.

17 Q. When you say they approached the intake
18 door, are you talking about the door, the sallyport
19 door?

20 A. The outer sallyport door, yes.

21 Q. Okay. Did you know they were coming in with
22 a prisoner before they approached the intake door?

23 A. I can only assume that they did. It's --

24 Q. Well, let me back up. I want to know the
25 first thing you know about them coming to the jail

1 that night with Mr. Chasse.

2 A. They approached the door and said they had a
3 combative inmate in their vehicle.

4 Q. Okay. So you saw them approaching the outer
5 sallyport door. Did you then go outside and meet with
6 them?

7 A. I believe I did. I'm not -- I have not -- I
8 do not recall that.

9 Q. Were they both standing by the door?

10 A. I can't recall.

11 Q. Which of the two officers spoke?

12 A. I can't recall.

13 Q. Were they standing together when one or the
14 other of the officers spoke?

15 A. I can't recall, I'm sorry.

16 Q. We know from the record that the Portland
17 Police officer in the blue uniform with the baseball
18 cap on is a guy named Humphreys. Did you know of him
19 before that night?

20 A. I have seen him come in with inmates before,
21 yes.

22 Q. Anything you can recall about any of the
23 other incidents with him?

24 A. No.

25 Q. We know that the Multnomah County road

1 deputy is Bret Burton. Had you had any contact with
2 him before that night?

3 A. He -- I believe he probably brought people
4 in before, but I've had no re -- you know, interaction
5 with him other than that.

6 Q. No incidents you can recall with him?

7 A. No.

8 Q. How about since that night, anything with
9 Officer Humphreys that you've been involved with?

10 A. Not that I can recall, no.

11 Q. And since this night, anything with then
12 deputy and now Portland Police Officer Burton that
13 you've been involved with?

14 A. Not that I can recall, no.

15 Q. Did the officers say where it was that
16 Mr. Chasse had been spitting?

17 A. I can't recall, no.

18 Q. Did either of the officers tell you when
19 Mr. Chasse had been spitting?

20 A. I can't recall, sorry.

21 Q. When you spoke to one or the other or both
22 of the officers in the location you described, was
23 anyone else present?

24 A. I can't recall, no.

25 Q. It goes on to say that you, Deputy

1 McElhaney, and Deputy Hollenbeck went to the patrol
2 car and saw Chasse in the back seat and he had blood
3 on his face and he was yelling?

4 A. Yes.

5 Q. What was he yelling?

6 A. I can't recall. Nothing intelligible
7 that -- nothing intelligible that I can recall, no.

8 Q. So you can't recall any words or sentences?

9 A. No, I cannot.

10 Q. During the time that Mr. Chasse was at the
11 jail starting with the sallyport until he left that
12 night, did you hear Mr. Chasse say anything, any words
13 that you could understand?

14 A. No, I can't recall any words that he said.

15 Q. Where was the blood that you saw on his
16 face?

17 A. I am not certain. I believe it was on his
18 face but I can't really say that with any certainty.

19 Q. Well, you wrote in your report that he had
20 some blood on his face; correct?

21 A. Yes.

22 Q. And this was written within hours of the
23 time that Mr. Chasse had been at the jail?

24 A. Yes, it was.

25 Q. So do you have some doubt now as to whether

1 he had blood on his face?

2 A. No, I don't.

3 Q. You just don't know where the blood was on
4 his face, or do you recall?

5 A. I believe it was on his face.

6 Q. Well, was it on his forehead, was it on his
7 cheek?

8 A. Oh, I can't recall -- no, I can't recall
9 where the blood exactly was on his --

10 Q. How much blood was there?

11 MS. DUNAWAY: Objection, object to the form.
12 He's already answered he cannot remember where on the
13 face --

14 MR. STEENSON: You're coaching.

15 MS. DUNAWAY: -- blood was.

16 Q. (By Mr. Steenson) How much blood was there?

17 A. I can't recall.

18 Q. Was there just one spot of blood?

19 A. I can't recall.

20 Q. Was he actively bleeding or was it -- did
21 you just see blood?

22 A. I couldn't tell. I couldn't --

23 Q. Okay. Did you see any bruising or
24 contusions or cuts or discoloration on his face?

25 A. I didn't see any, no.

1 Q. You say an unknown deputy opened the door.
2 Do you mean one of the corrections deputies?

3 A. I can't recall who -- one of the -- a deputy
4 was out there with us. I can't recall who the
5 person's name was, though.

