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Date _____

PORTLAND POLICE BUREAU
INTERNAL AFFAIRS DIVISION
Confidential Investigative Report
Investigator MICHAEL BARKLEY #8570

*MRB #8570
06/14/2009*

Date: June 11, 2009
IAD #: 2008-B-0039
Comp: Portland Police Bureau

CITIZENS INTERVIEWED:

1. None

BUREAU MEMBERS INTERVIEWED:

	OFFICER	DPSST	ASSIGNMENT	CATEGORY	ALLEGATION(S)
1.	Officer CHRISTOPHER HUMPHREYS	32784	Transit Police Division	Conduct	#1
2.	Officer BRET BURTON	43860	Transit Police Division	<i>Witness</i>	

APPLICABLE DIRECTIVES:

1. 310.00: Conduct, Professional
2. 310.50: Truthfulness
3. 330.00: Internal Affairs Complaint Investigation Process- Members Responsibilities

ALLEGATIONS:

1. **Officer HUMPHREYS** may have been untruthful regarding the use of physical force involving **Mr. JAMES CHASSE** on September 17, 2006, previously investigated as I.A.D. Case #2006-B-0016.

INCIDENT OVERVIEW:

On Sunday, September 17, 2006 **Officer CHRISTOPHER HUMPHREYS** and **Deputy BRET BURTON** were involved in a foot pursuit of **Mr. JAMES CHASSE** in the 1300 block of N.W. Everett Street. The foot pursuit was terminated when **Officer HUMPHREYS** forced **Mr. CHASSE** to the sidewalk. The contact resulted in **Officer HUMPHREYS** falling to the sidewalk with **Mr. CHASSE**.

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A physical confrontation occurred between **Mr. CHASSE, Officer HUMPHREYS, Deputy BURTON** and **Sergeant KYLE NICE**. The Portland Fire Bureau and American Medical Response paramedics checked **Mr. CHASSE** and released him to be transported to the Multnomah County Detention Center (M.C.D.C.). **Mr. CHASSE** was refused admittance to M.C.D.C. While **Mr. CHASSE** was being transported by **Officer HUMPHREYS** and **Deputy BURTON** to Portland Adventist Hospital, **Mr. CHASSE** experienced breathing problems. As a result, **Mr. CHASSE** passed away while en route.

Following the In-Custody Death of **Mr. CHASSE, Officer HUMPHREYS** and **Deputy BURTON** were interviewed by Detectives (Case #2006-084962), testified before the Multnomah County Grand Jury, were interviewed by the Internal Affairs Division (Case #2006-B-0016) and provided deposition testimony before **Mr. TOM STEENSON, CHASSE** family attorney. During the listed interviews and deposition testimony, **Officer HUMPHREYS** stated he "pushed" **Mr. CHASSE** to the sidewalk and did *not* tackle him. **Sergeant NICE** and a number of witnesses described the contact between **Officer HUMPHREYS** and **Mr. CHASSE** as a "tackle."

While **Officer HUMPHREYS** and **Deputy BURTON** were inside the booking/processing area of the Multnomah County Detention Center, they were recorded on a video, which included an audio recording. The original recording was unclear as to what **Officer HUMPHREYS** and **Deputy BURTON** were stating. **Mr. STEENSON** had the visual/audio recording "enhanced." As a result, two events occurred nearly simultaneously: **Deputy BURTON** made a bear type hug with both arms, possibly indicating a tackle (**Recording Time: 18:14:48 hours**); followed by **Officer HUMPHREYS'** stating "We tackled him" (**Recording Time: 18:14:50 hours**).

As a result of the enhanced DVD, a criminal investigation was conducted to determine whether **Officer HUMPHREYS** committed perjury and/or official misconduct. On February 4, 2009 **Officer HUMPHREYS** was interviewed by **Detective Sergeant RICH AUSTRIA** regarding the video recording and his statement "We tackled him." **Deputy District Attorney CHRISTINE MASCAL** prepared a Memorandum dated May 4, 2009, in which she wrote "prosecution should be declined." **District Attorney MICHAEL SCHRUNK** prepared a letter dated May 5, 2009, in which he wrote "I have accepted **Ms. MASCAL's** recommendation and there will be no further action by this office unless new events should warrant it."

INVESTIGATIVE NARRATIVE:

Officer CHRISTOPHER HUMPHREYS:

On February 4, 2009 **Officer HUMPHREYS** was interviewed by **Detective Sergeant RICH AUSTRIA** regarding a DVD video recording on September 17, 2006 at the booking/processing

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area within the Multnomah County Detention Center. Specifically, **Officer HUMPHREYS** was asked to explain his statement “We tackled him” and to clarify his use of the word “tackled.”

