

Officer Name:

James Wolfer

DPSST #:

51798

Date Professional Standards Case Closed:

4/29/19

Disposition:

Admin Closure

☒

No Action

Revoke/Deny/Suspend

<input checked="" type="checkbox"/>	Mandatory	<input checked="" type="checkbox"/>	Discretionary
	Stipulated Order (original)		Stipulated Order (original)
	Notice of Intent to Revoke/Deny (original)		Notice of Intent to Revoke/Deny/Suspend (original)
	Proposed Order (original)		Proposed Order (original)
	Final Order (original)		Final Order (original)
	Records received from employer (D4C) <u>or</u>		Records received from employer (Sep) <u>or</u>
	Arrest Report <u>and</u> Court Judgement	<input checked="" type="checkbox"/>	Arrest Report <u>and</u> Court Judgement
	Staff Investigatory Records	<input checked="" type="checkbox"/>	Staff Investigatory Records
		<input checked="" type="checkbox"/>	Board Staff Report with Exhibit List and un-redacted Exhibits
		<input checked="" type="checkbox"/>	Committee Staff Report with Exhibit List and un-redacted Exhibits

<input checked="" type="checkbox"/>	Admin Closure
	Staff Memo
	Records received from employer <u>or</u>
	Arrest Report <u>and</u> Court Judgement
	Staff Investigatory Records

Department of Public Safety Standards and Training Memo

Date: April 25, 2019

To: Board on Public Safety Standards and Training

From: Kristen Hibberds
Professional Standards Investigator/Coordinator

Discipline: Police

Subject: Wolfer, James DPSST# 51798
Basic Police Certification
Grand Ronde Tribal Police Department

OVERVIEW:

In August, 2017, DPSST received notification that Wolfer separated from employment with the Grand Ronde Tribal Police Department.

Basis for PPC review:

1. On August 13, 2017, Wolfer allegedly engaged in dishonesty when he stated that a suspect "squared-up on me" leading to the use of his Taser.
2. Wolfer allegedly engaged in dishonesty when he stated that he tased the suspect a second time because the suspect was resisting while he was trying to get cuffs on him.

POLICE POLICY COMMITTEE RECOMMENDATION:

Wolfer's conduct DID NOT violate the Board's Moral Fitness Standard.

PPC's Discussion and Consensus:

- This was a performance issue demonstrating a lack of training and experience.
- Differing statements were attributed to a high risk/tense encounter as the solo officer with a violent offender.

AGGRAVATING/MITIGATING CIRCUMSTANCES:

Aggravating and Mitigating Circumstances were not discussed based on no violations of the Moral Fitness Standard found.

Finding:

On February 21, 2019, the PPC met and by discussion and consensus recommended the Board take **NO ACTION** against Wolfer's Basic Police Certification after consideration of the facts unique to this case.

ACTION ITEM 1:

Review and affirm the recommendation of the Police Policy Committee.

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
OF THE STATE OF OREGON

In the Matter of the Revocation/Suspension of
the Basic Police Certification for:

JAMES WOLFER
DPSST No.: 51798

DEPARTMENT EXHIBIT LIST

EXHIBIT #		DESCRIPTION	OFFERED		ADMITTED
A1		DPSST Training Profile		-	
A2	8-18-17	F4 – Resignation during investigation		-	
A3	9-28-18	Letter from DA regarding prosecution and Brady		-	
A4	8-13-07	Oregon State Police Incident Report		-	
A5	8-18-17	Administrative Investigation Findings		-	
A6	8-16-17	Dallas PD review of use of force		-	
A7	8-16-17	Grand Ronde Investigation Report		-	
A8	8-16-17	Memo to Chief – Administrative IV		-	
A9	8-13-17	Wolfer's Incident Report, Supplemental, PC & Misc.		-	
A10	8-13-17	Body Cam Video – Available upon request		-	
A11		Grand Ronde PD Policies		-	
A12		Mitigation		-	
A13	2-21-19	PPC Staff Report		-	
A14	2-21-19	Verbal mitigation – Available upon request		-	

NOTE: Only the portions of the Investigative materials pertaining to the behavior identified above have been included. Information determined not to be relevant to the Board's certification standards have been redacted.

AUG 29, 2017
11:57AM

**DPSST Public Safety
Employee Profile**

Page: 1

Wolfer, James K. (51798)

Gender	Male	Emp Type	
Birth Date		Ethnicity	White
Age	31	Education	
File Number		Email	james.wolfer@grandronde.org
		Supervisor	
			Photo

Employment Summary

Grand Ronde Tribal Police Department	- Inactive	Total Service:	1 Years 87 Days
Hired: 5-23-2016	Last Action: 8-18-2017	Resigned	

Assignment:	Pos/Rank: Police Officer
Level:	Class:
Shift:	:
Function: Police	

Warm Springs Police Department	- Inactive	Total Service:	1 Years 91 Days
Hired: 10-18-2010	Last Action: 1-17-2012	Discharged	

Assignment:	Pos/Rank: Police Officer
Level:	Class:
Shift:	:
Function: Police	

Certification

Date	Status	Certified	Expires	Probation	Cert #
Police Maintenance / Basic					
1-01-2017	Required		12-31-2019		
Police Officer / Basic					
12-22-2016	Granted	12-22-2016	11-18-2017		

111616-da pending entry of Final F6 for PCOD 055 OK

Employment History

Grand Ronde Tribal Police Department	
Date: 8-18-2017 Action: Resigned	Status: Inactive

Assignment:	Pos/Rank: Police Officer
Level:	Class:
Shift:	:
Function: Police	

Grand Ronde Tribal Police Department	Service: 1 Years 87 Days
Date: 5-23-2016 Action: Hired	Status: Active

Assignment:	Pos/Rank: Police Officer
Level:	Class:
Shift:	:

AUG 29, 2017
11:57AM

**DPSST Public Safety
Employee Profile**

Page: 2

Wolfer, James K. (51798)

Function: Police

Warm Springs Police Department

Date: 1-17-2012 Action: Discharged

Status: Inactive

Assignment:

Pos/Rank: Police Officer

Level:

Class:

Shift:

Function: Police

Warm Springs Police Department

Date: 1-20-2011 Action: DPSST Reclassification

Service: Years 363 Days

Status: Active

Assignment:

Pos/Rank: Police Officer

Level:

Class:

Shift:

Function: Police

Warm Springs Police Department

Date: 10-18-2010 Action: Hired

Service: Years 95 Days

Status: Active

Assignment:

Pos/Rank: Civilian Employee

Level:

Class:

Shift:

Training

Course	Title	Date	Hours	Score	Status
F6C24972	Firearms Training	6-28-2017	1.00	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C18153	Firearms Qualification	6-28-2017	1.00	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C36316	Ethics Bulletin Vol 164	6-26-2017	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C04461	Advanced Roadside Impaired Driving Enforcement	6-09-2017	16.00	0.00	Passed
	CITY: Portland; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C30724	Ethics Bulletin Vol 161	4-19-2017	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C14523	Hazmat First Responder Awareness (FRA) Level I	3-31-2017	2.00	0.00	Passed
	Grand Ronde				
F6C18537	Counter Assault	3-22-2017	1.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C02801	Naloxone Training Protocol	3-13-2017	1.00	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C37327	Ethics Bulletin Vol 160	3-10-2017	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C13068	Ethics Bulletin Vol 159	3-10-2017	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C26596	Initial Response and Investigation of Child Deaths	2-22-2017	1.00	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C29664	40 Hour CITR Training Day 1	2-17-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				

AUG 29, 2017

11:57AM

DPSST Public Safety Employee Profile

Page: 3

Wolfer, James K. (51798)

F6C29664	40 Hour CITR Training Day 1	2-16-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C29664	40 Hour CITR Training Day 1	2-15-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C29664	40 Hour CITR Training Day 1	2-14-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C29664	40 Hour CITR Training Day 1	2-13-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C39434	Low Light/Night Shooting/Qualification	1-25-2017	3.00	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C23657	DPSST Ethics Bulletin Vol 158	1-24-2017	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C04689	Agency Policies and Procedures-Lexipol	1-16-2017	8.00	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				

2017 Pass/Complete: 76.50

F6C31343	DPSST Ethics Bulletin Vol 157	12-27-2016	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C19092	DPSST Ethics Bulletin Vol 156	11-17-2016	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
16T001	Police Field Training Manual	11-14-2016	50.00	0.00	Completed
16-0009	DPSST Basic Police COD	11-11-2016	80.00	0.00	Passed
	Sgt. Hernandez 503-879-1824 ,timothy.hernandez@grandronde.org 083016 mriesterer changed from pending to regist.				
F6A01949	DPSST Ethics Bulletin Vol 153	8-26-2016	0.50	0.00	Passed
	Grand Ronde				
F6A01774	CPR/First Aid Recertification /AED	8-12-2016	6.00	0.00	Passed
	Grand Ronde				
16-0011	Intoxilyzer 8000-Training hours included in Basic	8-11-2016	8.00	0.00	Passed
	Salem, Oregon				
F6A01827	SFST/DiD	8-04-2016	24.00	0.00	Passed
	Salem, Oregon				
F6C31336	DPSST Ethics Bulletin	6-27-2016	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6A00764	Ethics Bulletin #149	6-14-2016	0.50	0.00	Passed
F6A00765	Ethics Bulletin #150	6-14-2016	0.50	0.00	Passed

2016 Pass/Complete: 171.00

11-0834	Investigation Training - Other	12-15-2011	1.00	0.00	Passed
11-0132	Firearms Qualification	10-04-2011	4.00	0.00	Passed
11-0008	DPSST Basic Police	9-16-2011	640.00	0.00	Passed
	Lt. Oswald "Bear" Tias, 541-553-3272 otias@wstribes.org fax 541-553-1376				
11-0011	Intoxilyzer 8000-Training hours Included in Basic	8-19-2011	0.00	0.00	Passed
11-0010	SFST/DiD- Training hours included in Basic	8-11-2011	0.00	0.00	Passed
11-3087	Lid ar Operators Course	7-27-2011	6.00	0.00	Passed
11-3092	Radar Operators Course	7-12-2011	8.00	0.00	Passed
11-1106	Criminal Jurisdiction in Indian Country	4-13-2011	2.00	0.00	Passed
11-0132	Firearms Qualification	4-05-2011	4.00	0.00	Passed

Exhibit A1

Page 3 of 4

AUG 29, 2017
11:57AM

**DPSST Public Safety
Employee Profile**

Page: 4

Wolfer, James K. (51798)

11-1116	Legal/Legislative Update	4-05-2011	2.00	0.00	Passed
11-1237	Traffic Enforcement	3-24-2011	3.00	0.00	Passed
11-1198	Building Searches	3-23-2011	3.00	0.00	Passed
11-1075	Intoxilyzer 8000	1-14-2011	8.00	0.00	Passed

2011 Pass/Complete: 681.00

10-1120	Search & Seizure	12-30-2010	1.00	0.00	Passed
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2010 Pass/Complete: 1.00

Total Pass/Complete: 929.50

Education

Date	Degree	Major	School	Hours	Q/S
------	--------	-------	--------	-------	-----

