

OIR GROUP REVIEW OF THE CLOSED CHASSE INVESTIGATIONIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

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## THE REPORT

We were generally pleased by the OIR report about the Chasse case and investigation, particularly that it addresses police behavior during the incident as well as the investigation. Overall, we agree with most of the recommendations, but wish that some of them had gone further. In addition, here are some good things, a few questionable things, and what appear to be a few missing things.

### Good:

OIR recommends that officers not be able to carry suspects in "maximum restraints," or in other words, should not have tossed James Chasse about like a sack of potatoes. They suggest that medical personnel can be called to put an injured person on a gurney so their weight is properly supported.

OIR recommends getting agreements with other agencies involved in Tri-Met policing regarding investigations into misconduct. Reese says they are looking into conducting joint investigations. This is an extraordinarily important point, but one of the ones we wish had gone further. For years we've been talking about incidents in which officers from various jurisdictions use deadly force and wondered why there are no intergovernmental agreements about whom to defer to. We hope that Council, IPR and the Bureau consider this. We also mentioned this morning the administrative fallacy in trying to have the Portland Police command officers from 14 different agencies. Perhaps it is time to look again at some kind of police force just for Tri-Met which has a strong, working accountability system.

OIR wisely points out that some "experts" claim that police need to be interviewed 24 or more hours after a shooting or death incident because their memories will be affected by adrenaline and other factors, yet such delays are not afforded to civilian criminal suspects. They imply that the Portland Police Association contract should be changed to allow immediate interviews.

OIR recommends that officers not be allowed to make emotional pleas to the Use of Force Review Board when shootings and deaths are being considered. Chief Reese agreed with the recommendation, though he omitted the language about emotional pleas.

OIR recommends that Independent Police Review Division (IPR), and Internal Affairs (IAD) go to the scene of deaths/shootings. This mirrors a recommendation from the Citizen Review Committee and we support it.

OIR recommends that IAD conduct investigation into Supervisory issues, which apparently were previously discouraged. It should be noted that we discussed the idea of having an internal Affairs finding of "Supervisory Issues" for cases such as this where the supervisor's actions in this particular case may not have constituted misconduct because they broadly gave officers in their command

faulty instructions. We appreciate and agree with the OIR and Commissioner Leonard that if a supervisor breaks a specific directive, he or she should be investigated separately from a line officer under scrutiny, but a broader finding calling for a debriefing and/or retraining would help as well.

OIR recommends that the Bureau allow the public to see portions of the Crisis Intervention Team training. Reese agrees, except he fears compromising "public and officer safety", which is different from previous objections about hindering open communication by officers.

It was good to get information that wasn't necessarily clearly stated previously, such as the officer sitting in the patrol car with Mr. Chasse in the back seat while they filled out paperwork, carried Chasse to the car instead of simply driving closer, the Medical Examiner's opinion that the way in which Chasse was carried may have caused his punctured lung, and that the decision to hire Deputy Burton while he was being investigated was made by the "highest levels" at the Bureau. In addition, they note that officers are coached to speak to lawyers at depositions in way that is not "unvarnished and candid."

OIR makes the good suggestion to prohibit officers from signing forms on behalf of a suspect for medical purposes. Unless we're mistaken, the Directive about medical transport actually calls for the piece of paper that identifies who made what decision to be destroyed, something we think OIR should have asked to change. When Robert King was president of the Portland Police Association, he and Portland Copwatch actually agreed that this paper trail was crucial for accountability.

(more)



We were very glad to see OIR's repeated focus on the officer who allegedly told witnesses that Mr. Chasse had 14 drug convictions and that they had found cocaine on him, and that officers and paramedics were laughing on the scene. But, of course, just pointing that out will not go back and change the outcome.

Questionable:

OIR referred to Chasse as "James Philip Chasse" without the "Jr." in their factual summary. This shows a lack of attention to detail.

They also talk about Portland's efforts to take care of "the mentally ill", when people involved in mental health issues caution turning the ailments into a noun: In other words, say "people suffering from mental illness," as opposed to "the mentally ill."