6 Q. Well --

7 MS. DUNAWAY: Where are you reading from?
8 Could you --

9 THE WITNESS: Right here, unknown deputy.

10 MS. DUNAWAY: Okay, thank you.

11 Q. (By Mr. Steenson) Do you know whether you
12 were referring to the road deputy or one of the
13 corrections deputies?

14 A. I can't recall.

15 Q. But some deputy opened the door. What door
16 did that deputy open?

17 A. The back passenger door. I can't remember
18 which side, though.

19 Q. And put a spit sock on Mr. Chasse?

20 A. Yes.

21 Q. What is a spit sock?

22 A. A spit sock is used to prevent a person that
23 is spitting, prevent them from getting spit on us or
24 the other officers.

25 Q. Where did the spit sock come from that was

1 put on Mr. Chasse?

2 A. I can't recall where it came from. We have
3 a storage of them, but I can't recall exactly where it
4 came from.

5 Q. And when you say put on him, you meant put
6 over his head?

7 A. Placed over his head, yes.

8 Q. And after that you couldn't see his face?

9 A. It's very -- it's a mesh-like substance.
10 It's very hard to see the face, yes.

11 (Mr. Landrum entered the room.)

12 Q. (By Mr. Steenson) And at some point that
13 night did you notice that the spit sock was bloody?

14 A. No, I did not. I did not notice that, no.

15 Q. Did you notice any signs of injury or trauma
16 anywhere else on Mr. Chasse's body?

17 A. No, I did not.

18 Q. Did you talk to either the -- either Officer
19 Humphreys or Deputy Burton about how the blood had
20 gotten on Mr. Chasse's face?

21 A. I did talk to them, asked what happened, but
22 I can't recall what they said.

23 Q. Did you ask them what happened in the
24 sallyport?

25 A. No, I did not.

1 Q. Okay. So it would have been in the booking
2 area where you asked them what happened?

3 MS. DUNAWAY: Object to form. Go ahead and
4 answer.

5 THE WITNESS: Oh. I can't recall.

6 Q. (By Mr. Steenson) Well, what areas were you
7 in that night or some other night with either Officer
8 Humphreys or Deputy Burton besides the sallyport and
9 the booking area?

10 A. And the -- that was it, that would be it.
11 And then back out to the sallyport again.

12 Q. Okay. So someplace in either the sallyport
13 area or in the booking area that night you asked the
14 officers what had happened to Mr. Chasse?

15 A. I can't recall.

16 Q. But something like that?

17 A. I can't recall.

18 Q. Well, did you or did you not ask them
19 something about how the blood got on his face?

20 A. I can't recall.

21 Q. Were you curious about how the blood got on
22 his face?

23 A. I imagine I probably was, yes.

24 Q. Did you help get Mr. Chasse out of the car?

25 A. Yes, I did.

1 Q. What did you do?

2 A. I believe I grabbed him by I believe the
3 front, on his front, and just sort of carried him in
4 along with the other deputies.

5 Q. The question was: Did you help get
6 Mr. Chasse out of the patrol car?

7 A. Yes.

8 Q. How did you help them?

9 A. I can't recall. I just reached into the
10 car. I can't recall how I did it, though.

11 Q. How was Mr. Chasse dressed?

12 A. I can't recall.

13 Q. Was he restrained with handcuffs or anything
14 else when he was in the car?

15 A. He was restrained with handcuffs and rip
16 constraints, yes.

17 Q. And what did you say the last thing was?

18 A. Rip constraints.

19 Q. What's that?

20 A. A hobble, basically a hobble.

21 Q. Where was that placed?

22 A. They're usually placed hands behind the back
23 and then hobble placed on the handcuffs and on the
24 ankles.

25 Q. By that you mean there was some type of

1 restraining device around the ankles and there was a
2 connection between that and the handcuffs?

3 A. Yes.

4 Q. So when he was sitting in the back of the
5 police car --

6 A. He was lying in the back of the police car.

7 Q. He was lying in the back of the police car.

8 Had someone put him down before you opened the door or
9 before the door was opened to get him out?

10 A. I don't know. When I approached to the
11 vehicle he was lying down on the seat when I
12 approached the vehicle I believe.

13 Q. And how was he lying down?

14 A. I can't recall.

15 Q. On his stomach?

16 A. I can't recall.

17 Q. What was he saying or doing in the car, if
18 anything?

19 A. I can't recall.

20 Q. Was he yelling, moaning, anything at all?

21 A. I can't -- I don't even -- honestly don't
22 remember.

23 Q. Did Mr. Chasse ever stand that night?

24 A. Not that I recall, no.

25 Q. In fact, he was pulled out of the car face

1 down and carried to the -- inside the jail; correct?

