



CITY OF PORTLAND, OREGON



9-15-08

Bureau of Police

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DATE: August 26, 2008

TO: Captain John Tellis
Internal Affairs Division
(Through Channels)

FROM: Commander Donna Henderson *[Signature]*
North Precinct

SUBJECT: IAD Findings 2006-B-0016 In-Custody Death
Sergeant Kyle Nice #26853
Officer Chris Humphreys #32784

I have reviewed the case files from Homicide and IAD as well as the Training Division's analysis of this in-custody death. I have also reviewed City Code, ORS and Bureau of Police policy and procedures and based on the listed information the following is my analysis and findings:

Relevant City Codes:

1.01.140 Violations - Penalty.

It is unlawful for any person to violate any provision or to fail to comply with any requirement of this Code. Any person violating any provision or failing to comply with any requirement of this Code, unless provision is otherwise made herein, shall upon conviction thereof, be punished by a fine of not more than \$500, or by imprisonment for a period of not more than 6 months, or by both such fine and imprisonment. However, no greater penalty shall be imposed than the penalty prescribed by the Oregon statute for the same act or omission. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and may be punished accordingly. In addition to the penalties herein above provided, any condition caused or permitted to exist in violation of any provision of this Code is a public nuisance and may be summarily abated by the City as authorized by this Code. In addition, property shall be forfeited and City license may be suspended or revoked as provided in this Code.

3.20.110 Duties of Police Force.

The police force of the City shall at all times of the day and night within the boundaries of the City preserve the public peace, prevent crime, arrest offenders, protect rights of persons and property, guard the public health, preserve order, remove nuisances existing in streets, roads, public places, and highways, report all leaks and other defects in water pipes and sewers, and street lights not burning to the proper authorities, provide a proper force at every fire in order that thereby the firemen and property may be protected, protect strangers and travelers at the steamboat and ship landings and railroad stations, and generally obey and enforce all ordinances of the City Council and criminal laws of the State and of the United States.

14A.40.030 Indecent Exposure: It is unlawful for any person to expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex.

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I find that the Foot Pursuit initiated by Officer Humphreys and the subsequent push by Officer Humphreys is IN POLICY with a DEBRIEFING.

The crux of this case hinges on Officer Humphreys justification for chasing Mr. Chasse. Training's analysis states that urinating in public is not a crime and therefore is not a reason to initiate a foot pursuit and deploy the knock-down technique. Even though urinating in public is a class B misdemeanor under City Code 14A.40.030 I agree that it would be egregious to knock someone to the ground simply because they were urinating. I do not believe that Officer Humphreys chased Mr. Chasse simply because he urinated. Officer Humphreys has worked downtown many times and when working downtown you see people urinating. 99% of the time you contact the person that person says they are sorry, had to go, won't do it again and they walk away. Due to Mr. Chasse's behavior before and after is what caused this particular event to be different, it got the Officer's attention. Officer Humphreys reasonably believed that a crime was committed (**14A.40.030 Indecent Exposure: It is unlawful for any person to expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex**) and because of Mr. Chasse's behavior Officer Humphreys believed that Mr. Chasse was involved in something more.

- Officers Humphreys and Burton observed Mr. Chasse prior to the foot chase stiff legged and rocking back and forth and carrying a back pack.
- When Mr. Chasse observed the officers, he immediately walked east bound away from the officers. Officer Humphreys' perception was that Mr. Chasse was trying not to attract attention to himself while leaving as quickly as he could to avoid the police.
- Nine minutes later as Officers Humphreys and Burton were leaving the area where they were covering Sgt. Nice, they see Mr. Chasse again this time near a tree with his back towards the officers and it appeared as if he was urinating in public. City Code Crime (**14A.40.030 Indecent Exposure: It is unlawful for any person to expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex.**)
- Officer Humphreys wanted to talk to Mr. Chasse because he believed at the very least Mr. Chasse shouldn't be walking the streets because he was either extremely drunk or on drugs.
- Officer Humphreys notices that Mr. Chasse bent over by a tree and has a large wet spot on his pants reinforcing the belief that Mr. Chasse had been urinating in public. Officer Humphreys observes Mr. Chasse pick up his back pack and begin walking, Officer Burton makes their presence know to Mr. Chasse.
- Mr. Chasse turns his upper torso in a stiff manner and makes direct eye contact with Officer Humphreys.
- Officer Humphreys describes a look on Mr. Chasse's face as that of sheer terror, because of this look and the other behaviors described Officer Humphreys reached the conclusion that Mr. Chasse must be afraid of being caught because he either had a warrant, weapons or drugs on him.

Analysis:

Officer Humphrey's has a legal right to stop Mr. Chasse to investigate, arrest and cite for City Code 14A.40.030 and Officer Humphrey's believed based on his observations and his interpretations of those observations that there was something more going on with Mr. Chasse. Officers use pretext stops daily and on many occasions those pretext stops develop into

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something much larger. I do not believe anyone could have predicted the outcome of this chain of events.