OIR also applauds the hiring of retired Portland Police to Internal Affairs, ignoring that people who feel wronged by police would probably prefer a more independent investigator. They also note without comment the Training Division's suggestion to send Bureau personnel to a conference on "Excited Delirium," a term which is at best controversial, and which the City was reportedly going to use as its defense in the Chasse case.

When OIR points out that Homicide detectives should ask administrative questions to involved officers from other agencies, they did not raise the issue that other agencies may be represented on the East County Major Crimes Team—including the Sheriff's Office., which refused to do an administrative interview of Deputy Burton.

The response from Chief Reese lists two recommendations that are not broken out in the recommendations section by OIR, and leaves off two others. This suggests that he responded to an earlier draft. The two missed recommendations are ones we strongly support: #26— for IPR to have a higher public visibility during shootings and deaths cases, and #27—to proceed quickly in reviewing such cases without worrying about the civil liability aspects. He also agrees that additional personnel who should show up on the scene are Internal Affairs and the Training Division, even though OIR's recommendation is for IAD and IPR to show up.

Missing:

Unless I'm missing something, I don't see any recommendations against kicking civilians in the head, breaking their ribs, and killing them; laughing about the way they "went down hard," or other issues of concern to the community.

It's interesting OIR suggests that most police departments can't subpoena civilian witnesses—City Council, of course, has just given IPR that ability, but at the time of this investigation, the Bureau could have asked Council to subpoena them.

We realize that the Bureau has agreed to and/or has started work on many of the recommendations. Unfortunately, they have not changed their practice of doing so without seeking community input. The Use of Force policy, hailed in the report as a great step forward, was created without community input and we have repeatedly expressed concerns that the "totality of the circumstances" phrase was inserted for legal wiggle room. We believe that at the very least, the public should be invited to comment on these recommendations at a Citizen Review Committee meeting. For example, the OIR makes a recommendation about the Performance Review Board not having officers appear, but says nothing about the issue of whether an officer's supervisor should be allowed to vote.

We hope that the Council will take these recommendations seriously, particularly after the way in which the first recommendation to come out of the Police Oversight Stakeholder group regarding that issue was handled.

We're most disappointed by the fact that OIR outlines various acts of misconduct for which the officers involved will not be held accountable: Officer Humphreys stating that he did not land on Chasse, then changing his story, and saying he used the proper take-down, while bragging otherwise on the jail video. They also note that the Bureau's foot pursuit training was clearly violated in the apprehension of Mr. Chasse. It's suprising that Sgt. Nice's assuming responsibility as on-scene Sergeant after being involved in such a violent confrontation is not against any policy. IAD did not interview one jail nurse, numerous officers and jail personnel who helped carry Mr. Chasse, or the officer who allegedly lied about Mr. Chasse's drug history.

An appropriate coda to this story would be to let the public know whether the officers served their two weeks off, or whether they went to mitigation or arbitration to get that minimum punishment reversed.



## **The League of Women Voters of Portland**

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### **OIR Report to the City of Portland Concerning the In-Custody Death of James Chasse, Jr. City Council Testimony July 28, 2010**

The League of Women Voters of Portland would like to thank Auditor Griffin-Valade for facilitating OIR's report on the in-custody death of James Chasse, Jr. The report provides a wealth of information, valuable recommendations, and is responsive to public concerns. The League has been involved in issues related to the police bureau and our oversight system for a number of years and appreciates the opportunity to comment on the report.

Although the OIR report does not provide clarity about the Independent Police Review Division's (IPR) role in the Chasse investigation, we are encouraged by its recommendation (#26) that IPR consider informing the community of the status and progress of ongoing investigations. On the third anniversary of Mr. Chasse's death, the Oregonian published a guest column expressing outrage over both the incident and the length of time it was taking to complete the investigation. IPR was not mentioned in that column or in other related news stories. The League suggested to the IPR director that she could provide a service to the community by submitting a response explaining the IPR's role in ensuring a thorough, impartial, and timely investigation. She did not act on our suggestion.

We encourage IPR to follow OIR's recommendation and keep the public informed about ongoing investigations. Knowing that an independent entity is overseeing critical investigations and working to ensure that they are thorough and fair should result in increased public trust. Furthermore, as OIR suggests, IPR presence at critical incident scenes will send a powerful message to the public that our oversight system is taking its responsibility seriously.