2 MS. DUNAWAY: Object to form. Go ahead.

3 THE WITNESS: He was carried out of the
4 vehicle, yes.

5 Q. (By Mr. Steenson) Well, he was pulled out of
6 the vehicle; correct?

7 A. Pulled out, not placed on the ground at that
8 time, pulled out of the vehicle, carried into the
9 jail, and placed down.

10 Q. He was pulled out of the vehicle --

11 A. Yes.

12 Q. -- he never hit the ground, he was then
13 carried in face down; correct?

14 A. Yes.

15 Q. Was he screaming or making noise as he was
16 carried into the jail?

17 A. I remember -- according to my report he was
18 kicking and trying to spit at us, I do remember that
19 much.

20 Q. So how do you know he was trying to spit at
21 you if he had a spit sock on?

22 A. You could hear the sound (indicating
23 verbally), making the sounds like he was trying to
24 spit.

25 Q. Do you know whether he was actually having

1 trouble breathing and that was the sound you were
2 hearing?

3 A. I can't -- I don't know.

4 Q. Do you know whether he was actually choking
5 on the blood that was in his mouth?

6 A. I don't know.

7 Q. Has anyone else told you that they thought
8 Mr. Chasse was trying to spit when that spit sock was
9 on his head?

10 A. I don't recall, other than my observations
11 is the only thing I can remember is my observations I
12 thought he was trying to spit.

13 Q. So when did you think he was trying to spit
14 in this process?

15 A. When -- when we were carrying him you could
16 hear him making spitting sounds trying to spit at us.

17 Q. So what you are describing is what you
18 heard, not what you saw?

19 A. What I heard and what I -- yes.

20 Q. Well, what did you see?

21 A. I saw him just (indicating) like this.

22 Q. Well, was this when he was being carried in
23 face down that you saw something?

24 A. Or heard something.

25 Q. Well, I want to make clear. Did you see him

1 do anything, see him do anything that indicated he was
2 trying to spit?

3 A. I did not see anything, no.

4 Q. Okay. So what you're telling me is you
5 heard something that you thought might have been him
6 trying to spit?

7 A. Yes.

8 Q. And do you agree that it might have been him
9 trying to get the blood out of his mouth?

10 A. It could have been.

11 MS. DUNAWAY: Object to form.

12 Q. (By Mr. Steenson) And you agree it might
13 have been him choking on the blood in his mouth?

14 MS. DUNAWAY: Object to form. Go ahead and
15 answer.

16 THE WITNESS: It could have been.

17 Q. (By Mr. Steenson) Okay.

18 A. I'm not --

19 Q. You just don't know?

20 A. I don't know.

21 Q. I'm not sure you told me. Was he screaming
22 or making any other noises than what you've told me
23 you thought might be spitting?

24 A. He was moaning, I remember -- I do remember
25 that much.

1 Q. Okay. Was he moaning when he was laying in
2 the back of the police car or the patrol car?

3 A. I can't recall, no.

4 Q. But he was moaning as he was being carried
5 in?

6 A. I remember hearing him moan when we were
7 carrying him in, yes.

8 Q. Did he moan all the way to the isolation
9 cell?

10 A. I believe so, yes.

11 Q. Have you seen a surveillance tape, a jail
12 tape?

13 A. Yes, I have.

14 Q. How many times have you looked at it?

15 A. Twice.

16 Q. It also had audio?

17 A. Yes.

18 Q. Could you hear any of the words that were
19 being spoken by anyone?

20 A. It was very mumbled. I could not hear any
21 words clearly, no.

22 Q. Well, did you hear anything you thought was
23 a particular word?

24 A. No, I did not.

25 Q. Do you recall that you could hear Mr. Chasse

1 audibly moaning on the tape as he's carried through
2 the booking area into the cell?

3 MS. DUNAWAY: Object to form. Go ahead.

4 THE WITNESS: Yes, I do remember that, him
5 moaning.

6 Q. (By Mr. Steenson) And that's consistent with
7 your recollection of him moaning that night when he
8 was carried in?

9 A. Yes, it is.

10 Q. It says, about six lines down in the
11 narrative, "Chasse who was handcuffed and had rip
12 restraints attached," reading into this, was taken in
13 "to the separation cell No. 1 where we placed him face
14 first on the floor." Correct?

