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### M e m o r a n d u m

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**To:** Norm Frink

**From:** Bob Leineweber

**cc:** Don Rees

**Date:** 7-29-11

**Subject:** Darris Eugene Johnson, DA 2222229

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I was asked to review the reports and records generated in the investigation of the death of Darris Johnson on July 10, 2011 as documented in Portland Police case #11-57755. After a thorough review of these reports and records I have found nothing in this case that indicates the police officers involved in the stop and arrest of Darris Johnson were responsible for the death of Darris Johnson.

On Sunday, July 10, 2011 at 4:08 a.m. Portland Police Officers Justin Thurman and Zachary Zelinka were on duty in uniform and driving a marked patrol in their assigned district near SE 122<sup>nd</sup> and Bush street. At that time the officers observed a 2000 red Cadillac Deville with four occupants traveling southbound on S.E. 122<sup>nd</sup> and noted the vehicle had no visible tail lights. Officer Thurman was driving the patrol car and activated his over head lights and a traffic stop of the car was initiated. The Cadillac pulled over to the curb within a relatively short distance, estimated at about one half of a block. Both officers exited their car. Officer Thurman approached the stopped car on the driver side and Officer Zelinka approached on the passenger side of the car.

When Officer Thurman approached the stopped car he observed that the driver of the red Cadillac was a female and the three other occupants were males. The female produced a State of Washington driver's license and was identified as Felicia Ann Johnson. Officer Thurman asked Ms. Johnson for proof of auto insurance. Ms. Johnson told Officer Thurman she did not have insurance for the vehicle. Officer Thurman then decided he was going to issue Ms. Johnson a traffic citation for operating a motor vehicle without required lighting and driving uninsured. Because she had no insurance the officers decided the vehicle would be towed to the storage yard.

During Officer Thurman's interaction with Ms. Johnson he observed the passenger in the

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back seat directly behind Ms. Johnson was not wearing a seat belt and said to him "sir I see you are not wearing your seat belt could I please have your identification." The man, later identified as Darris Johnson, did not respond so Officer Thurman opened the car door and asked again for his identification. Darris Johnson told Officer Thurman he did not have his identification. Officer Thurman told Darris Johnson for purposes of issuing a citation (for failure to wear a seat belt) he needed some identification. Darris Johnson told Officer Thurman his name was Andrew James Badley. Officer Thurman was suspicious he was given a false name when he asked Darris Johnson for his date of birth and Darris Johnson turned his head away, hesitated, and appeared to have to think about it. Officer Johnson informed Darris Johnson "if you are giving me a false name, that is an arrestable offense". Officer Thurman then began to write a citation for failure to wear a seat belt with the name Andrew James Badley.

In preparing to tow the 2000 red Cadillac Officer Zelinka began an inventory search of the car. Officer Zelinka found in the area where Darris Johnson was seen in the car an Oregon ID card poking out from the seat. Officer Zelinka observed the picture on the card was of the man Officer Thurman was writing the citation to. Officer Zelinka gave the card to Officer Thurman. Officer Thurman observed the picture on the identification card was of the man he was with but the name on the identification was Darris Eugene Johnson. Officer Thurman decided at that time he was going to arrest Darris Johnson for Furnishing False Information and told Darris Johnson to put his hands behind his back. Darris Eugene Johnson then turned and ran. Officer Thurman observed Darris Johnson run north across SE 122<sup>nd</sup>, a four lane street, in what he described as a "flat out sprint", to SE Bush and continued running east on Bush. Officer Thurman reported he engaged in a foot pursuit but observed both Officer Lonn Sweeney and Officer Zelinka were ahead of him.

Officer Zelinka recalls that while doing an inventory of the red Cadillac in preparation of the car being towed he heard a loud yell and observed Darris Johnson running north on SE 122<sup>nd</sup>. This was reported to have occurred at approximately 4:51 a.m. Officer Zelinka immediately gave chase and came initially within 20 to 30 feet of Darris Johnson. He noted Darris Johnson was running at full stride. Officer Zelinka recalls Darris Johnson hurdling an approximate four foot high cyclone fence along 122<sup>nd</sup>. He then observed Darris Johnson quickly, and with little difficulty, scale a second fence that was made of cedar plank boards and was approximately six feet high. When Officer Zelinka arrived at the second fence he looked over the fence and observed Darris Johnson going over a third fence made of cyclone fencing that had metal prongs pointing out from it.