In this case Officer Humphreys was tragically incorrect in his interpretation of Mr. Chasse's behavior. Should Officer Humphreys have realized the behaviors Mr. Chasse was exhibiting were behaviors from someone who was severely mentally ill as oppose to someone who had criminal intent? Even the trained professionals AMR paramedics who arrived at the scene to evaluate Mr. Chasse, assessed Mr. Chasse's condition as something due to toxicological issues (drugs). We spend tens of thousands of dollars and hundreds of hours on police officers teaching them how to stay safe while still doing their jobs: defensive tactics, shooting, driving skills, PIT, how to deal with violent criminal behavior, how to conduct a traffic stops, reinforcing how dangerous domestic violence calls are, developing probable cause, recognizing reasonable suspicion, pushing the envelope, be proactive, and a multitude of other things. Officer Humphreys received a two hour class on Mental Health Awareness eight months before this incident. I do not believe a two hour class is enough to teach an officer to differentiate between Schizophrenia psychosis and Drug psychosis. The following are *Symptoms Associated With Drug Abuse*:

- o Symptoms of Anxiety or Panic
- o Symptoms of Depression
- o Destructive thoughts, feelings and behaviors
- o Suicidal thoughts, feelings or behaviors
- o Violent thoughts, feelings and behavior
- o Strange, bizarre or psychotic thoughts, feelings and behaviors

These symptoms are almost identical to those that Mr. Chasse exhibited. The Transit Police Division receives a barrage of complaints about the drug dealing that happens around MAX. Years prior, TCRT (Under cover Team) was created and one of its missions was to interdict in the drug trade on the Transit system. Officer Humphreys was an active member of TCRT. Transit became very proactive in its attempts to eradicate drug dealing and using, as well as other nuisance behaviors on and around the system. Officer Humphreys believed that narcotics played a part in Mr. Chasse's behavior; it was not an unreasonable belief. The complaints that TRIMET receives as well as the complaints from the Downtown Corridor all hinge on drug activity, either selling or using and all of the aberrant behaviors that go with street usage.

It is my opinion that Officer Humphreys had a legal right to stop and detain Mr. Chasse for the purposes of investigating 14A.40.030 and given what Officer Humphreys observed that night it was not unreasonable for Officer Humphreys to believe that Mr. Chasse was involved in additional illegal activities. Officers Humphreys' push of Mr. Chasse did not violate State Statues, City Code or the Bureau's Directives. Use of Force Directive 1010.20 *Members may use physical force only when they reasonably believe it is necessary to:*

- b. Lawfully take a person into custody, make an arrest or prevent an escape.*
- e. Accomplish some official purpose that is authorized by law, by judicial decree or is performed in the reasonable exercise of the member's official power, duty or function.*

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With hindsight I believe it is fair to say that because of Mr. Chasse's state of mind any contact with the police would have provoked a violent (fear) based reaction. Regardless of methods used to take Mr. Chasse into custody there would have been a fight. Neither Officer Humphreys nor anyone else without the gift of hindsight could have predicted that pushing Mr. Chasse down to the ground in order to terminate a foot pursuit would be a precipitating event leading to his death. With that said there are things we are trained to do that could have been done better. In this situation going out on the air stating they would be contacting a subject would have made other officers in the area aware and theoretically they could have responded sooner to help in the custody. Communication between Deputy Burton and Officer Humphreys prior to contacting Mr. Chasse could have been better.

I find that both Officer Humphreys and Sergeant Nice used reasonable force and were IN POLICY once Mr. Chasse was on the ground to get him under control to take him into custody.

Mr. Chasse had 14 fractured ribs and 27 separate fractures. The Medical Examiner Karen Gunson listed Mr. Chasse's death as accidental with the cause of death due to broad base blunt force trauma to the chest. Dr. Gunson stated in her opinion the broad base trauma could not have occurred by officers kicking or punching Chasse. She also stated that Chasse's bones were more brittle than average due in part to his poor nutrition. There was no evidence of any officer jumping on, sitting on, or delivering any crushing blows to Chasse that would result in the broad based trauma found by Dr. Gunson.

The arrest of Mr. Chasse was lawful (14A.40.030 Indecent Exposure). Once the officers tried to get Mr. Chasse under control, Mr. Chasse fought violently. Due to the actions of Mr. Chasse the officers were in a position to have to use force to get him under control. There was nothing in any of the information to indicate that any of the force was out of policy. Officer Humphreys hit Mr. Chasse with his forearm and a closed fist after Mr. Chasse attempted to bite him. Sergeant Nice stated that he used the instep of his boot into Mr. Chasse's chest after Mr. Chasse bit Sergeant Nice and had grabbed Sergeant Nice's pant leg in an attempt to bite him again. Mr. Chasse bit Sergeant Nice in the right calf and attempted to bite Officer Humphreys. Mr. Chasse was tased with no effect. The Officers used strikes, kicks and the taser to overcome aggressive physical resistance at close quarters all of which was within policy.

I find that Officer Humphreys and Sergeant Nice acted appropriately and were IN POLICY after Mr. Chasse was taken into custody.

Sergeant Nice asked for Medical Code 3. Sergeant Nice gave the information to radio that they had a subject who appeared to be unconscious and had been fighting with the police. Given that Mr. Chasse was still fighting it was reasonable to have him put in Maximum Restraint. Medical had cleared Mr. Chasse to be taken to jail. Officer Humphreys monitored Mr. Chasse all the way to the jail.

I find that Officer Humphreys acted appropriately and was IN POLICY when transporting Mr. Chasse to Portland Adventist.

The medical staff at the jail stated they wouldn't take Mr. Chasse until he had been cleared by a Doctor. The reason was not because he looked as though he had internal injuries but because the

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nurse observed a twitching type episode, his suspected drug use and she had a concern about possible infection he might have because of sores on his body. Officer Humphreys watched Mr. Chasse on their way to the hospital which was how he caught the fact Mr. Chasse had slumped over. Officer Humphreys made a good decision to get off of the freeway to check Mr. Chasse. They did take Mr. Chasse out of the car to start CPR and that would have been very dangerous for all if they had to do it on the Freeway. Code 3 ambulance was immediately called.

Any recommendations I might have had have already been outline very well in the Training Division's recommendations.

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