15 A. Yes.

16 Q. What part of him were you carrying?

17 A. I can't recall.

18 Q. Legs or -- or arms?

19 A. I can't recall.

20 Q. You do say in your report that he was trying
21 to bite us. What was he doing that led you to that
22 belief, that he was trying to bite you?

23 A. Doing this (indicating) with his face trying
24 to turn toward us and gnashing his teeth.

25 Q. Okay. Could you see that?

1 A. Yes, I could see when he was turning facing
2 trying to do that.

3 Q. Through the spit sock --

4 A. Yes.

5 Q. -- you could see that?

6 A. Yes.

7 Q. So could you see the blood on his forehead
8 through the spit sock?

9 A. I could see blood, but I can't recall where
10 it was at.

11 Q. Well, could you see the blood coming out of
12 his mouth through the spit sock?

13 A. I could not see any blood -- I can't recall
14 of anything coming out of his mouth, no.

15 Q. But you could see him trying to bite?

16 A. I could see -- I could see him trying to
17 bite, yes.

18 Q. And this is while he's being carried in?

19 A. Yes.

20 Q. And moaning?

21 A. Yes.

22 Q. After he was placed face first on the floor,
23 the handcuffs were removed and the rip restraints were
24 taken off; is that right?

25 A. Yes.

1 Q. You then left the cell; is that right?

2 A. Yes.

3 Q. Before you left the cell, did anyone say I
4 think he stopped breathing or he's having trouble
5 breathing?

6 A. As we were exiting I heard somebody say it
7 looks like he stopped breathing.

8 Q. Okay. Do you remember that being Officer
9 Humphreys?

10 A. I don't recall who said that, no.

11 Q. But it was someone who'd been in the cell --

12 A. Somebody --

13 Q. -- and who had carried Mr. Chasse in?

14 A. Yes.

15 MS. DUNAWAY: Let him finish his question.

16 THE WITNESS: Oh, sorry.

17 Q. (By Mr. Steenson) It says "I called medical
18 staff." Why did you call the medical staff at that
19 point?

20 A. Because when I heard that statement looks
21 like he stopped breathing, that's when I -- when I
22 heard that he's not breathing, that's when I decided
23 to call medical and have them come up and check him
24 out.

25 Q. When someone said that Mr. Chasse had

1 stopped breathing, did either Officer Humphreys or
2 Deputy Burton say this is at least the second time
3 that we think he's stopped breathing?

4 A. I can't recall that, no.

5 Q. So they didn't volunteer that he may have
6 stopped breathing or been unconscious on the street?

7 A. Not that I can remember, no.

8 Q. That night, did either of those officers in
9 your presence or that you could overhear ever say that
10 Mr. Chasse had stopped breathing or he'd been
11 unconscious on the street?

12 A. Not that I recall, no, sir.

13 Q. Did Officer Humphreys that night in your
14 presence or that you overheard ever say Mr. Chasse had
15 been unconscious for 30 seconds to a minute on the
16 street?

17 A. Not that I can recall, no, sir.

18 Q. When you say you called medical staff,
19 how -- how exactly did you do that?

20 A. If I remember right, I believe I went back
21 into the medical office -- medical station back in the
22 back and told them, I believe. I can't -- I'm not
23 really exactly sure, though, how I did it.

24 Q. So you don't know whether you walked back or
25 is there some other way you could have done --

1 A. There's an intercom system we use also. I
2 can't remember which one I used, sir.

3 Q. Can you use the intercom system and still be
4 in the booking area?

5 A. Yes, you can.

6 Q. And if you used the intercom system in the
7 booking area, other officers might have overheard what
8 you had said to the nurses?

9 A. That's entirely possible, yes.

10 Q. What did you say to the nurses?

11 A. I believe I said there's an inmate up front
12 and it looks like he's stopped breathing.

13 Q. And what did they say, if anything?

14 A. I -- they came up front.

15 Q. Let me back up. When I say they, were you
16 speaking to a particular nurse?

17 A. I can't recall which nurse I was speaking
18 to, but I was speaking to a nurse.

19 Q. Okay. And you can't remember what the
20 response was by the nurse, if any?

21 A. No, I can't recall.

22 Q. How long between the time you told the nurse
23 that you thought he'd stopped breathing and the nurse
24 got to the booking area?