Attributes

Effective	Expires	Topic	Attribute
8-25-2016		Training Deficiency	F4 Personnel action report missing
5-23-2016		Form Received	F2 completed on
1-20-2011		Form Received	F4
1-20-2011		Form Received	F5
1-03-2011		Form Received	F2 completed on

Notes

Date	Topic	Title / Description
11-03-2016	Code of Ethics	OK
3-12-2012	Certification Notes	F-8 Received-ok
5-23-2011	Code of Ethics	ok



OREGON DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

Personnel Action

COPY 4

Send to DPSST within ten days of effective date of action (OAR 259-008-0020)

See instructions on second page

Employee Information	1. Type of Action: <input type="checkbox"/> New Hire <input type="checkbox"/> Status Change <input checked="" type="checkbox"/> Separation <input type="checkbox"/> Amended (Reason for Amendment):				
	2. Name: Last Wolfer		First James	MI K	4. Hire Date: 05/23/2016
	5. DPSST Number (leave blank if new) 51798 51798				
New Hire	6. Agency Grand Ronde Tribal Police		7. Division/Branch/Institution Patrol		8. Rank or Position Patrol Officer
	9. Current Discipline(s) which employee is actively working: <input checked="" type="checkbox"/> Police <input type="checkbox"/> Regulatory Specialist <input type="checkbox"/> Telecommunications <input type="checkbox"/> Reserve Police Officer <input type="checkbox"/> Corrections <input type="checkbox"/> Parole & Probation <input type="checkbox"/> Emergency Medical Dispatch <input type="checkbox"/> DPSST/DOC Mandated Course Instructor				
	10. Is Multi Discipline certification required to fulfill a need for the efficient operation of your agency? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Status Change	11. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female	12. Race/Ethnicity:	13. High School <input type="checkbox"/> Diploma School Name, Location, State: Education <input type="checkbox"/> GED		
	14. Background/Fingerprints <input checked="" type="checkbox"/> a. Date Fingerprints submitted to Oregon State Police I.D. Services. b. Has a background investigation been completed as required by OAR 259-008-0015? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No c. Optional: Did the background investigation reveal any convictions or pending criminal matters other than traffic violations? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
	15. Status Change Date: 16. Status Change <input type="checkbox"/> Name Change: From: To: <input type="checkbox"/> Promotion <input type="checkbox"/> Multi-Discipline Reclassification <input type="checkbox"/> Leave of Absence <input type="checkbox"/> Reclassification <input type="checkbox"/> Demotion <input type="checkbox"/> Military Leave of Absence <input type="checkbox"/> DOC Transfer <input type="checkbox"/> Demotion-Voluntary <input type="checkbox"/> Return from Leave of Absence				
Separation	16a. Previous Rank, Position, Branch, Discipline:		16b. Current Rank, Position, Branch, Discipline:		16c. <input type="checkbox"/> Certifiable <input type="checkbox"/> Non-Certifiable
	17. Separation Date: 08/18/2016 2017		17a. Is this employee scheduled to attend a DPSST academy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	18. Separation Type <input checked="" type="checkbox"/> Resignation <input type="checkbox"/> Retirement-During an Investigation <input type="checkbox"/> <input type="checkbox"/> Deceased <input type="checkbox"/> Resignation-Settlement Agreement <input type="checkbox"/> Retirement-In lieu of termination <input type="checkbox"/> <input type="checkbox"/> Discharge <input type="checkbox"/> Resignation-During an investigation <input type="checkbox"/> Retirement-Medical <input type="checkbox"/> <input type="checkbox"/> Lay-off <input type="checkbox"/> Resignation-In lieu of termination <input type="checkbox"/> Other: <input type="checkbox"/> Attach additional pages as necessary. <input type="checkbox"/> Probationary Discharge <input type="checkbox"/> Retirement <input type="checkbox"/> Will require further review by DPSST <input type="checkbox"/> Probationary Discharge (FTEP Failure) <input type="checkbox"/> Retirement-Settlement Agreement <input type="checkbox"/>				
Contacts	20. Provide up to three individuals who DPSST may contact regarding this form. Include only work email addresses. <input checked="" type="checkbox"/>				
	Rank, Name, Email and Phone Number:				
	timothy.hernandez@grandronde.org LT. rod.mcallister@grandronde.org SGT. jake.mcknight@grandronde.org CHIEF				
Signature	I attest that I am the Department Head or hold DPSST Certification and am authorized by the Department Head to sign below. I certify that the information entered on this form has been verified and is substantiated by records maintained by my agency. If certified by DPSST, I understand that falsification of this document makes my certification(s) subject to denial, suspension or revocation under ORS 181A.640 and OAR 259-008-0070. <input checked="" type="checkbox"/>				
	Signature		Date: 8/18/17		
	Printed Name: Tim Hernandez		Title: Lt. (acting Chief)		DPSST No.: 32195
Email Address: timothy.hernandez@grandronde.org Phone: 503-879-1824					

Please send to DPSST: Email: schedulecert@state.or.us; Fax: 503-378-4600; Mail: 4190 Aumsville HWY SE; Salem OR 97317

DPSST USE	Certified Position <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Police <input type="checkbox"/> Corrections <input type="checkbox"/> P&P <input type="checkbox"/> Regulatory Specialist <input type="checkbox"/> Telecommunicator <input type="checkbox"/> EMD <input type="checkbox"/> Instructor	Date copy forwarded for review Aug 29-17	Processed By/Date ME 8-29-17
	FP Number	LEDS <input type="checkbox"/> Clear	OHN E-Court <input type="checkbox"/> Clear	



POLK COUNTY

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338-3177
CRIMINAL DIVISION * (503) 623-9268
SUPPORT ENFORCEMENT * (503) 623-9269
VICTIM ASSISTANCE * (503) 623-9268
FAX * (503) 623-7556

DISTRICT ATTORNEY

AARON FELTON
District Attorney
felton.aaron@co.polk.or.us



September 28, 2018

G. Aron Perez-Selsky
Attorney at Law
Perez-Selsky Law Office
P.O. Box 1656
315 NE Evans St. # 8 & 9
McMinnville, OR 97128

Re: James Wolfer
OSP Case No.: SP18-001897

Dear Mr. Perez-Selsky:

This matter has been referred back to this office by the Marion County District Attorney's Office after completion of an independent investigation into the conduct of your client, James Wolfer, for the actions he is alleged to have been taken on August 13, 2017.

The purposes of my evaluation of Mr. Wolfer's actions are two-fold. First, to determine whether Mr. Wolfer's conduct constituted any sort of criminal act for which a prosecution is appropriate under Oregon law. Second, whether Mr. Wolfer's actions triggered my duty to disclose his conduct in cases in which he may be called as a witness for the state pursuant to *Brady v. Maryland*. Let me be clear, no analysis I conducted or conclusion I reached should be imparted to any civil or administrative proceeding related to these events which is assigned a lower burden of proof by law.

I have reviewed the written materials as well as the audio and video media compiled as part of the investigations conducted by the Oregon State Police, Dallas Police Department, and Grand Ronde Tribal Police Department. It is important to note that only the Oregon State Police had the benefit of a complete, counseled, interview with Mr. Wolfer to rely on during its investigation. Consequently, I, too, had the benefit of that information before me in reaching my decision.

Based on my review of these materials, I find that there is not sufficient evidence to prove a crime beyond a reasonable doubt. Given the totality of the circumstances, in particular the witness statements and level of threat believed by Mr. Wolfer to be imminent, there is not sufficient

G. Aron Perez-Selsky
September 28, 2018
Page 2

evidence to overcome the use of force justification afforded peace officers in ORS 161.235 -- 161.245.

However, I reach a different conclusion as regards my duty under *Brady v. Maryland*. As you know, The United States Supreme Court in *Brady v. Maryland*, as well as the Ninth Circuit Court of Appeals in *United States v. Henthorn*, has held that prosecutors bear a personal responsibility to make the court aware of any materials possessed by an investigative agency that are helpful to the defense. Such materials include not only exculpatory information, but also any findings or substantiated allegations that call into question the credibility of a government witness (impeachment information). The investigations conducted by the Grand Ronde Tribal Police, Dallas Police and Oregon State Police each contain material that would be considered exculpatory if Mr. Wolfer were to be called as a witness for the state in any criminal proceeding. Therefore, pursuant to *Brady v. Maryland*, it will now be the practice of this office to disclose these materials to defense counsel in Polk County cases (or other cases that we are aware of) in which Mr. Wolfer may be called as a witness for the state.

If you have additional questions, please do not hesitate to contact me.

Sincerely,



Aaron Felton
District Attorney

cc: Chief Jake McKnight
Grand Ronde Tribal Police

Kristen L. Hibberds
Oregon Department of
Public Safety Standards and Training



Oregon State Police

Incident: SP18001897**CONFIDENTIAL**

This information is being provided to a Criminal Justice Agency for their official use only. Do not redistribute without permission from Oregon State Police

Incident Details:

Incident Type: Assault
Incident time: 08/13/2007 17:03 - 08/13/2017 17:51
Reported time: 01/02/2018 15:53
Incident location: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Incident status: Referred to DA for consideration
Summary: On January 2, 2018, I was tasked with investigating a use of force incident from Grand Ronde Tribal Police Department, located in Polk County. Subsequent investigation revealed that there was not probable cause to charge James Wolfer with Assault IV.

Involved Persons:

Name: SCOTT, KAITLYN **Gender:** Female
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: WOOD, MICKEY **Gender:** Male
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: MALMQUIST, LEN **Gender:** Male
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: NORWEST, ROBIN **Gender:** Male

Exhibit A4
Page 1 of 37

Classification: Witness**DOB:****DL:****Address:** 27100 SW SALMON RIVER HWY, GRAND RONDE,
POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO)
(Beat: GHQ, Region: NWR) 97347**Telephone:** (Cell phone) (503) 879-3732**Name:** [REDACTED]**Gender:** Female**Classification:** Witness**DOB:** [REDACTED]**DL:****Address:** [REDACTED], KLAMATH FALLS, KLAMATH
OR USA (Beat: SMO, Region: NWR)**Telephone:** (Cell phone) [REDACTED]**Name:** HERNANDEZ, TIM**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:** 26870 SALMON RIVER HWY, GRAND RONDE, POLK
OR USA 97347 (Beat: MNO, Region: NWR) 97347**Telephone:** (Landline) (503) 879-2417**Name:** MCALLISTER, ROD**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:****Telephone:** (Landline) (503) 879-1826**Telephone:** (Landline) (541) 247-3242**Name:** MCKNIGHT, JAKE**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:****Name:** WOLFER, JAMES**Gender:** Male**Classification:** Other Involved person**DOB:****DL:****Address:****Telephone:** (Landline) (503) 879-5211**Involved Property:**

- P18005066 / Police recording / Evidence / BODY CAM
- P18005067 / Police recording / Evidence / AUDIO RECORDING
- P18005447 / Police recording / Evidence / AUDIO RECORDING
- P18005449 / Police recording / Evidence / AUDIO RECORDING
- P18005451 / Police recording / Evidence / AUDIO RECORDING