Officer HUMPHREYS stated he had reviewed the DVD video, but he had not reviewed the Portland Tribune videotape with captions. **Officer HUMPHREYS** stated “I’ve reviewed the tape that I saw, I can’t detect clearly if anyone used the word tackle.” (TRANSCRIPT: page 2)

Officer HUMPHREYS stated he did not recall making the statement prior to or after reviewing the video.

Regarding **Officer HUMPHREYS**’ “tackled” statement, he responded:

AUSTRIA: “Would there be, could you explain maybe why you would’ve said something like that or what you may have meant by saying something like that?”

HUMPHREYS: “If I used the word “tackled,” on the jail video or any other setting, um it was simply meant as a characterization of the way that I caused **Mr. CHASSE** to go down to the ground, um, by knocking him off balance, by using my forearms.”

AUSTRIA: “Okay.”

Humphreys: “You know general characterization versus an explanation within context at the time.”

(TRANSCRIPT: page 3)

Officer HUMPHREYS described his communication at the Multnomah County Detention Center as “banter.” (TRANSCRIPT: page 4) **Officer HUMPHREYS** stated he did not recall whether he used the word “tackle” when he testified before the Grand Jury. **Officer HUMPHREYS** stated he did not recall using the word “tackle” when he was interviewed by Detectives or during his deposition with **Mr. STEENSON**.

Officer HUMPHREYS provided his meaning/definition of “tackled” and whether he tackled **Mr. CHASSE**:

AUSTRIA: “Let me ask you, what did you, what would be your definition of “tackled?”

HUMPHREYS: “Um, I guess, I mean there could be multiple, it’s really within the context of how it’s being used. It could be I mean like an open field tackle. It could be somebody wrapping up and taking the person down or on an open field tackle.”

(TRANSCRIPT: page 5)

AUSTRIA: “Okay and I know by reviewing your deposition, and the interviews, that’s kind of the way you described to **Mr. STEENSON** your definition of tackling is wrapping up and taking

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- him down.”
- HUMPHREYS:** “That’s correct in that specific yes, in that specific environment when we were talking about exact details, yes, that’s correct.”
- AUSTRIA:** “Okay so when asked that question by **Mr. STEENSON**, you said, that’s not what I did. I didn’t, based on that definition, I did not tackle him.”
- HUMPHREYS:** “That’s correct, yes.”
(TRANSCRIPT: pages 5 – 6)
- AUSTRIA:** “So the only, the only area that you may have said that you tackled him from what we can tell is that, that video um, from down in jail?”
- HUMPHREYS:** “That’s correct.”
(TRANSCRIPT: page 6)

Officer BRET BURTON:

On Monday, June 8, 2009 **Officer BURTON** was interviewed. The interview was **32 months** following the incident involving **Mr. JAMES CHASSE** on September 17, 2006. Other persons present during the interview were **Sergeant SCOTT WESTERMAN**, P.P.A. President, **Mr. MICHAEL STAROPOLI**, P.P.A. attorney, and **Ms. SUSAN DUNAWAY**, Multnomah County counsel. Prior to the interview, all parties reviewed the listed items with regards to **Officer BURTON:**

1. “Internal Affairs Division Worksheet,” up-dated on June 2, 2009
2. Multnomah County Sheriff’s Office “Continuation Report”
3. Portland Police Bureau Detective Division “Confidential Taped Statement Transcription,” dated September 19, 2006
4. Portland Police Bureau Internal Affairs Division “Confidential Taped Statement,” dated May 8, 2008
5. The “enhanced” version of a DVD recording from September 17, 2006 in the booking/processing area at the Multnomah County Detention Center

The first issue addressed at the very beginning of the interview was whether **Officer BURTON** had any contact with **Officer HUMPHREYS** since receiving his Internal Affairs Division interview notice on Tuesday, June 2, 2009. **Officer BURTON** stated he “bumped” into **Officer HUMPHREYS** on Friday and mentioned he had an Internal Affairs Division interview regarding the video tape. **Officer BURTON** stated the conversation was “very general.”

Officer BURTON was asked to explain a motion with both of his arms shown on the “enhanced” DVD recording:

BARKLEY: “Referring to the DVD recording at MCDC at approximately **18:14:48 hours**, you made a motion with both of your arms which appears to be a bear type hug, which would indicate a tackle. Please explain what your arm motions represented.”

BURTON: “Uh, I don’t remember making the motion. I’ve seen it on the video and I don’t really remember, uh, what that motion was meant to indicate specifically, uh, some sort of collision.”
(TRANSCRIPT: page 2, lines 74 – 79)

BARKLEY: “Okay, so after reviewing the DVD, what would be your explanation of why it is that you made what appeared to be a bear type hug which would indicate a tackle?”