25 A. No more than a minute. I --

1 Q. And during that time, do you know whether
2 Mr. Chasse was breathing?

3 A. No, I do not.

4 Q. Was anyone standing at the -- strike that.

5 When you left the cell and someone said they
6 thought he wasn't breathing, somebody closed the cell
7 door?

8 A. Yes, they did.

9 Q. Did you close the door?

10 A. No, I did not close the door.

11 Q. Did the door remain closed then until the
12 nurses got there?

13 A. Yes, it did.

14 Q. And during that time, do you know whether
15 anyone was monitoring Mr. Chasse by looking through
16 the window to the cell door?

17 A. I can't recall, no.

18 Q. Before the nurses arrived, had you heard
19 anyone say that they thought he'd had a seizure?

20 A. Not that I recall, no.

21 Q. Did you ever hear Deputy Hollenbeck say that
22 he thought Mr. Chasse had been in a seizure for ten to
23 15 seconds?

24 A. Not that I recall, no.

25 Q. So when the nurses got to the booking area,

1 what happened?

2 A. Do you mind if I refer to my report?

3 Q. Sure, if you need to.

4 A. They decided that he was too unstable to be
5 booked, that they needed to take him back -- that the
6 officers needed to take him out.

7 Q. Well, let me back up. What did -- what
8 happened, though, what did you see happen or hear
9 happen when the nurses got into the booking area?

10 A. The nurses responded. They looked in the
11 window, and one of the nurses said he's too -- I'm not
12 going to quote her, but he's too unstable to be
13 booked, medically unstable to be booked.

14 Q. And who said that?

15 A. I can't recall which nurse said that.

16 Q. Was she talking to someone?

17 A. She was talking to probably -- talking to
18 all of us who were out there. I'm not sure. There
19 were a lot of people out there.

20 Q. Well, in fact, your report says that when
21 the nurses got there the separation cell was opened.
22 Do you see that?

23 A. Yes, I do.

24 Q. So is that a true statement or an untrue
25 statement?

1 A. That is a true statement.

2 Q. So who opened the separation cell so the
3 nurses could look in?

4 A. I can't recall who opened the cell. I know
5 it wasn't me, but I don't remember who opened it up.

6 Q. And did the nurses then go in and -- and
7 look at Mr. Chasse?

8 A. I believe they did, but I didn't see -- I
9 don't recall. I don't recall.

10 Q. Well, do you just not recall or you remember
11 that they did go in or did not go in?

12 A. I -- I'm sure they did, but I can't say with
13 certainty they did. I can't -- you know, I'm sure
14 they probably did to look at him, but --

15 Q. I understand what you think. But do you
16 recall whether they went in or not?

17 A. No, I can't recall.

18 Q. But you do recall, consistent with your
19 report, that the separation cell was open so the nurse
20 could look at Mr. Chasse?

21 A. Yes.

22 Q. It says "I then went over to transfer."
23 What's transfer?

24 A. Transfer is another office. It's a transfer
25 office, which is right next to the booking area.

1 Q. And that's for -- that's related to
2 transporting individuals to other facilities?

3 A. Yes.

4 Q. And you went over there and got a set of leg
5 irons?

6 A. Leg restraints, yes.

7 Q. Well, it says leg irons in your report.

8 A. Leg irons, leg restraints, same thing.

9 Q. Okay. And why did you do that?

10 A. Because they were going to transport Inmate
11 Chasse out of the facility so we were going to put him
12 back in restraints so they could transport him.

13 Q. Well, who made the decision to put him back
14 in restraints?

15 A. Without knowing for sure, I would -- I don't
16 want -- I don't want to assume, but it'd probably be
17 the sergeant. It's normal policy when they're going
18 to be transported out of a facility like that they're
19 going to be placed in restraints.

20 Q. And who can make that decision?

21 A. Normally it's normally the sergeant that's
22 on duty.

23 Q. Is there a policy or procedure that requires
24 a sergeant to make the decision to put somebody in leg
25 restraints?

1 A. Not that I'm aware. I'm -- I don't know of
2 any, but that doesn't mean there isn't.

3 Q. Okay. Well, that night do you recall
4 someone telling you to go get a set of leg irons?

5 A. Yes.

6 Q. Who told you to do that?

7 A. I can't recall who told me, but I'm sure
8 somebody did. It's just a matter of course.

9 Q. Well, I don't want you to tell me -- or I
10 appreciate you telling me that you're sure you did but
11 I want to know what you remember doing. Do you
12 remember someone that night telling you to go get a
13 set of leg irons?