- P18010453 / Police recording / Evidence / AUDIO RECORDING
- P18010454 / Police recording / Evidence / AUDIO RECORDING

Involved Officers:

- Supporting officer / BARRIENTOS, CARLOS / #41614 / OSP / Officer / SALEM DETECTIVES
- Supporting officer / MOISAN, THEODORE / #42094 / OSP / Officer / SALEM DETECTIVES
- Reporting Officer/Case Lead / HEGNEY-BACH, CASI / #49678 / OSP / Officer / SALEM PATROL
- Dispatcher/TC2 / CLEMENTS, ARIN / #56444 / OSP / Officer / DISPATCH

Reports:

General report:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 15:26

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 15:26

Narrative:

Case #SP18001897

DISTRIBUTION:

Marlon County District Attorney's Office

ASSOCIATED CASES:

Grand Ronde Tribal Police GRT17000673

CRIMES UNDER INVESTIGATION:

Assault IV – ORS 163.160

SUBJECT OF THIS REPORT:

Initial Report – Use of Force

SUSPECT:

Mr. Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

[REDACTED] [REDACTED]

Mother of Victim

Security Guard Robin Norwest

Spirit Mountain Casino

Security Guard Len Malmquist

Spirit Mountain Casino

Security Guard Mickey Wood
Spirit Mountain Casino

Security Guard Kaitlyn Scott
Spirit Mountain Casino

MENTIONED POLICE:

Sergeant Matt Lawson
Oregon State Police

Chief Jake McKnight
Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez
Grand Ronde Tribal Police Department

Sergeant Rod McAllister
Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 – DVD with body camera footage from James Wolfer, dated 8/13/17.
CHB-E2 – Interview with [REDACTED]
CHB-E3 – Interview with Robin Norwest
CHB-E4 – Interview with Len Malmquist
CHB-E5 – Interview with Kaitlyn Scott
CHB-E6 – Interview with Mickey Wood
CHB-E7 – Audio interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

Probable Cause Affidavit from James Wolfer

Incident Report from James Wolfer

Incident Supplement from Tokata Tehama

Dispatch Report

Inter-Office Memorandum, James Wolfer Administrative Leave Investigation

Inter-Office Memorandum Investigation Report

Salem Health West Valley Emergency Report for [REDACTED] [REDACTED]

Arrest Report – Polk County Jail

Dallas Police Department Incident Review

Letter of Resignation from James Wolfer

Trespass Notice from Spirit Mountain Casino

Certified Letter that houses Trespass Notice

Grand Ronde Tribal Police Department Conducted Energy Device Policy

Grand Ronde Tribal Police Department Use of Force Policy

Grand Ronde Tribal Police Department Personnel Complaint Policy

Public Records Request from [REDACTED] [REDACTED]

Taser Certification and Test for James Wolfer

Taser Instructor Certification for Rod McAllister

Taser download for James Wolfer

DPSST Training record for James Wolfer

ACTION TAKEN:

On January 2, 2018, I was tasked with investigating a use of force case from Grand Ronde Tribal Police Department, located in Polk County. Sergeant Matt Lawson explained to me that the use of force occurred between former police officer, James Wolfer and a male he arrested, [REDACTED] [REDACTED] on August 13, 2017. Sergeant Matt Lawson told me the case involved Mr. Wolfer and the use of his taser during the arrest of Mr. [REDACTED]

I read through the documents of this case, watched the body camera footage from James Wolfer and interviewed witnesses. According to the Grand Ronde Tribal Police Dispatch Report the following events occurred prior to Mr. Wolfer making contact with Mr. [REDACTED]

- 5:03pm Initial call for service came from Spirit Mountain Casino. Casino reported a trespass.
- 5:04pm – 5:05pm, trespasser identified as [REDACTED] [REDACTED] descriptors were given. Male had been trespassed from casino before.
- 5:06pm, security officers were watching Mr. [REDACTED]
- 5:09pm, confirmed warrant for Assault II, felony cautions reported.
- 5:10pm, Mr. Wolfer steps up response to casino and then also arrived on scene.

On January 2, 2018, I reviewed Mr. Wolfer's body camera. Here is a summary of what I saw on Mr. Wolfer's body camera:

On August 13, 2017 at approximately 5:11pm, Mr. Wolfer was on duty and in uniform. At this time Mr. Wolfer activated his body camera at Spirit Mountain Casino. He was on a call for service dealing with a trespassed male named [REDACTED]

Mr. Wolfer got out of his patrol vehicle and briefly talked to a security officer, who told him where Mr. [REDACTED] was located in the parking lot. Mr. Wolfer ran toward Mr. [REDACTED] in the parking lot while also pulling out his Taser. A female appeared to be with Mr. [REDACTED]

As Mr. Wolfer ran toward Mr. [REDACTED] he yelled, "Hey Stop, Police. Stop, get on the ground." Mr. Wolfer had his Taser pointed toward Mr. [REDACTED]. The female, later identified as [REDACTED] said, "What do you want?"

Mr. Wolfer yelled, "Get on the ground now!" Ms. [REDACTED] asked, "Me?" Ms. [REDACTED] at this time stepped between Mr. Wolfer and Mr. [REDACTED]. Mr. Wolfer yelled commands to Mr. [REDACTED] and Ms. [REDACTED] and he used his hands to point at which person he was referring; Mr. Wolfer began yelling commands, "No not you. Back up. Go to the side. You on the ground. Get on the ground now! Move aside. Get on the ground or you will be tased. Back away; get on the ground, now." Get on the grou. . ." While Mr. Wolfer was yelling, Mr. [REDACTED] put his hands up in the air and took steps backwards.

Next Ms. [REDACTED] took a step toward Mr. Wolfer and at the same time Mr. Wolfer pulled the trigger on his Taser deploying a taser cartridge that hit Mr. [REDACTED] in the front of his upper body. Mr. [REDACTED] fell forward to the ground and then he rolled onto his back. Ms. [REDACTED] yelled, "You mother fucker!"

Mr. Wolfer said to Ms. [REDACTED] "Get on the ground or you will be tased too!" Ms. [REDACTED] yelled back "Fucking do it, bitch!" Mr. Wolfer continued to tell Ms. [REDACTED] to get on the ground. Security Supervisor Mickey Wood stepped in front of Ms. [REDACTED]. At this time, Mr. [REDACTED] was lying on his back with his arms extended out to his sides and he remained motionless.

Mr. Wolfer requested Dispatch to send medics to his location. Mr. Wolfer told Ms. [REDACTED] to say away. Mr. Wolfer then told Mr. [REDACTED] two times to roll over onto his side and Mr. [REDACTED] complied with the commands and rolled onto his stomach.

Mr. Wolfer told Mr. [REDACTED] he was under arrest for a warrant and trespassing. He knelt down, gave Mr. [REDACTED] commands so he could place him in handcuffs and Mr. [REDACTED] complied.

While Mr. Wolfer was cuffing Mr. [REDACTED] Ms. [REDACTED] continued yelling at Mr. Wolfer and Mr. Wolfer yelled back at her.

Once in handcuffs Mr. [REDACTED] asked several times, "What did I do?" Mr. [REDACTED] appeared to be getting getting agitated during the verbal exchange between Mr. Wolfer and Ms. [REDACTED]

While Mr. [REDACTED] was asking, "What did I do," he started pushing slightly off the ground with his knees; his head stayed on the ground. Mr. Wolfer then told Mr. [REDACTED] he had a warrant. Mr. [REDACTED] still appeared agitated and flexed his arms and rolled slightly onto his left shoulder and then he rolled back onto his stomach. Mr. Wolfer warned Mr. [REDACTED] to stay on the ground or he would tase him again. Mr. [REDACTED] said, "Fuck you" and Mr. Wolfer activated a five second taser cycle. Mr. [REDACTED] was not flexing or rolling or moving his knees at the time Mr. Wolfer activated the taser probes.

After the taser cycled, Mr. Wolfer said, "Don't move or you'll get it again." He then said to Mr. [REDACTED] "You done? You pull away from me again you'll get it again. Turn your head the other way, turn your head." Mr. Wolfer put his hand on the back of Mr. [REDACTED] head to turn his head and Mr. [REDACTED] moved his head to face away from Mr. Wolfer.

At approximately 5:22pm Mr. [REDACTED] brother, [REDACTED] Mr. [REDACTED] arrived on scene. Mr. [REDACTED] did not recognize [REDACTED] and said, "Who the fuck are you?" Mr. [REDACTED] was verbally argumentative throughout the rest of the video footage. Mr. [REDACTED] speech was repetitive and slurred. He repeatedly asked what he did wrong and asked why he got tased.

At approximately 5:23pm, medics arrived on scene. At approximately 5:26pm medics checked Mr. [REDACTED] for injuries and found he had an elevated heart rate and no injuries. During this time Mr. Wolfer was talking to a Deputy La Combe and explained the situation including that Mr. [REDACTED] was intoxicated.

At approximately 5:30pm, Mr. Wolfer talked to one of the Spirit Mountain's security personnel and told him that he tased Mr. [REDACTED] because Mr. [REDACTED] squared up on him.

At approximately 5:34pm, Mr. Wolfer helped Mr. [REDACTED] stand and then he double locked the handcuffs. At approximately 5:35pm, Mr. Wolfer and Mr. [REDACTED] walked to Mr. Wolfer's patrol vehicle and Mr. [REDACTED] was placed in the backseat.

At approximately 5:37pm, Mr. Wolfer transported Mr. [REDACTED] to the Polk County Jail. At approximately 5:39pm, Mr. Wolfer called Sergeant McAllister via telephone and told him the following:

"Hey just thought I'd let you know uh I tased [REDACTED] [REDACTED] So calling you for the use of force. It was right when LT went uh end of watch so he couldn't back me up. So he was already gone. So... uh...he [REDACTED] was trespassed and uh also had a felony warrant, wouldn't stop when I told to his mom was getting in the middle and then he squared up on me and so I had to tase him. And then I actually hit him a second time because he was resisting when I put the...when I was trying to get the cuffs on by myself so."

Mr. Wolfer continued telling Sergeant McAllister that Mr. [REDACTED] was medically cleared on scene and that he was on his way to Polk County Jail. During transport there was a banging sound and Mr. Wolfer told McAllister that Mr. [REDACTED] was banging his head against the car. Mr. Wolfer ended his phone call with McAllister and then Mr. [REDACTED] began yelling in the backseat asking what he did. Mr. Wolfer told Mr. [REDACTED] he was trespassing. Mr. [REDACTED] continued yelling for a few minutes including making threats that Mr. Wolfer may end up

getting killed and then he was silent for a while.

At approximately 5:48pm, Mr. Wolfer radioed to dispatch to let the jail know to have multiple deputies ready to help because Mr. [REDACTED] was making threats to harm police. At approximately 5:54pm, there was a banging sound and Mr. Wolfer told Mr. [REDACTED] to stop. Mr. [REDACTED] again asked where he was going. Mr. [REDACTED] began yelling again and was argumentative. Mr. Wolfer initially talked with him and then ignored Mr. [REDACTED] yelling.