The report highlights serious issues with the Transit Police Division. The division consists of officers from various jurisdictions governed by the policies of their home agencies and held accountable to those policies. The Chasse case illustrates clearly the problems associated with such a disjointed system. If it is not possible to design a multi-jurisdictional system in which officers operate under one set of policies and are held accountable to those policies, then the city should consider recommending that TriMet take responsibility for its own policing.

OIR points to the importance of supervisory instruction during critical incidents and urges Internal Affairs Division to explore these issues in the course of their investigations (#11). The Police Oversight Stakeholder Committee is considering adding supervisory/management issues to the potential findings in misconduct cases. We urge you to keep the OIR

recommendation and commentary in mind when the committee's recommendations are presented to you.

The report reveals a lack of clarity around medical decision-making. In the interest of safeguarding the welfare of our community members, decisions about an individual's medical status and transport should be left to trained medical professionals. Bureau policies should make this clear and require documentation when those decisions are made at the scene of an incident.

In his acceptance speech, Chief Reese expressed his belief in the importance of public involvement in police policy. With that in mind, the League urges the Chief to share draft policy proposals inspired by the OIR report with the Citizen Review Committee (CRC) and the public. This will give the public the opportunity to provide feedback and assure the community that the bureau takes seriously the importance of learning from James Chasse's tragic death. As OIR pointed out, the Bureau already has made a number of significant policy improvements in response to his death. The League hopes additional changes will be discussed with the CRC and the public before adoption.

In the interest of facilitating and improving the quality of public participation, we encourage the auditor and council in the future to schedule hearings on critical reports such as this one at least a week after their release.

Again, we would like to thank the auditor and OIR for the valuable report. We also appreciate the willingness of the Bureau to provide OIR with the access it needed to do its job. Thank you for considering the League's views.

Submitted by  
Jason Renaud  
7/28/10

Testimony for City Council July 28 at 6 PM

From the Mental Health Association of Portland – [www.mentalhealthportland.org](http://www.mentalhealthportland.org)

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In general, the Mental Health Association of Portland supports and appreciates this report on what happened to James Chasse. It's what we expect from a diligent police commissioner in response to a critical incident.

The OIR report has a tiny, potent argument, designed to defuse criticism surrounding the brutal death of James Chasse.

The argument is this, "it must be recognized that the Portland Police Bureau of 2010 is not the Portland Police Bureau of 2006."

Nice rhetoric, perhaps meant to illuminate the wound to bureaucracy, but entirely superficial to the interest of justice. The interest of justice remains fixed on September 16, 2006.

In review, police officers were not held accountable. No indictment, no crime, no personal accountability. The mayor, the police commissioner, the police chief were irrelevant, without powers, without the ability to act.

Almost four years and no one has been held accountable for the brutal death of James Chasse.

No human being. No person. No person who was directly responsible for his death. No person who tackled him, kicked him, punched him, Tasered him. No person named Kyle Nice. No person named Bret Burton. No person named Christopher Humphreys.

No persons.

Until you have the powers to act publicly and decisively in response to a critical incident - you cannot give assurance what happened to James Chasse will not happen again.

Understand this - James Chasse had a mental illness. That's why our organization has followed this case for over three years. But Jim did not die from his mental illness. It played no part in his death. To blame him, to blame his illness, to blame the mental health system for his death is intentionally misleading.

What happened to James Chasse was not a failure of the system, of the institution, of the city. It was an unforgivable failure of three individual officers. You've tried to shoulder some of this burden, because of a police contract, concern over a civil lawsuit, because of your personal uneasiness with authority, because of the antagonistic relationship between the police and civilian oversight. But it's not a burden to be shouldered - it's a stain.

What Humphreys, Burton and Nice did is unforgivable. They will never be trusted as police officers. Their colleagues who work with them are all stained. When you speak to their right to privacy, to a career, when you represent them legally, you are stained.

The task of a politician is to give a human voice to law, to policy and procedure, to speak to the community about the actions of the city. You and your predecessors were ill-advised to be silent. That duration of silence eroded trust and confidence. That seems to be changing – and accepting the recommendations of the Report to the City of Portland Concerning the In-Custody Death of James Chasse is really your first step forward.

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