14 A. No.

15 Q. If I understand your testimony, though, you
16 wouldn't have done that without someone telling you
17 to. Is that right?

18 A. Yes.

19 Q. And then your report says that you, Deputy
20 McElhaney, and Deputy Hollenbeck went back into the
21 cell, put the leg irons on, and another deputy applied
22 the handcuffs. Is that Deputy Burton who applied the
23 handcuffs?

24 A. I don't recall.

25 Q. Who took the handcuffs off in the first

1 place?

2 A. Can I refer to my report?

3 Q. Sure.

4 A. Thank you.

5 According to my report, I handed an officer,
6 the Portland Police Bureau officer, my handcuffs key
7 and he removed the handcuffs.

8 Q. So the handcuff key you have -- had was
9 interchangeable and could be used on another set of
10 matching handcuffs?

11 A. Yes.

12 Q. Was it the same set of handcuffs that were
13 put back on or do you know?

14 A. I don't recall.

15 Q. When the leg irons were put on and
16 Mr. Chasse was handcuffed, were the leg irons and the
17 handcuffs attached in some way?

18 A. Not that I recall, no.

19 Q. And how was Mr. Chasse carried out of the
20 cell?

21 A. I believe we lifted him up. I had his legs
22 and I can't remember who was on his front, and we just
23 lifted him out of the sep cell and carried him out to
24 the -- carried him out to the car.

25 Q. Face down again?

1 A. Yes, face down, yes.

2 Q. And do you recall that he was moaning as he
3 was being carried out?

4 A. He was still moaning, he was trying to kick
5 with his legs as we were carrying him out.

6 Q. When he was laying on the cell floor face
7 down, was he moaning then?

8 A. Yes, I believe he was.

9 Q. As loud as when he was being carried in and
10 out?

11 A. He was moaning pretty much the whole time
12 from the time he came in to the time he left.

13 Q. Did it sound like a moan of pain to you?

14 A. It sounded like a moan. Whether it was pain
15 or not I -- I don't know.

16 Q. So when he was in the cell and the door was
17 closed, could you hear him moaning?

18 A. Yes, you could.

19 Q. Was he moaning when the nurses were there?

20 A. I can't recall, no.

21 Q. How was Mr. Chasse placed in the patrol car?

22 A. He was placed on the seat, on the back seat.

23 Q. Well, how did he get into the car?

24 A. We placed him into the car.

25 Q. Shoved him in?

1 A. We placed him in. Not shoved him in, just
2 placed him in.

3 Q. Pulled him in, shoved him in? How did he
4 get in?

5 A. I can't recall. We put him in. We just put
6 him in the car. I can't recall how we did it, but we
7 got him into the car. It wasn't pushed or forced or
8 anything like that. He was put into the car.

9 Q. He was laying on the seat again?

10 A. I believe he was laying on the seat, yes.

11 Q. On his side face down do you recall?

12 A. I can't recall.

13 Q. Were the doors to the car then closed?

14 A. The doors were then closed, yes.

15 Q. And you went back into the sallyport?

16 A. Went back into the facility, yes.

17 Q. Or back into the facility, I'm sorry.

18 A. Yes.

19 Q. The patrol car was still parked when you
20 went back in?

21 A. Yes, it was.

22 Q. Did Mr. Chasse's moaning increase in volume
23 when he got out into the sallyport?

24 A. Not that I can recall, no.

25 Q. So I'm clear, it may have, you just

1 can't recall?

2 A. I can't --

3 MS. DUNAWAY: Object to form.

4 THE WITNESS: -- recall.

5 Q. (By Mr. Steenson) So the record's clear --
6 Did you get the answer?

7 THE REPORTER: Yes.

8 MR. STEENSON: All right.

9 Q. (By Mr. Steenson) Did you ever see Officer
10 Humphreys have any booking papers in his hands?

11 A. Not that I recall, no. I can't recall
12 whether he did or didn't.

13 Q. When you looked at the jail tape, do you
14 recall there was a portion in there after the nurses
15 had left where Officer Humphreys is sort of standing
16 with his back to the booking counter and he tries to
17 hand some papers over to someone, I think maybe you?
18 Do you recall that?

19 A. No, I don't recall that.

20 Q. So you never saw him try to hand booking
21 papers or what may have looked like booking papers to
22 anyone?

23 A. I can't recall, no.

24 Q. Do you remember Officer Humphreys talking
25 about what had happened on the street between him and

1 Deputy Burton and Mr. Chasse?

2 A. Not that I recall, no. I'm sure he probably
3 did, but I can't recall what he said.

4 Q. Well, you never left the booking area during
5 the time Mr. Chasse was there, except for maybe when
6 you went to see the nurses and when you went to get
7 the leg irons; correct?