At approximately 6:03pm, Mr. Wolfer arrived at Polk County Jail. Mr. [REDACTED] refused to give a breath sample to jail staff to show level of intoxication. Mr. Wolfer transported Mr. [REDACTED] to Salem Health West Valley Emergency room where he was medically cleared; report is attached.

At approximately 6:40pm, Mr. Wolfer returned to the jail and lodged Mr. [REDACTED] on for the following charges (according to the Probable Cause Affidavit):

1. "ORS 162.245 Criminal Trespass II -- for being at Spirit Mountain Casino after previously being arrested from criminal trespass at that location and being told he was permanently trespassed from the location."
2. "ORS 162.247 Interfering with a Police Officer, when Mr. [REDACTED] refused to stop and get on the ground when I [Wolfer] gave him several loud verbal commands to stop walking and lay down on the ground."
3. "ORS 162.315 Resisting Arrest: for attempting to pull away from me [Wolfer] after I told him he was under arrest."
4. ORS 166.025 Disorderly Conduct in the second degree: For yelling loudly in the parking lot, causing multiple patrons to stop and stare, as well as being verbally confrontational with casino security."
5. "Yamhill Court Felony Warrant 17CR53185."

I reviewed the Probable Cause Affidavit and the Arrest Report for the Polk County Jail, dated August 13, 2017. I found the following actions listed in the report were not seen in the body camera footage (these were addressed during the interview with Mr. Wolfer):

- Mr. [REDACTED] yelling at Mr. Wolfer when confronted in the parking lot at Spirit Mountain Casino.
- Mr. [REDACTED] walking away during the confrontation with Mr. Wolfer.
- Mr. [REDACTED] turning towards Mr. Wolfer and taking an aggressive stance while yelling and "squaring up" his body.
- After first tase, Mr. [REDACTED] rolling away from Mr. Wolfer and continuing this behavior until the taser was activated for a second cycle.

I reviewed the Incident Report written by Mr. Wolfer on 8/14/17. Mr. Wolfer addressed some of the above discrepancies by writing, "I later reviewed my body camera footage and observed that directly before I activated by Taser, [REDACTED] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that Ms. [REDACTED] was approaching me and I believed I was about to be assaulted and

would have to fight both Ms. [REDACTED] and [REDACTED] without a cover unit."

I reviewed the Incident Supplement Report written by Grand Ronde Tribal Police Department Tokata Tehama. In the report he wrote that on 8/13/17 at approximately 2015 hours he went to Spirit Mountain Casino and retrieved the Anti-Felon Identification Tags (AFID Tags) from the Taser deployment and placed them into evidence for Mr. Wolfer.

I reviewed the Inter-Office Memorandum, James Wolfer Administrative Leave Investigation written by Lieutenant Tim Hernandez. According to this memorandum Lieutenant Hernandez reviewed the body camera footage from Mr. Wolfer dated 8/13/17 and concluded the following:

- The Taser application that he witnessed on the body camera footage violates Confederated Tribes Grand Ronde (CTGR) policy 304.5.1 Application of Taser. This policy states that the Taser device may be used when such application is reasonably necessary to control a person that is violent or physically resisting or the subject has demonstrated by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm to others.

According to the Inter-Office Memorandum, James Wolfer Administrative Leave Investigation on 8/14/17 at approximately 10:24am, Lieutenant Hernandez met with Mr. Wolfer and placed him on paid administrative leave. On 8/15/17, Lieutenant Hernandez made phone contact with the City of Dallas Police Chief Tom Simpson and requested a use of force review. On 8/16/17 Dallas Police Lieutenant Mott completed a use of force report.

I reviewed the Dallas Police Department Incident Review. In the incident review Lieutenant Mott wrote that Mr. Wolfer violated several sections of the Conducted Energy Device Policy (Taser Policy):

- 304.5.1 Application of Taser (already addressed above).
- 304.5.2 (d) by using a Taser on a handcuffed person who could otherwise be restrained without meeting threshold of increased risk to himself, the suspect or others.
- 304.5.2(f) by tasing an individual who was standing on an asphalt parking lot.
- 304.5.5 "This policy required Mr. Wolfer notify a supervisor of the Taser device discharge. It is an implicit component of advising the supervisor to be honest in the recounting of the event.

I reviewed the Inter-Office Memorandum Investigation Report written by Sergeant Rod McAllister. In this report Sergeant McAllister reviewed the body camera and reports written by Mr. Wolfer and recommended Mr. Wolfer's employment be terminated due to the following policy violations:

- Policy 319 Standards of Conduct; 319.5.8 Performance(a)(b)(c) deals with false statements, falsifying documents and failing to report false statements, etc.
- Policy 319 Standards of Conduct; 319.5.9 Conduct (b)(c)(h) deals with unreasonable force, exceeding lawful authority and criminal dishonest or disgraceful conduct.

I interviewed the following people in this case:

1. Chief Jake McKnight – Grand Ronde Tribal Police Department
2. Lieutenant Tim Hernandez – Grand Ronde Tribal Police Department
3. Sergeant Rod McCallister – Grand Ronde Tribal Police Department
4. [REDACTED] – mother of [REDACTED]
5. Robin Norwest – Security guard at Spirit Mountain Casino
6. Len Malmquist – Security guard at Spirit Mountain Casino
7. Mickey Wood – Security guard at Spirit Mountain Casino
8. Kaitlyn Scott – Security guard at Spirit Mountain Casino
9. James Wolfer – Suspect and former police officer at Grand Ronde Tribal Police Department

The four security guards I interviewed regarding this case believe Mr. Wolfer acted appropriately and professionally and used the appropriate level of force to control the situation. They all told me Mr. [REDACTED] was trespassing at Spirit Mountain Casino and he had a warrant for Assault II. They also told me Mr. [REDACTED] was intoxicated, confrontational, belligerent and they believed him to be a violent and dangerous individual. See the interview reports, the audio recordings and the transcripts for Robin Norwest, Len Malmquist, Mickey Wood and Kaitlyn Scott for more details.

All of those interviewed, who saw Mr. [REDACTED] inside the Spirit Mountain Casino on August 13, 2017 told me he was intoxicated and confrontational. When I interviewed Mr. [REDACTED] mom, she admitted her son was intoxicated and acting irrationally. However, she believed Mr. Wolfer used excessive force when he tased Mr. [REDACTED]

Ms. [REDACTED] told me Spirit Mountain Casino sent a trespass notice to Mr. [REDACTED] after this incident. She sent me a picture of the certified envelope, dated 8/22/17 and the Notice of Trespass. The letter states [REDACTED] is indefinitely excluded from the Spirit Mountain Casino; signed by Security Manager Mickey Wood and dated 8/19/17.

I asked Ms. [REDACTED] for contact information for Mr. [REDACTED]. She told me he was living in the Portland area with his girlfriend. She gave me the cell phone number to his girlfriend, [REDACTED]. I gave Ms. [REDACTED] my contact information and she told me she would try to get Mr. [REDACTED] to call me. See the interview report, audio recording and transcript from the interview with Ms. [REDACTED] for more information.

I made several attempts to reach Mr. [REDACTED]. I did get ahold of [REDACTED] on 1/25/18 and told her I needed to talk with Mr. [REDACTED] and I explained the investigation to her. I gave her my contact information. I stopped attempting to make contact in the beginning of February. I have not heard back from Mr. [REDACTED] as of the day of this report.

On January 8, I met with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McAllister from Grand Ronde Tribal Police Department. Collectively they provided me with the following documents:

- Grand Ronde Tribal Police Department Conducted Energy Device Policy
- Grand Ronde Tribal Police Department Use of Force Policy

- Grand Ronde Tribal Police Department Personnel Complaint Policy
- Public Records Request from [REDACTED] seeking reports and video from the incident that occurred on 8/13/17.
- Taser Certification and Test for James Wolfer
- Taser Instructor Certification for Rod McAllister
- Taser download for James Wolfer

From my interviews with Chief McKnight, Lieutenant Hernandez, Sergeant McAllister and Mr. Wolfer, I found Mr. Wolfer was never interviewed regarding this incident. Mr. Wolfer was placed on paid administrative leave on 8/14/17. Mr. Wolfer had a meeting with Lieutenant Hernandez on 8/18/17 and he was told they were recommending termination due to violating the Standards of Conduct and Taser policies. Mr. Wolfer wrote a letter of resignation that day; attached to this report.

I additionally found from my interviews with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McAllister that they unanimously believe that Mr. Wolfer used excessive force that rose to the level of a criminal assault. However the investigation report completed by Sergeant Rod McAllister did not address excessive force. See the interview reports with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McAllister and the Investigation Report completed by Sergeant McAllister for more information.

On March 2, I interviewed former Police Officer James Wolfer regarding the events that occurred on August 13, 2017. Mr. Wolfer went into detail describing his interaction with Mr. [REDACTED]. Mr. Wolfer told me he was by himself. He told me while he was responding to the scene, his supervisor warned him that Mr. [REDACTED] usually has his brother with him and then his supervisor went off duty. He told me his back up from Polk County was at least ten minutes away. He told me from his experience, most security officers won't get involved in physical confrontations. He told me he was aware that Mr. [REDACTED] was violent, uncooperative, and aggressive prior to his arrival on scene.

Once on scene, the situation became more serious because he was faced with Mr. [REDACTED] and an unknown female who was interfering with him making an arrest. He stated Mr. [REDACTED] was larger than him in size and was not cooperative. He told me he also believed Mr. [REDACTED] brother was somewhere in the area. After being cuffed, Mr. [REDACTED] began resisting again and Mr. Wolfer believed the unknown woman would make an effort to assault him in an effort to free Mr. [REDACTED]. The unknown woman was later identified as [REDACTED] mother. Mr. Wolfer said he used his Taser to control the situation and stop Mr. [REDACTED] from resisting further. Looking at the totality of the circumstances, Mr. Wolfer told me he used the force he felt necessary in order to make an arrest.

Mr. Wolfer was able to articulate himself well and he addressed the differences seen on the video compared to his reports. He talked about having tunnel vision and how the camera did not pick up what he was feeling and seeing. Mr. Wolfer also explained that he was scared during this incident and Lieutenant Hernandez told me during his interview that Mr. Wolfer did not do well with hostile contacts.

In addition, from 2011 through 2017, Mr. Wolfer only attended one, one hour defensive tactics training class. He Wolfer did not meet the maintenance standards set by DPSST for annual required training for use of force. DPSST requires 8 hours every year for use of force or firearms. From June 2016 to August 2017, Mr. Wolfer attended 6 hours of training, five of them for firearms and one hour for defensive training; Counter Assault.

See the interview report, audio recording and transcript from the interview with Mr. Wolfer for more information.

The victim in this case, [REDACTED] [REDACTED] was not cooperative and did not give a statement during this investigation.

DISPOSITION:

Refer to the Marion County District Attorney's Office for consideration.