BURTON: Um, I wouldn’t characterize it as a bear type hug. It just looks like I hit my hands together.
(TRANSCRIPT: page 2, lines 82 – 85)

Officer BURTON was asked to explain his arm motions, which was followed two (2) seconds later by **Officer HUMPHREYS’** statement “We tackled him”:

BARKLEY: “What we reviewed on the DVD was at 1814:48 hours, you make the motion with both of your arms that appears to be a bear type hug or a tackle, which is followed at **18:14:50 hours**, two seconds later, where Officer HUMPHREYS stated we tackled him. Do you recall Officer HUMPHREYS making the statement at the time that you were in jail that we tackled him?”

BURTON: “Uh, I don’t remember until I saw the tape, uh, the enhanced version of the tape. I don’t clearly independently recall the conversation.”

BARKLEY: “So, at the time that you were in the jail...”

BURTON: “Uh-huh.”

BARKLEY: ...you’re saying you don’t recall him saying, we tackled him.”

BURTON: “Yeah, I don’t remember most of that conversation.”

BARKLEY: “Do you agree with Officer HUMPHREYS’ statement quote, we tackled him?”

BURTON: “No. Well, it’s a very generalized term, very general statement made, uh, during, uh, some casual banter at the Booking Facility. Um, so I don’t know, that’s what CHRIS said and that’s what he said.”

(TRANSCRIPT: pages 2 – 3, lines 90 – 104)

Officer BURTON was asked if **Officer HUMPHREYS’** statement “We tackled him” was an accurate description of what occurred to force **Mr. CHASSE** to the sidewalk:

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BURTON: "Um, all I can say is what I remember and that's it. Uh, we were both running after Mr. CHASSE, uh, Officer HUMPHREYS was in front of me. And they both, they collided, they went to the ground, um, and that's about as accurate as I could possibly be."

(TRANSCRIPT: page 3, lines 107 – 110)

Regarding whether **Officer HUMPHREYS** ever described to anyone, aside from his statement recorded on the video, him tackling **Mr. CHASSE**:

BARKLEY: "Aside from Officer HUMPHREYS' statement, we tackled him, did Officer HUMPHREYS ever describe to you or to anyone in your presence the manner in which Mr. CHASSE was forced to the sidewalk as a tackle? And that's aside from what you saw in the tape. So we clearly know that Officer HUMPHREYS said in the tape, we tackled him, aside from that particular incident, do you, are you aware of any other time that Officer HUMPHREYS has told anyone that you're aware of that Mr. JAMES CHASSE were tackled?"

BURTON: "No."

BARKLEY: "Was Mr. JAMES CHASSE tackled or pushed to the sidewalk by Officer HUMPHREYS?"

BURTON: "I don't know."

(TRANSCRIPT: page 4, lines 141 – 151)

INVESTIGATOR COMMENTS:

The Internal Affairs Division Case #2008-B-0039 was opened on October 31, 2008. However, no action was taken by the Internal Affairs Division while the criminal investigation was pending. On May 27, 2009 the case was re-assigned to me for investigation.

Officer HUMPHREYS was not re-interviewed by the Internal Affairs Division. **Captain DAVID FAMOUS**, Internal Affairs Division, talked with **Director LESLIE STEVENS**, Office of Accountability and Professional Standards, whether an additional interview was necessary. It was decided **Officer HUMPHREYS'** taped statement on February 4, 2009 to **Detective Sergeant RICH AUSTRIA** was sufficient.

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EXHIBITS:

1. Proposed Questions for **Officer BRET BURTON**
2. Digital Recording and Transcript of **Officer BRET BURTON's** Statement dated June 8, 2009
3. Digital Recording and Transcript of **Ms. SUSAN DUNAWAY**, Multnomah County counsel dated June 2, 2009
4. Transcript of **Officer CHRISTOPHER HUMPHREYS'** Statement to **Detective Sergeant RICH AUSTRIA** dated February 4, 2009
5. Special Report prepared by **Detective Sergeant RICH AUSTRIA** dated February 9, 2009
6. "Enhanced" DVD Recordings from September 17, 2006 at the Multnomah County Detention Center
7. "Internal Affairs Division Worksheet," up-dated on June 2, 2009
8. Multnomah County Sheriff's Office "Continuation Report" regarding **Officer BRET BURTON**
9. Portland Police Bureau Detective Division "Confidential Taped Statement Transcription," of **Officer BRET BURTON** dated September 19, 2006
10. Portland Police Bureau Internal Affairs Division "Confidential Taped Statement," of **Officer BRET BURTON** dated May 8, 2008

I.A.D. Case #2008-B-0039 investigation completed on Sunday, June 14, 2009