8 A. That's correct.

9 Q. Okay. And there were other times you were
10 there you don't recall Officer Humphreys and Deputy
11 Burton talking about what happened on the street?

12 A. Not that I recall, no. I can't recall what
13 they said if they said anything. I can't recall what
14 they said.

15 Q. Well, do you recall that Officer Humphreys
16 said that Mr. Chasse had been peeing on himself or
17 peeing in the street, something like that?

18 A. I can't recall.

19 Q. Do you remember that Officer Humphreys said
20 that he'd tackled Mr. Chasse on the street?

21 A. I don't remember that, no.

22 Q. Do you remember that he said that Mr. Chasse
23 had fallen hard to the ground?

24 A. I don't remember that, no.

25 Q. Did either Officer Humphreys or Deputy

1 Burton tell anyone that you either heard or learned
2 about that Mr. Chasse had been Tasered on the street?

3 A. I don't recall, no. I don't remember him
4 saying anything like that.

5 Q. Did anyone that night tell you or in your
6 presence did you hear that Mr. Chasse had been struck
7 in the face by Officer Humphreys with a forearm?

8 A. I don't remember that, no.

9 Q. Did anyone tell you that night or in your
10 presence did you hear that Mr. -- Officer Humphreys
11 had struck Mr. Chasse with his fist at least once and
12 maybe twice in the face?

13 A. I don't remember that, no. I don't recall
14 any of that.

15 Q. Did anyone tell you or in your presence that
16 night that Officer -- excuse me, Deputy Burton had
17 struck Mr. Chasse with his fist?

18 A. I don't remember.

19 Q. So that night did you hear anything from
20 anyone about fists, feet, knees, elbows, forearms, any
21 type of force like that being used against Mr. Chasse
22 when he was on the street?

23 A. I don't remember any of that being said.

24 Q. Do you recall whether the nurses discussed,
25 either one of them, seeing Mr. Chasse have what looked

1 to be a five-second seizure?

2 A. I don't remember that, no.

3 Q. Did you see Mr. Chasse fall onto the floor
4 of the patrol car at any time?

5 A. No, I did not.

6 Q. When you went back in to put the leg irons
7 on Mr. Chasse, was he still laying on his stomach face
8 down?

9 A. I believe he was, yes. I don't recall
10 whether he was or wasn't, but I believe he was.

11 Q. Okay. Did you notice anything about
12 Mr. Chasse's skin color that night?

13 A. No, I didn't notice anything.

14 Q. Did you notice anything, any sign of injury
15 or trauma other than the blood you've described
16 someplace on the face?

17 A. No, I don't.

18 Q. So if Mr. Chasse had chafing around the
19 wrists or the ankles or sores or other signs of
20 injury, you didn't see any of that?

21 A. I don't recall any, no.

22 Q. Kristin Moore was the intake floor control
23 post deputy that night and she's completed an
24 information report that indicates that she learned
25 from the police before Mr. Chasse got to the sallyport

1 that Mr. Chasse seemed to have a lot of drugs on
2 board. Did anyone tell you that that night?

3 A. Not that I recall, no.

4 Q. Was there any discussion that you recall
5 that night about drugs associated with Mr. Chasse,
6 whether he was under the influence or had drugs in his
7 possession?

8 A. Not that I remember or recall, no.

9 Q. While you were in the booking area or in the
10 cell that night or in the sallyport, did you hear
11 anyone laughing?

12 A. Not that I recall, no.

13 Q. Well, had anything happened during the time
14 Mr. Chasse was there that was funny that you can
15 recall?

16 A. Not that I recall, no.

17 Q. Well, as an example, do you remember someone
18 asking Officer Humphreys where he was going to take
19 Mr. Chasse, Officer Humphreys saying something, and
20 then everyone starts laughing?

21 A. Not that I remember, no.

22 Q. Do you remember anyone laughing about how
23 Mr. Chasse smelled?

24 A. I know there was some comments made about
25 his smell, but I don't remember who made them, no.

1 Q. What were the comments?

2 A. That he smelled really bad. I -- I couldn't
3 smell him. I couldn't smell anything. But apparently
4 somebody said he smelled really bad.