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 13:52

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 13:52

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview -- [REDACTED] [REDACTED]

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED]
Mother of [REDACTED]

DOB: [REDACTED]

[REDACTED] - Victim

DOB: [REDACTED]

[REDACTED]
Girlfriend of [REDACTED]

Phone: [REDACTED]

Security Manager Mickey Wood

Spirit Mountain Casino

EVIDENCE:

CHB-E2 -- Interview with [REDACTED] [REDACTED]

ATTACHED:

Oregon State Police Property Report Form 65

Trespass Notice from Spirit Mountain Casino

Certified Letter Envelope that housed Trespass Notice

ACTION TAKEN:

On January 12, 2018 at approximately 10:23am I interviewed [REDACTED] [REDACTED] via telephone. I told Ms. McDaniel our conversation was being recorded and I asked her to tell me what she witnessed on August 13, 2017 concerning her son, [REDACTED] [REDACTED]

Ms. [REDACTED] told me that on August 12, 2017 she and her son were headed back home from a Pow-Wow in Siletz. She told me they stopped at Spirit Mountain Casino to eat at the buffet. She told me when she went to pay for the buffet she realized she needed her tribal identification in order to get a discount. She told me she went back to her car and grabbed her ID and when she got back her son was gone.

Ms. [REDACTED] told me staff told her [REDACTED] was using the bathroom. She told me she waited for a long time and then knocked on the men's bathroom door and he wasn't in there. She told me she went looking for him. She told me at first she couldn't find him and she ended up ordering food in the dell. She told me she finally found him in the lounge sitting at a bench seat and there were two security guards at each exit. She told me the security guards were staring at [REDACTED]. She told me she walked up to her son and told him they were leaving.

Ms. [REDACTED] told me [REDACTED] seemed drunk and she thought how could he be drunk when they had only been at the casino for around twenty to twenty five minutes. She told me she asked the bartender if she gave him shots. She told me the bartender said she only gave him bread and water. She told me she locked arms with her son at the elbow and said, "Let's go."

Ms. [REDACTED] continued telling me [REDACTED] was being difficult and he didn't want to leave. She told him she ordered food from the dell and they needed to go pick it up and leave. She told me the security guards followed them when they left. She told me they exited the lounge through the high stakes gaming area. She told me [REDACTED] grabbed a chair that was sitting at one of the slot machines and knocked it over. She told me she scolded him and told him he was going to make things worse.

Ms. [REDACTED] told me they went to the dell and got their food and the security guards were still following them from a distance and watching them. She told me the security guards did not talk with her.

I asked Ms. [REDACTED] if she talked with [REDACTED] about why security guards were following them and she told me [REDACTED] seemed drunk and was slurring his words so she didn't feel like she could ask him. She told me she just wanted to get out of there.

Ms. [REDACTED] told me while they were in the parking lot walking towards her car Officer Wolfer came racing towards them with his taser drawn. Below is an excerpt from the interview with Ms. [REDACTED] (page 2, lines 1 – 41).

[REDACTED] [REDACTED] Um, well, I was trying to get my son to leave the casino with me, uh, 'cause we ordered food to go and it was ready, and so we got our food from the dell and we were walking out the, um, entrance near, um, the, uh, Legends **** and, uh, we went out that way and were probably 30 or 40 feet from my car when, um, we heard Officer Wolfer, I didn't know who he was at the time, but, uh, come running up behind us with his taser drawn, yelling at us stop or I'm gonna tase you, and took my son and I both – we were, I do, we were the only people I saw around the parking lot 'cause I looked around like is he talking to us?

Detective Hegney-Bach: Mm hmm.

[REDACTED] [REDACTED] And, and, uh, turned around and looked at him and we both stopped and, uh, I wanna say we threw our hands up and said what, what did we do, we didn't do anything.

Detective Hegney-Bach: Yeah.

[REDACTED] [REDACTED] And, uh, and he told me, he threatened me saying, um, because my son was walking in front of me, so when we turned around to face Officer Wolfer that made me in between Officer Wolfer and my son, and, and he said if you don't move, if you don't get out of the way I'm gonna tase you and I said what, I didn't do anything, and, and I kept saying we didn't do anything. What, what do you want and, and my son stepped out from behind me and, and he just tased him.

Detective Hegney-Bach: Mm hmm, okay.

And, um, and he just stiffened up and fell over and, um, it really – that was traumatizing to see your son get tased like that 'cause, I mean it's the helpless situation. I mean he –

Detective Hegney-Bach: Yeah.

– fell over and I told him like right away like that was totally uncalled for, that was unnecessary, what's this all about?

Detective Hegney-Bach: Yeah.

And, um, he just started going over to my son and, and putting handcuffs on him and as he was laying there still stiff and I look at the security officers around there who apparently had gone and got, called the tribal police officer, uh, to come and arrest him and he said there's a warrant for his arrest. I said out of where and he said that doesn't concern you, and, um, and I pulled out my phone to, um, video record it, but I didn't have enough memory on my phone to video record anything.

Ms. [REDACTED] told me one of the security guards asked Officer Wolfer if he wanted him to take her (Ms. [REDACTED]) down. She told me Officer Wolfer said it's okay she can take pictures and record video.

Ms. [REDACTED] told me she called her other son [REDACTED] who was working in the casino and he came out to the scene. She told me she felt like she was being bullied by the officer and the security guards, but once [REDACTED] showed up everyone calmed down. She told me Officer Wolfer was being rough on her son and had his knee in the back of his head like was trying to grind his face into the asphalt. She told me when [REDACTED] showed up Officer Wolfer loosened up and let up on his knee. Ms. [REDACTED] told me [REDACTED] convinced her to leave the scene and she went home to Klamath Falls.

Ms. [REDACTED] told me she saw [REDACTED] around a week later at the Polk County Jail and she told me she did not see any obvious injury on [REDACTED]. She told me she saw a little discoloration, like old bruises faded from the left side of his face around his forehead and cheek. She thought the mark was probably where [REDACTED] fell and hit the concrete. She told me [REDACTED] also complained to her that he was sore where the taser probes hit him.

I asked Ms. [REDACTED] if she knew how I could get ahold of [REDACTED]. She told me he lives in the Portland area with his girlfriend, [REDACTED]. She told me she doesn't know exactly where they are living but she gave me Ms. [REDACTED] phone number.

Ms. [REDACTED] told me Spirit Mountain sent a delayed trespass notice to [REDACTED]. She told me she had the notice and would send it to me. I asked her if [REDACTED] knew he was trespassed from the casino. She told me she thought [REDACTED] was aware because she talked with [REDACTED] and [REDACTED] told her they went in June 2017 and they told him to leave and that he was going to be trespassed. She told me [REDACTED] told her [REDACTED] was drunk at the time.

This concluded our interview. Ms. [REDACTED] sent me a picture of the certified envelope, dated 8/22/17 and the Notice of Trespass. The letter states [REDACTED] is indefinitely excluded from the Spirit Mountain Casino; signed by Security Manager Mickey Wood and dated 8/19/17.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:26

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:26

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Robin Norwest

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Robin Norwest

Security Officer at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Molsan

Oregon State Police

EVIDENCE:

CH8-E3 – Interview with Robin Norwest

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Molsan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 3:11pm we interviewed Robin Norwest. I told Mr. Norwest our conversation was being recorded and I asked him to tell me what he witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Mr. Norwest told me on August 13, 2017 he was dispatched to handle an intoxicated person. He told me he recognized [REDACTED] because he has dealt with him before. He told me Mr. [REDACTED] was intoxicated and he knew this because Mr. [REDACTED] was rambling, the way he smelled, and his lack of focus. He told me Mr. [REDACTED] was happy one moment and sad the next. He told me Mr. [REDACTED] was in the lounge but the lounge did not serve him any alcohol, he showed up intoxicated.

Mr. Norwest told me he asked Mr. [REDACTED] to leave the premises. He told me he told Mr. [REDACTED] he would not be served anymore and he needed to leave because he was excluded from the casino. He told me Mr. [REDACTED] got really mad and started screaming at him; cussing and swearing.

Mr. Norwest continued telling me when Mr. [REDACTED] left the lounge he went through High Stakes area and knocked over chairs because he couldn't walk well, he was stumbling and his mom had to hold him up.

My audio recorder ran out of batteries around this time. I restarted a recording at approximately 3:19pm.

Mr. Norwest continued telling me Mr. [REDACTED] exited the building with his mother out of the valet entrance. He told me they were in the green parking lot. He told me he saw Officer Wolfer walk up and he told Officer Wolfer Mr. [REDACTED] was in the red shirt and pointed to his location. He told me he saw Officer Wolfer approach Mr. [REDACTED]

Below is an excerpt from the Interview with Mr. Norwest (page 2, lines 30 – 36).

Robin Norwest: Well, the verbal commands he was giving him to stop, he was ignoring 'em, cussing and swearing. He was still cussing and swearing at me. His mom kept trying to grab him and *** on the ground. He refused, kept doing over and over, I don't know how many times he told them, you know, ***, Finally told him that he needed to get down or he will be tased. [REDACTED] didn't seem to care about that, and he got tased, went down, kept fighting with Wolfer while he was down, got tased the second time, and then became pretty compliant. Got the cuffs on. Wolfer kind up helped him up a little bit, sitting up.

Mr. Norwest told me he was standing approximately five feet away from Officer Wolfer during the confrontation with Mr. [REDACTED]. He told me Mr. [REDACTED] mom kept trying to get involved and they had to ask her multiple times to step away. He told me Mr. [REDACTED] mom was cussing and swearing at them. He told me Mr. [REDACTED] brother who works at the casino came outside and talked with his mother and told her to go home. He told me Mr. [REDACTED] mom finally left around this time.

Mr. Norwest told me he thinks Mr. [REDACTED] is dangerous, but Mr. [REDACTED] has never assaulted any of the casino staff and has only verbally combative.

Mr. Norwest continued telling me he thinks Officer Wolfer did the right thing. He told me he does not see any issues with how Officer Wolfer handled the situation.

This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:29

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Len Malmquist

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Len Malmquist

Security Officer at Spirit Mountain Casino

Robin Norwest

Security Officer at Spirit Mountain Casino

Mickey Wood

Security Supervisor at Spirit Mountain Casino

Kaitlyn Scott

Security Officer at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Moisan

Oregon State Police

EVIDENCE:

CHB-E4 – Interview with Len Malmquist

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Moisan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 3:36pm we interviewed Len Malmquist. I told Mr. Malmquist our conversation was being recorded and I asked him to tell me what he witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Mr. Malmquist told me he was an acting supervisor on August 13, 2017 and the security staff got a call from surveillance saying that [REDACTED] [REDACTED] an excluded person was in Summit View Lounge. He told me Mr. [REDACTED] was trespassed due to his violent tendencies and outbursts. He told me they immediately called for law enforcement. He told me he, Robin Norwest, Supervisor Mickey Wood and Kaitlyn Scott were near a door that goes between the Summit View Lounge and the high stakes area.

Mr. Malmquist told me the Summit View Lounge manager was a woman named Kaylee and Kaylee asked that Mr. [REDACTED] be

removed from the lounge because he was getting very loud and causing a scene. He told me Mr. [REDACTED] appeared intoxicated, he had slurred speech and an unsteady gait. He told me he and the other security staff were keeping an eye on Mr. [REDACTED] but did not contact him at that time.