A containment perimeter was then set by numerous police officers called to the scene. It was learned during that time that Darris Johnson had a felony parole arrest warrant. At approximately 5:10 a.m. the officers located Darris Johnson lying on the ground in the corner of a backyard of a home at 12323 SE Bush Ct. The police confronted him and placed him into custody without incident and with no force used. It was later measured that the chase of Darris Johnson from start of run to where he was found was approximately 650 feet and he jumped three fences.

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After Darris Johnson was apprehended he complained he was having trouble breathing. The officers attributed this to fatigue and transported Darris Johnson back to the location of the original stop.

Officers Thurman and Zelinka were assigned to transport Darris Johnson to an East Precinct holding cell. During that drive Officer Thurman drove and Officer Zelinka rode in the front passenger seat with Darris Johnson in the back seat. Officer Zelinka observed that once in the police car Darris Johnson appeared to be pretending to sleep. However shortly in to the transport Officer Zelinka asked Officer Thurman to pull over to check on Darris Johnson. Officer Zelinka got out of the car and checked on Darris Johnson. Officer Zelinka reported Darris Johnson appeared at this time to be breathing fine, holding himself up, and pretending to sleep. As they continued their transport of Darris Johnson to East precinct Officer Zelinka told Officer Thurman to pull over again because it appeared Darris Johnson was not breathing. At approximately 5:33 a.m. Officers Zelinka and Thurman exited the car, found Darris Johnson unresponsive, and couldn't find a pulse. As trained and instructed they immediately made a code 3 medical emergency call for assistance. The officers then removed Darris Johnson from the car and began CPR. Within minutes the emergency medical team of the Portland Fire Bureau arrived and continued CPR on Darris Johnson.

The fire bureau emergency medical services team continued uninterrupted CPR and Darris Johnson was transported to Portland Adventist Hospital emergency room by ambulance arriving at 5:58 a.m. Darris Johnson was immediately treated for cardiac arrest. Hospital records reveal Darris had a second cardiac arrest in the hospital emergency department and died in the hospital of cardiac arrest at 7:58 a.m. The hospital records also state that an external examination of Darris Johnson revealed no evidence of trauma other than a few scattered abrasions. A urine drug screen showed the presence of methamphetamines and cannabinoids in Darris Johnson's system.

Darris Johnson was a 26 year old man, 5'9" tall and weighing approximately 230 pounds. He has a felony history that includes a conviction for attempt robbery 2 in 2003 for which he received a 32 month sentence to the Oregon Department of Corrections. He was convicted of escape 3 in 2006 and in 2009 was convicted of resisting arrest and unlawful delivery of cocaine. At the time of his death he was on felony parole for his 2009 delivery of cocaine conviction. I spoke with Darris Johnson's parole officer, John Harlan, and Mr. Harlan told me Darris Johnson had a parole warrant issued for his arrest on June 14, 2011. Mr. Harlan told me that the reason for the warrant was Darris Johnson's failure to report as directed.

After running from the police, in what was described as a flat out sprint for two to three blocks and jumping and climbing over three fences, Darris Johnson was understandably exhausted and out of breath when apprehended by the police. The extremely fatigued Darris Johnson was compliant with the police directives when contacted. He did not resist arrest nor was any force required or used by the police officers when they arrested him. Darris Johnson complained about shortness of breath the several times to the officers. The officers who were transporting him to East precinct were aware of his complaints and showed professional diligence and care in monitoring his condition. In stopping the patrol car in route to provide CPR

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and call for emergency medical services to assist gave Darris Johnson a chance to survive before he arrived at the hospital. Despite the aggressive efforts of the emergency department doctors, nurses and staff at Portland Adventist Hospital, they could not overcome the cardiac events that were the cause of his death.

After a thorough review of Darris Johnson's medical records, dated July 10, 2011 from Portland Adventist Hospital, and the reports written concerning the events preceding his death I did not see any improper conduct by the police officers involved in this incident and there is no evidence that the police officers actions with Darris Johnson on July 10, 2011 warrant any criminal charges. I met with the father of Darris Johnson to review the evidence with him and he understands there is no basis for a criminal charge related to the death of his son.