5 Q. So when you put the leg irons on, you
6 didn't -- you couldn't smell him?

7 A. I don't recall any bad smell or anything,
8 no.

9 Q. Did anyone say something to the effect that
10 Mr. Chasse had thrown up in the cell?

11 A. Not that I remember, no.

12 Q. Did you ever see any blood on the cell
13 floor?

14 A. Not that I recall, no.

15 Q. Did you ever hear Mr. Chasse say water or
16 river or I want some water or take me to the river,
17 anything like that?

18 A. Not that I recall, no.

19 Q. When you went to get Mr. Chasse out of the
20 patrol car, do you remember whether he said anything
21 like don't touch me?

22 A. Not that I remember, no.

23 Q. That night when Mr. Chasse was at the jail,
24 did anyone say or do anything expressing any sympathy
25 for Mr. Chasse?

1 A. Not that I remember, no. I can't recall
2 anybody saying anything.

3 Q. Do you remember whether Mr. Chasse ever said
4 anything about wanting to go to the hospital?

5 A. I don't recall anything being said like
6 that.

7 Q. Do you remember anyone saying that they
8 wanted Mr. Chasse or wished Mr. Chasse would shut up
9 or words to that effect?

10 A. Not that I recall, no.

11 Q. Do you remember Officer Humphreys spelling
12 Mr. Chasse's name and giving his address on N.W.
13 Broadway to some deputy, some corrections deputy, in
14 the booking area?

15 A. Not that I recall, no.

16 Q. Well, to your knowledge, did anyone in the
17 booking area that night record Mr. Chasse's name and
18 his address on N.W. Broadway?

19 A. Not that I can recall, no.

20 Q. Well, in your information report you list
21 the involved person as being James Chasse. How did
22 you get the name to put in the report?

23 A. Probably from the -- they probably told us
24 his name when he came in is where we got it.

25 Q. Well, when you say you got it, do you mean

1 from one of the officers who brought him in?

2 A. Probably one of the officers or maybe they
3 might have called ahead and told us what his name was.
4 I can't recall, though.

5 Q. Okay. But you didn't get it later from any
6 source?

7 A. Not that I can recall, no.

8 Q. Well, so did somebody write down
9 Mr. Chasse's name and that's how you got it to
10 complete the report?

11 A. Not that I can recall, no.

12 Q. Well, how did you get the name?

13 A. I don't remember how I got the name.

14 Q. In your information report where it says ID
15 number, box No. 6, right-hand side of the page?

16 A. Yes.

17 Q. What's the ID number refer to?

18 A. That's -- when they're booked into jail that
19 is their jail ID number when they're booked in.

20 Q. And you wrote none because he wasn't booked
21 in?

22 A. He had not been booked in.

23 Q. Did you hear Officer Humphreys say something
24 to the effect that Mr. Chasse had given a vicious look
25 to him before he took off?

1 A. No, I don't remember that.

2 Q. Do you remember Officer Humphreys or Deputy
3 Burton describing what had happened on the street
4 being near the Blue Hour?

5 A. No, I don't remember any of that.

6 Q. Do you remember Deputy Burton demonstrating
7 by putting his hands out like he was reaching around
8 Mr. Chasse how Officer Humphreys tackled Mr. Chasse?

9 A. No, I do not recall that.

10 Q. Was there any discussion that night that you
11 can recall about something that happened the night
12 before, where somebody brought that up and either
13 Officer Humphreys or Deputy Burton said that we don't
14 want to talk about that or we're not going to go there
15 or words to that effect?

16 A. No, I do not recall any of that being said.

17 Q. And do you recall someone that night saying
18 something to the effect that Mr. Chasse had brown shit
19 coming out of his nose?

20 A. No, I do not.

21 Q. Nothing like that?

22 A. No, I don't recall anything like that being
23 said.

24 Q. That's all I have. Thank you.

25 (The deposition concluded at 1:43 PM.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF CLARK)

I, Shannon K. Krska, a Certified Shorthand Reporter for Oregon, do hereby certify that, pursuant to stipulation of counsel for the respective parties hereinbefore set forth, PHILIP A. HUBERT, III, personally appeared before me at the time and place set forth in the caption hereof; that at said time and place I reported in Stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were reduced to typewriting under my direction; and that the foregoing transcript, pages 3 to 41, both inclusive, constitutes a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

Witness my hand and CSR stamp at Vancouver, Washington, this 1st day of February, 2008.

Shannon K. Krska

Shannon K. Krska
Certified Shorthand Reporter
Oregon CSR No. 90-0216