Mr. Malmquist told me Mr. [REDACTED] mother arrived at the lounge and she was trying to get Mr. [REDACTED] to leave, tugging on him and saying "come on, let's go, let's go." He told me they went out the door that connects the lounge to the high stakes area and Mr. [REDACTED] threw a couple of chairs out of his way and continued to make a scene. He told me he and security were following from a distance. He told me Mr. [REDACTED] and his mom went to the dell. He told me while they were at the dell he heard surveillance come across the radio and say that a tribal police officer was on the property. He told me he broke away to talk with the police officer.

Mr. Malmquist told me he went outside and talked with Officer Wolfer. He told me he told Officer Wolfer that Mr. [REDACTED] was heading towards the valet entrance to exit the casino. He told me Officer Wolfer drove to the valet entrance.

Mr. Malmquist told me he walked around the outside of the building to the valet entrance. He told me he could hear on the radio that Mr. [REDACTED] went from the valet entrance through the green lot. He told me as he approached the area where Officer Wolfer was, he saw Mr. [REDACTED] on the ground face down. Officer Wolfer was trying to handcuff Mr. [REDACTED] and Mr. [REDACTED] was very combative and not following directions.

Mr. Malmquist continued telling me Mr. [REDACTED] mother was trying to interfere with the arrest. He told me Mickey Wood was trying to keep her out of Officer Wolfer's way. He told me he was standing around ten feet away during the confrontation between Officer Wolfer and Mr. [REDACTED]

Mr. Malmquist told me there were a few casino guests in the parking lot and he immediately tasked himself to crowd control. He told me he had his back to the confrontation and he glanced back to make sure things were going ok when he heard yelling. He told me he remembered Officer Wolfer yelling at Mr. [REDACTED] to quit fighting. He told me this happened when Officer Wolfer was trying to handcuff Mr. [REDACTED] while Mr. [REDACTED] was lying face down on the ground.

Below is an excerpt from the transcript from the interview with Mr. Malmquist (page 9 lines 16-18).

Len Malmquist: Uh, when I approached him, he had tased him once. Um, got him on the ground. Was trying to handcuff him. And, then I heard him quit fighting me, quit fighting me, you keep fighting me, I'm gonna tase you again. And, I did hear the second tase.

Mr. Malmquist continued telling me that during the second tase, Officer Wolfer had one wrist handcuffed and was trying to get ahold of Mr. [REDACTED] other wrist. He told me Officer Wolfer was also yelling at Mr. [REDACTED] mother to get out of the area. He told me the following people witnessed the incident besides himself: Kaitlyn Scott, Mickey Wood, Robin Norwest, Mary Williams and Tyler White.

Mr. Malmquist told me Mr. [REDACTED] continued to try and fight after Officer Wolfer put him in handcuffs. He told me Mr. [REDACTED] was "trying to do something. Anything."

I asked Mr. Malmquist if he had any concerns about what happened between Officer Wolfer and Mr. [REDACTED]. He told me he spent fifteen years in the military and four of those years as a military police officer. Below is an excerpt from the interview with Mr. Malmquist regarding some of his training and experience and his opinion regarding the interaction between Officer Wolfer and Mr. [REDACTED] (page 14 lines 22 - 55).

Len Malmquist: -- I also spent 5 years as a, um, antiterrorist force protection instruction.

Detective Molsan: Okay.

Len Malmquist: So, I taught self-defense --

Detective Molsan: Uh huh.

Len Malmquist: -- I taught non-lethal weapons.

Detective Molsan: Uh huh.

Len Malmquist: Nothing would have tripped any triggers with me.

Detective Molsan: Huh. Okay.

Len Malmquist: He's a single officer. He didn't have a cover officer.

Detective Molsan: Right.

Len Malmquist: [REDACTED] is known to sometimes be violent.

Detective Hegney-Bach: When you say he's been known to be violent, has, has he ever been physically violent with you or any of your staff or anyone you know of?

Len Malmquist: Not hands on.

Detective Hegney-Bach: Okay.

Len Malmquist: Uh, he's thrown chairs around and kicked stuff and -

Detective Hegney-Bach: Okay.

Len Malmquist: - um, and of course, ya know, we've seen his, ya know, on arrest.org.

Mr. Malmquist continued telling me Mr. [REDACTED] grabbed Officer Wolfer a couple times before he was handcuffed. He also told me that Mr. [REDACTED] squared off towards him inside the casino. He told me Mr. [REDACTED] is around 5'11", fit and in his mid to late 20's.

This concluded our interview. I ended the recording at 3:59pm.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:51

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:51

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview - Mickey Wood

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Security Supervisor Mickey Wood

Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

EVIDENCE:

CHB-E6 - Interview with Mickey Wood

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 at approximately 3:33pm, I interviewed Mickey Wood via telephone. Mickey Wood is a security supervisor at Spirit Mountain Casino. Mr. Wood was working On August 13, 2017 and witnessed the events that took place between Officer James Wolfer and [REDACTED] [REDACTED] I asked him to tell me about the events he witnessed. Below is an excerpt from the transcript from the interview with Mr. Wood (page 3 lines 23 - 55, page 4 lines 1-2).

Mickey Wood: Okay, uh, I got a call that, uh, [REDACTED] was in the, uh, Summit View lounge. Uh, I believed him to be

Indefinitely excluded from the casino. I contacted dispatch and confirmed that he was still currently excluded from the casino. Dispatch advised me, uh, uh, okay, dispatch advised me the last time we dealt with [REDACTED] uh, law enforcement came out, and he was combative, uh, and they actually took him down. Uh, so, with that I requested law enforcement and went into the, uh, to the area where he was. Uh, once I saw him, and we knew who he was, uh, he was being, um, disruptive and bothering guests, and the, um, supervisor there, Kayley Compton, uh, had requested that he be removed from that venue, because of the issues he was causing. Uh, as he left that area, he went into the high limits area, and, uh, one of the reports said he knocked over a chair. When I got there, uh, they were just picking up the chair, so I actually didn't witness him knock it over, just the picking up of it. Uh, and, um, so anyhow, he was argumentative at the time. Him and the female that he was with, who turned out to be his mother, uh, went out of high limits after being told they were excluded and had to leave. They went into, uh, a little area. It's called, uh, a deli where you get sandwiches. The food and beverage supervisor, Tyler White, had showed up, because we were going to, uh, confirm that he had been cut off from alcohol, and typically we try to get other supervisors from food and beverage involved. Uh, so, I, uh, I had told Tyler that we were, if they were gonna sit there and just not cause any trouble, we were just gonna wait till law enforcement got there, so that we wouldn't stir him up or agitate or make the situation any worse. Uh, then they got up and left, uh, the mother and him, and they headed out toward the green lot. Uh, Officer Wolfer arrived and asked me where he was, and I pointed to [REDACTED] Uh, he was the male in the red shirt. Uh, Officer, uh, Wolfer went out there and immediately, uh, started telling him to get on the ground, uh, which he would not, uh, he wouldn't, he just wouldn't do, and the mother repeatedly tried to step between, uh, Officer Wolfer and [REDACTED] uh, trying to interfere with the arrest. I'm not sure how many times, but it was multiple times that, uh, uh, Officer Wolfer told him to get on the ground, uh, and he just, he would not comply. So, eventually, uh, Officer Wolfer was able to get, uh, between, uh, [REDACTED] without the mother involved, and he tased, tased him and took him down. Uh, after they got him down, he continued and continued to struggle. The mother kept yelling and interfering. Um, I believe he was tased again to try and maintain control. Then, he basically was just left on the ground until cover officers could come. Uh, Wolfer called medics, uh, right after he got him down and somewhat secured, and they came and, uh, medics removed the tongs, and he was placed in the patrol car and taken to jail.

I asked Mr. Wood to tell me about the prior incidents where [REDACTED] was combative. He told me [REDACTED] has never had any physical altercations with security but was verbally combative. He told me [REDACTED] is unreasonable when he gets intoxicated. He told me on one occasion, when talking with Spirit Mountain Security, [REDACTED] said, "either you kill me or I will kill you." He told me the report said they had to take him to the ground and take him into custody.

Mr. Wood continued telling me that considering [REDACTED] had a warrant for assault, a prior track record of being verbally combative to security and police and [REDACTED] mother interfering he believed Officer Wolfer responded appropriately to the situation. He told me he believed if Officer Wolfer had not taken control of the situation it would have escalated.

This concluded my interview with Mr. Wood.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/27/2018 12:36

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/27/2018 12:36

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Kaitlyn Scott

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Kaitlyn Scott

Security Officer at Spirit Mountain Casino

Mickey Wood

Security Supervisor at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Moisan

Oregon State Police

EVIDENCE:

CHB-E5 – Interview with Kaitlyn Scott

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Moisan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 4:08pm we interviewed Kaitlyn Scott. I told Ms. Scott our conversation was being recorded and I asked her to tell me what she witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Ms. Scott told me on August 13, 2017 around 5pm [REDACTED] was "red lighted," meaning he was cut off from alcohol. She told me [REDACTED] was being aggressive with wait staff and yelling. She told me [REDACTED] was there with his mom. She told me [REDACTED] mom was trying to calm him down, but he was "definitely loud, definitely belligerent." She told me she waited outside of the lounge in the high limits area while other security officers were in the lounge.

Ms. Scott told me [REDACTED] knocked over chairs and stormed outside. She told me [REDACTED] and his mom "seemed to be in quite a rush after they found out that security had been notified." She told me they (the security guards) "were hanging back quite a bit" because law enforcement was on their way. She told me she was with Security Supervisor Mickey Wood near the valet entrance. She told me shortly after this Officer Wolfer arrived at their location.

Below is an excerpt from the interview with Ms. Scott (page 6 lines 3-11), regarding what she remembered about Officer Wolfer's initial contact with [REDACTED]

Kaitlyn Scott: Um, he could've been in a hurry because he thought he might have

gotten in his vehicle. I'm not sure what his thought process was, it just struck me as odd. Um, so he hit the first row of cars, had his hand on his taser but hadn't pulled it yet, if I remember correctly, and then went down, made contact, uh, verbal contact with [REDACTED] and said, you know, Officer Wolfer, Tribal Police, um, like, please raise your hands, or you need to put your hands up, or you need to stop walking. I believe he said to stop walking first, and then, you know, I need to see your hands. Um, and [REDACTED] wanted no part of that. He was like I'm just gonna go home. His mom got in the way of everything. Um, she got in Officer Wolfer's face.

Ms. Scott told me she hung back for crowd control. She told me while she was asking people in the parking lot not to gawk she heard a "thud" behind her and when she turned around she saw [REDACTED] on the ground. She told me [REDACTED] fell because Officer Wolfer tased him. She told me [REDACTED] tried to get up and Officer Wolfer gave him warnings like "you need to stay where you are and he still tried to get up" so Officer Wolfer tased him again. She told me when the second tase occurred Officer Wolfer was still standing up and approaching [REDACTED]

Ms. Scott told me she did not think that Officer Wolfer used excessive force during his interaction with [REDACTED]

//End of report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/27/2018 12:49

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/27/2018 12:49

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview with James Wolfer

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Aaron Perez Selsky

Attorney for James Wolfer

██████████
DOB: ██████████

MENTIONED POLICE:

Detective Carlos Barrientos
Oregon State Police

EVIDENCE:

CHB-E7 – Audio Interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On February 12, 2018 I contacted James Wolfer to set up an interview. He told me he needed to contact his lawyer and told me he would call me back on Thursday February 15. On February 15, I was contacted by Aaron Perez-Selsky who told me he was Mr. Wolfer's attorney. We set up an interview for March 2, 2018 at 10:30am at the Salem Patrol Office.

