

05/06/2009 16:04

Received: City Attorneys Office Fax:503-823-3000 May 6 2009 03:41pm P001/005  
May 6 2009 03:40pm

=== COVER PAGE ===

TO: \_\_\_\_\_

FROM: PPB CHO FAX

FAX: 8230342

TEL: 8230000

COMMENT:

*Please deliver to  
Jim Rice*



**MICHAEL D. SCHRUNK**, District Attorney for Multnomah County

1021 SW Fourth Avenue • Room 600 • Portland, OR 97204-1193

Phone: 503 988-3162 • Fax: 503 988-3643 • [www.co.multnomah.or.us/da/](http://www.co.multnomah.or.us/da/)

May 5, 2009

Rosanne Sizer, Chief of Police  
Portland Police Bureau  
1111 S.W. 2nd Avenue  
Portland, Oregon 97204

James Rice  
City Attorney's Office  
1221 S. W. 4<sup>th</sup> Ave. Suite 430  
Portland, Oregon 97204

Tom Steenson  
Steenson, Shumann, et al.  
815 S. W. 2<sup>nd</sup> Ave., Suite 500  
Portland, Oregon 97204

Steven Myers  
The Myers Law Firm  
7307 S. W. Capitol Hwy  
Portland, Oregon 97219

Good people:

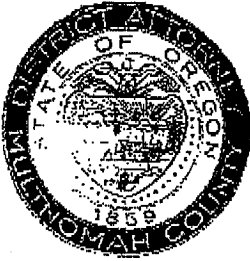
Attached you will find a summary of the investigation conducted by Deputy District Attorney Chris Mascal and Detective Sergeant Rich Austria of the Portland Police Bureau. I have accepted Ms. Mascal's recommendation and there will be no further action by this office unless new events should warrant it.

Very truly yours,

*Michael D. Schrunk*  
MICHAEL D. SCHRUNK  
District Attorney

MDS:plc  
Enclosure

REC'D  
CHIEF'S OFFICE  
09 MAY -6 PM 3:12



## Michael D. Schrunk, District Attorney

1021 SW Fourth Avenue, Room 600

Portland, OR 97204-1193

Phone: 503-988-3162 Fax: 503-988-3643

www.mcda.us

### MEMORANDUM

To: Michael Schrunk

From: Christine Mascal

cc: Norman Frink

Date: May 4, 2009

Subject: James Chasse / Officer Christopher Humphreys

On September 17, 2006, James Chasse Jr. died while in police custody following his arrest for suspicion of urinating in public. PPB Officer Christopher Humphreys, PPB Sgt. Kyle Nice and MCSO Deputy Bret Burton apprehended Chasse in NW Portland after a short foot pursuit. Physical contact between Humphreys and Chasse occurred during the pursuit, landing them both on the ground. Nice and Burton arrived immediately thereafter and helped Humphreys subdue Chasse, who continued to be physically resistant and combative with the officers.

American Medical Response (AMR) was dispatched to the arrest site to evaluate Chasse. After paramedics cleared Chasse for any medical concerns he was transported to the Multnomah County jail and placed in a holding cell. A short time later a nurse requested that Chasse be taken to the hospital after he displayed seizure-like symptoms. Officer Humphreys and Deputy Burton placed Chasse back into their patrol car and started for the hospital. Chasse died en route. The medical examiner deemed that the death was caused by accidental broad-based, blunt force trauma to the chest.

Thirty witnesses were called to testify before the grand jury, including all three involved officers. At the request of the Chasse family lawyer, Tom Steenson, Dr. William Brady also testified. On October 17, 2006, the grand jury unanimously voted against any criminal wrongdoing.

The Chasse family is currently involved in a federal civil lawsuit against the officers, AMR, MCSO and the City of Portland. In various press releases covering the civil lawsuit, plaintiff's attorney made allegations that Officer Humphreys was untruthful in the criminal investigation. As a result of those allegations, this office opened a subsequent criminal investigation as to whether Officer Humphreys committed perjury or official misconduct in the course of the original case.

May 04, 2009

PPB Detective Rich Austria conducted the investigation. In doing so, he interviewed Officer Humphreys, analyzed jail video and audio recordings and reviewed depositions of various witnesses and parties involved in the civil lawsuit. The course and content of Detective Austria's interview with Officer Humphreys was disclosed to plaintiff's attorney (Tom Steenson) with an invitation to identify other evidence that may be useful in the inquiry. On February 25, 2009, Mr. Steenson wrote that the Chasse family is "declining your invitation to provide specific evidence of which your office may not be aware that supports the conclusion that Officer Humphreys committed a crime when he has repeatedly lied about he 'shoved' Mr. Chasse down as opposed to 'tackling' him." In his letter, Mr. Steenson commented that deposition testimony developed in the civil litigation could be obtained from the City of Portland.

City Attorney James Rice provided deposition transcripts of several MCSO witnesses after our request for any further pertinent information. [In December 2008, Mr. Rice had previously sent our office portions of Humphreys' depositions, an enhanced jail video DVD and photographs of Humphreys taken in September 2006]. Detective Austria found no information in the depositions conducted by Mr. Steenson that would substantiate criminal charges against any of the involved law enforcement officers.

On April 25, 2009, I sent a written invitation to the concerned parties for submission of final input and suggestions regarding additional avenues of inquiry. The only response received was a letter from Mr. Myers indicating that he has nothing to add to our investigation.

Summary of material reviewed:

- Original interview of Christopher Humphreys (9/20/06)
- Deposition of Christopher Humphreys (1/8/08)
- 2<sup>ND</sup> deposition of Christopher Humphreys (7/11/08)
- Subsequent interview of Christopher Humphreys (2/4/09)
- Photographs of Christopher Humphreys hands (9/17/06)
- Original interview of Kyle Nice (9/18/06)
- Original interview of Bret Burton (9/19/06)
- Deposition of Bret Burton (1/9/08)
- MCSO personnel depositions (present during jail booking video):
  - Thomas Hollenbeck (1/23/08)
  - Judith May (1/17/08)
  - Martin McElhaney (1/24/08)
  - Kathleen Martinez (1/24/08)
- Original jail booking video
- Enhanced jail booking video
- Tribune copy of jail booking video (footer captioned)

The submitted material was compared with the information that Christopher Humphreys gave to the detectives and the grand jury. After careful review of Humphreys' use of the word "tackle" and explanation of how he and James Chasse landed on the ground, we can not conclude that such use of the word or added description was intended to deceive or mislead the

May 04, 2009

grand jury or the investigators. The evidence is not tantamount to the legal standard or definition of the crimes of perjury or official misconduct. *Perjury*, as defined in ORS 162.065, requires that a person make a false sworn statement in regard to a material issue, knowing the statement is false. The elements for *Official Misconduct*, defined in ORS 162.415, are that a public servant fails to perform a duty (or performs and unauthorized act) with the intent to obtain a benefit. Various witnesses described the arrest of James Chasse in a myriad of ways. The jail booking recordings are not in sharp contrast to Humphreys' later description of events to investigators and later under oath to the grand jury. What is clear is that Humphreys' use of the word "tackle" differs from plaintiff counsel's definition and use of the word.

Because we are unable to substantiate the elements for perjury or official misconduct as defined in the criminal code, prosecution should be declined.