On March 2, 2018 at approximately 10:42 am, I interviewed James Wolfer. Aaron Perez-Selsky and Detective Carlos Barrientos were also present during the interview. I told Mr. Wolfer our conversation was being recorded. I explained to Mr. Wolfer that I was investigating an incident involving him and ██████████ ██████████ that occurred on August 13, 2017. I told him I was assigned to investigate whether excessive force was used during the arrest.

I asked Mr. Wolfer to tell me about his law enforcement experience. He told me the following:

- He worked as a police officer for Warm Springs Police Department from October 2010 – January 2012.
- He attended Basic Police Academy in January 2011.
- He had a gap in law enforcement work from January 2012 – May 2016. During this time he worked in banking and then for SAIF as a State Workers Comp Investigator.
- He worked as a police officer for Grand Ronde Tribal Police Department May 2016 – August 2017.
- He went to Career Officer Development (COD) during his employment at Grand Ronde Tribal Police Department due to the gap in law enforcement employment.

I asked him questions about his duties and shift being worked on and around August 13, 2017. He told me the following:

- His scheduled shift was Sunday through Wednesday 6a-6p.
- His job was focused on community policing with a high number of contacts.

I asked Mr. Wolfer questions about his Taser training during his employment with Grand Ronde Tribal Police Department. He told he did not remember how long the initial Taser training

lasted, but said it was "short." He told me the training consisted of a power point presentation and short scenarios where he shot a training cartridge, which does not shoot probes. He told me this was the only training he had with his Taser.

I asked him how his relationship was with the people he worked with at Grand Ronde Tribal Police Department. He told me he and Lieutenant Hernandez "kinda butted heads." He told me he got along well with everyone else.

I asked Mr. Wolfer to tell me about the events that occurred on August 13, 2017 at Grand Ronde Casino. He told me the following occurred leading up to seeing [REDACTED]

- Around 5pm, he received a call from dispatch that [REDACTED] was actively trespassing at Grand Ronde Casino.
- He asked for back up and was told a Polk County Deputy was in route but was a ways out.
- Dispatch informed him that [REDACTED] had a warrant for Assault II.
- Lt. Hernandez told him via radio to be careful because [REDACTED] has a brother who is usually with him. He got the impression that [REDACTED] brother would help [REDACTED] fight.
- While in-route he called Grand Ronde Casino Security and they told him [REDACTED] was inside at a bar and they told him [REDACTED] was being "confrontational."
- When he arrived at the casino, he activated his body camera and was told [REDACTED] was in the parking lot.
- He felt that he could not wait for backup due to [REDACTED] behavior and he initiated contact.

Mr. Wolfer went into detail describing his interaction with [REDACTED] Review transcript page 27 lines 17-56, page 28 lines 1-42 for more details. Mr. Wolfer told me he drove to the parking lot where security officers told him [REDACTED] was located; he got out of his vehicle and drew his Taser. He said, "If I saw him I was gonna have to arrest him 'cause he had a warrant and was actively trespassing."

Mr. Wolfer told me he was by himself. He told me from his experience most security officers won't get involved in physical confrontations. He told me when he saw [REDACTED] there was a woman with him and he found out later it was [REDACTED] mother. He told me pointed the Taser at [REDACTED] and yelled at [REDACTED] to get on the ground. He told me he kept yelling "Get on the ground, get on the ground." He told me [REDACTED] wouldn't get on the ground and the woman kept trying to get between them so he moved laterally. Mr. Wolfer said, "I perceived her to be a threat, but not as big of a threat as him [REDACTED]"

Mr. Wolfer continued telling me [REDACTED] was walking away and then he thought he yelled stop and [REDACTED] stopped and turned and the woman rushed at him. He told me at the same time [REDACTED] made a sudden movement that he perceived as [REDACTED] about to charge him or squaring up to fight so he tased [REDACTED] He said, "I remember he did something very, very quickly and so right at the same time she was rushing me, so then I tased him, and I got ready to go hands on with her, but she stepped back, and I think I said somethin' like stay back or

you'll get tased too, and so she stepped back but she was yellin' at me, so then I went over to him. Security was there, but they weren't like grabbing her."

Mr. Wolfer told me there were a lot of people in the parking lot and he remembers looking around for this other brother that might be there. He told me he was on the ground with his back exposed to everybody. He told me the woman was still yelling at him as he put handcuffs on [REDACTED]. He said, "I wasn't able to pat him down yet, and I was on top of him but not fully, because I was also still tryin' to be able to spring back up in case I got hit from behind from wherever this other brother was gonna be, and, um, and then I felt him moving, which I interpreted as him tryin' to get back up, and I didn't know if he had weapons or anything yet."

Below is an excerpt from the transcript from the interview with Mr. Wolfer describing what led to the second cycle of taser activation (page 28 lines 21-42).

James Wolfer: When I worked in Warm Springs, I have had people try to fight. Like I had someone in handcuffs once like, like sho, run his shoulder into me and knock me over and like fight and then run, you know, so I, I don't know what, what he's tryin' to do. Just 'cause he was in handcuffs, I, I don't even think I had double locked 'em yet, and I kept tellin' him to stop resisting, um, and I felt like when he would turn and look at me, and I remember tellin' him to look away, when he'd turn and look at me, like I felt like he was tryin' to get up off the ground 'cause I would, I mean he, I felt, I felt like he was bigger than me, so he was, like it was like lifting me up. At the same time the mom was yelling at him or something, and I remember telling her to shut up 'cause I felt like she was also amping him up and I just wanted the situation to, to calm down and resolve, and I, I warned him. I told him he was under arrest. I told him why, and, and I don't remember if this happened before or after the tase but, a second tase, but I remember to, giving him several warnings that if he didn't stop resisting I was gonna tase him again, and he, I felt like he kept resisting. I kept feeling the movement and I felt like he was gonna push me off of him, so I gave him a second tase, let it run through the cycle, and then he, it stopped, and he stopped resisting, and so I said, "Are you done?" I think he said yes or something or I got the impression he was done. I detached it, holstered it, re ho, like was able to finish my pat down and everything else, sat him up. Um at some point during that I remember the female, I believe she started takin' a step towards me, and also so did the security supervisor, and I remember yelling like stay back, and I meant her, but I remember the security supervisor's face thought I was talkin' to him, so then he stepped back and kinda put his arm near the, the female.

Mr. Wolfer told me at some point after things started to calm down the woman disappeared. He told me paramedics arrived on scene and he waited for a Polk County Deputy to arrive before lettin' paramedics check on [REDACTED]. He told me he didn't want to risk any of the paramedics being attacked by [REDACTED]. He told me [REDACTED] was "completely intoxicated" and in his experience intoxicated people often "want to fight and don't make good decisions." He told me once a deputy arrived, paramedics checked [REDACTED] out and then he was able to put

██████ in his patrol vehicle.

Mr. Wolfer continued telling me he called Sergeant McAllister to notify him of the use of force. He told me he drove ██████ to the jail and at the jail ██████ refused to provide a breath test for the intoxylizer. He told me he had to take ██████ to the hospital to get cleared due to his level of intoxication. He told me once ██████ was cleared he took him back to the jail. He told me he wrote a probable cause affidavit to lodge ██████ in jail and then cleared the call.

Mr. Wolfer continued telling me he went back to the patrol office and talked with Officer Dana and watched the video footage for the first time. He told me he was "actually surprised to see that he [██████] hadn't squared up" with him. He told me he realized when he saw the video that ██████ actually took a step back and raised his hands. He explained that he thought the female was running at him and he had tunnel vision focused on this and when he saw movement from ██████ he interpreted the movement as a threat and he tased ██████. He told me he felt the body camera saw more than he did, meaning a wider angle without tunnel vision.

Mr. Wolfer then addressed the second taser cycle. He said, "You couldn't see on the footage what I felt which was, I felt like I was getting picked up from it, so, um, I remember being physically moved from it or feeling like I was, so, and then accurately, I, I didn't feel like the, I felt like the camera for the first tase showed more than I saw and I felt like for the second, it showed less than I saw because it was on the center of the chest and I'm on top of him."

Mr. Wolfer told me the next morning he returned to work to finish his report in regards to ██████. He told me when he finished the report Lieutenant Hernandez and a human resources representative approached him. He told me Lieutenant Hernandez told him that he reviewed the video footage with their tribal attorney and he (Hernandez) believed Wolfer violated the Taser Policy. He told me Lieutenant Hernandez asked him a few brief questions about why he tased ██████ and then Lieutenant Hernandez told him he was being placed on administrative leave. He told me Lieutenant Hernandez hadn't even read his report when this happened. He told me Sergeant McAllister called him on Wednesday and told him to come to the office on Friday.

Mr. Wolfer told me he came into the office on Friday and he was told by Lieutenant Hernandez that he violated the Taser Policy and they had a write up recommending termination. He told me Lt. Hernandez told him he could appeal within five days. He told me he asked Lt. Hernandez if he violated anything else and Hernandez said no. Lt. Hernandez told him they did not review this for use-of-force violation or anything else. He told me Lt. Hernandez told him Dallas Police Department conducted a review of the case and found the video didn't match up to what he was saying. He told me Lt. Hernandez said, "If you resign today, we're not gonna review it for anything else. We don't, we're not saying you violated the use-of-force policy, just the Taser policy." He told me he resigned in lieu of termination.

I asked Mr. Wolfer a series of questions related to his thoughts and decisions when he gave commands to ██████ and how he felt when ██████ did not cooperate. Review the

transcript from the interview with Mr. Wolfer page 37 lines 9-55 and page 38 lines 1-46.

I asked Mr. Wolfer to define passive resistance versus active resistance. He told me passive resistance would be like refusing to listen to commands and active resistance is like pulling away or fighting. I asked him if [REDACTED] was passively resisting or actively resisting. He said, "My perception was that he was actively resisting. After watching the video later, I see that, without knowing what his intention was, it does appear he was passive resisting when he raised his hands. I interpreted that as an act of resisting as he, as a pre assault"

Mr. Wolfer told me he did not complete any defensive tactics training while working at Grand Ronde Tribal Police Department. Below is an excerpt of the transcript from the interview with Mr. Wolfer (page 43 lines 41-56, page 44 lines 1-10)

Detective Hegney-Bach: Okay. Um, how did the actions of the suspect during the encounter make you feel?

James Wolfer: Scared, thought I was gonna be assaulted.

Detective Hegney-Bach: Okay.

James Wolfer: So –

Detective Hegney-Bach: What about, um, when he was on the ground and you had him in handcuffs?

James Wolfer: Uh, I think I –

Detective Hegney-Bach: Much of the same?

James Wolfer: Yeah, I was still afraid he was gonna push me off of him, and I had, at the time, still believed he had just tried to assault me with this other person that I didn't know who they were yet, um, so I was afraid of that, you know, if I got knocked off balance, then she might come run at me, and then now I'm on the ground, there's two of 'em, and even though he's in handcuffs, you know, who knows, or if he's got a weapon. I, I don't know yet. I, I don't believe I'd even done a pat-down yet or finished it –

Detective Hegney-Bach: Okay.

James Wolfer: – before I tased him again, um, so I was, I was still in the same frame of mind. Uh, I thought if I don't control this now, um, this may still, I may still get assaulted at any point here, so –

At this time during the interview we took a break. When we re-convened I asked a few clarifying questions and I verified his contact information. This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI**Report time:** 03/27/2018 14:38**Entered by:** #49678 HEGNEY-BACH, CASI**Entered time:** 03/27/2018 14:38**Narrative:**

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview – Chief Jake McKnight

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

[REDACTED] [REDACTED]

Mother of Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 – DVD with body camera footage from James Wolfer, dated 8/13/17.

ATTACHED:

Oregon State Police Property Report Form 65
Grand Ronde Tribal Police Department Conducted Energy Device Policy
Grand Ronde Tribal Police Department Use of Force Policy
Grand Ronde Tribal Police Department Personnel Complaint Policy

Public Records Request from [REDACTED] [REDACTED]

ACTION TAKEN:

On January 2, 2018, I contacted Chief Jake McKnight with Grande Ronde Tribal Police Department via telephone and set up a meeting for January 8. I sent him a follow up email asking for the following documents:

1. Taser Policy
2. Use of Force Policy
3. Internal Memos and documents relating to Case #GRT17000673
4. Copies of internal documents relating to disciplinary action for James Wolfer.

On January 8, 2018, Detective Carlos Barrientos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim Hernandez and Sergeant Rod McAllister.

At approximately 10:27 am, I interviewed Chief Jake McKnight. He provided me with copies of Grand Ronde PD's Taser Policy, Use of Force Policy and Personnel Complaint Policy.

I asked him to tell me what he knew about the events that occurred on August 13, 2017. He told me he was at the FBI Academy at that time, but was informed on August 14 around 7 am, by Lieutenant Tim Hernandez of the events that occurred on August 13. He told me Lieutenant Hernandez called him and told him there was an issue with James Wolfer. He told me Lieutenant Hernandez told him Wolfer tased [REDACTED] [REDACTED] after he applied handcuffs.

Chief McKnight told me [REDACTED] was someone they have dealt with before. He told me [REDACTED] is not verbally compliant but hasn't ever gotten physical with them. He told me Officer Wolfer was more adrenalized than he should have been. He told me Officer Wolfer was not clear in his commands. He told me there were issues with the tasings but there were also issues with the way he told the events to Sergeant McAllister. He told me Officer Wolfer was immediately placed on administrative leave.

Chief McKnight told Lieutenant Hernandez met with Wolfer and gave him the option to resign after being put on administrative leave and Officer Wolfer chose to resign. He told me Officer Wolfer worked for Grand Ronde Tribal Police Department for a little over a year. He told me Officer Wolfer was not interviewed regarding the events that occurred on August 13, 2017 because he resigned.

Chief McKnight told me he that [REDACTED] mother of [REDACTED] [REDACTED] filed a Public

Records Request requesting copies of the police reports and the body camera footage regarding the 8/13/17 interaction between Wolfer and [REDACTED] case #17-673.

This concluded our interview.

I reviewed the Conducted Energy Device Policy, Personnel Complaints Policy and Use of Force Policy. I found all of the policies to be fairly standard and are attached to this report.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 14:22

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 14:22

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview with James Wolfer

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Aaron Perez Selsky

Attorney for James Wolfer

[REDACTED]
Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Officer Dana

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E7 -- Audio Interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On February 12, 2018 I contacted James Wolfer to set up an interview. He told me he needed to contact his lawyer and told me he would call me back on Thursday February 15. On February 15, I was contacted by Aaron Perez-Selsky who told me he was Mr. Wolfer's attorney. We set up an interview for March 2, 2018 at 10:30am at the Salem Patrol Office.

On March 2, 2018 at approximately 10:42 am, I interviewed James Wolfer. Aaron Perez-Selsky and Detective Carlos Barrientos were also present during the interview. I told Mr. Wolfer our conversation was being recorded. I explained to Mr. Wolfer that I was investigating an incident involving him and [REDACTED] that occurred on August 13, 2017. I told him I was assigned to investigate whether excessive force was used during the arrest.

I asked Mr. Wolfer to tell me about his law enforcement experience. He told me the following:

- He worked as a police officer for Warm Springs Police Department from October 2010 – January 2012.
- He attended Basic Police Academy in January 2011.
- He had a gap in law enforcement work from January 2012 – May 2016. During this time he worked in banking and then for SAIF as a State Workers Comp Investigator.
- He worked as a police officer for Grand Ronde Tribal Police Department May 2016 – August 2017.
- He went to Career Officer Development (COD) during his employment at Grand Ronde Tribal Police Department due to the gap in law enforcement employment.

I asked him questions about his shift and duties on and around August 13, 2017. He told me the following:

- His scheduled shift was Sunday through Wednesday 6a-6p.
- His job was focused on community policing with a high number of contacts.

I asked Mr. Wolfer questions about his Taser training during his employment with Grand Ronde Tribal Police Department. He told he did not remember how long the initial Taser training lasted, but said it was "short." He told me the training consisted of a power point presentation and short scenarios where he shot a training cartridge, which does not shoot probes. He told me this was the only training he had with his Taser.

I asked him how his relationship was with the people he worked with at Grand Ronde Tribal Police Department. He told me he and Lieutenant Hernandez "kinda butted heads." He told me he got along well with everyone else.

I asked Mr. Wolfer to tell me about the events that occurred on August 13, 2017 at Grand Ronde Casino. He told me the following occurred leading up to seeing [REDACTED]

- Around 3pm, he received a call from dispatch that [REDACTED] was actively trespassing at Grand Ronde Casino.
- He asked for back up and was told a Polk County Deputy was in route but was a ways out.
- Dispatch informed him that [REDACTED] had a warrant for Assault II.
- Lt. Hernandez told him via radio to be careful because [REDACTED] has a brother who is usually with him. He got the impression that [REDACTED] brother would help [REDACTED] fight.
- While in-route he called Grand Ronde Casino Security and they told him [REDACTED] was inside at a bar and they told him [REDACTED] was being "confrontational."
- When he arrived at the casino, he activated his body camera and was told [REDACTED] was in the parking lot.
- He felt that he could not wait for backup due to [REDACTED] behavior and he initiated contact.

Mr. Wolfer went into detail describing his interaction with [REDACTED] (see transcript page 27 lines 17-56, page 28 lines 1-42 for more details). Mr. Wolfer told me he drove to the parking lot and security officers told him where [REDACTED] was located; he got out of his vehicle and drew his Taser. He said, "If I saw him I was gonna have to arrest him 'cause he had a warrant and was actively trespassing."

Mr. Wolfer told me he was by himself. He told me from his experience, most security officers won't get involved in physical confrontations. He told me when he saw [REDACTED] there was a woman with him and he found out later she was [REDACTED] mother. He told me he pointed the Taser at [REDACTED] and yelled at [REDACTED] to get on the ground. He told me he kept yelling "Get on the ground, get on the ground." He told me [REDACTED] wouldn't get on the ground and the woman kept trying to get between them so he moved laterally. Mr. Wolfer said, "I perceived her to be a threat, but not as big of a threat as him [REDACTED]"

Mr. Wolfer continued telling me that [REDACTED] was walking away and he thought he yelled stop. He told me [REDACTED] stopped and turned and the woman rushed at him. He told me when she rushed at him [REDACTED] made a sudden movement that he perceived as [REDACTED] about to charge him or squaring up to fight so he tased [REDACTED]. He said, "I remember he did something very, very quickly and so right at the same time she was rushing me, so then I tased him, and I got ready to go hands on with her, but she stepped back, and I think I said somethin' like stay back or you'll get tased too, and so she stepped back but she was yellin' at me, so then I went over to him. Security was there, but they weren't like grabbing her."

Mr. Wolfer told me there were a lot of people in the parking lot and he remembers looking around for this other brother that might be there. He told me he was on the ground with his back exposed to everybody. He told me the woman was still yelling

at him as he put handcuffs on [REDACTED]. He said, "I wasn't able to pat him [REDACTED] down yet, and I was on top of him but not fully, because I was also still tryin' to be able to spring back up in case I got hit from behind from wherever this other brother was gonna be, and, um, and then I felt him moving, which I interpreted as him tryin' to get back up, and I didn't know if he had weapons or anything yet."

Mr. Wolfer told me when he worked at Warm Springs someone in handcuffs tried to fight him. He told me he had not double locked [REDACTED] handcuffs yet. He told me he kept telling [REDACTED] to stop resisting and [REDACTED] kept looking at him and he felt like [REDACTED] was trying to get up off the ground. He told me [REDACTED] kept lifting him up off the ground and at the same time the woman kept yelling and it caused [REDACTED] to amp up.

Mr. Wolfer continued telling me he wanted the situation to calm down and he warned [REDACTED] to stop resisting or he would tase him again. He told me he felt like [REDACTED] continued resisting so he gave him a second tase and then [REDACTED] stopped resisting.

Mr. Wolfer told me at some point after things started to calm down the woman disappeared. He told me paramedics arrived on scene and he waited for a Polk County Deputy to arrive before letting paramedics check on [REDACTED]. He told me he didn't want to risk any of the paramedics being attacked by [REDACTED]. He told me [REDACTED] was "completely intoxicated" and in his experience intoxicated people often "want to fight and don't make good decisions." He told me once a deputy arrived, paramedics checked [REDACTED] out and then he was able to put [REDACTED] in his patrol vehicle.

Mr. Wolfer continued telling me he called Sergeant McAllister to notify him of the use of force. He told me he drove [REDACTED] to the jail and at the jail [REDACTED] refused to provide a breath test for the intoxilyzer. He told me he had to take [REDACTED] to the hospital to get cleared due to his level of intoxication. He told me once [REDACTED] was cleared he took him back to the jail. He told me he wrote a probable cause affidavit to lodge [REDACTED] in jail and then cleared the call.

Mr. Wolfer continued telling me he went back to the patrol office and talked with Officer Dana and watched the video footage for the first time. He told me he was "actually surprised to see that he [REDACTED] hadn't squared up" with him. He told me he realized when he saw the video that [REDACTED] actually took a step back and raised his hands. He explained that he thought the female was running at him and he had tunnel vision focused on this and when he saw movement from [REDACTED] he interpreted the movement as a threat and he tased [REDACTED]. He told me he felt the body camera saw more than he did, meaning a wider angle without tunnel vision.

Mr. Wolfer then addressed the second taser cycle. He said, "You couldn't see on the footage what I felt which was, I felt like I was getting picked up from it, so, um, I remember being physically moved from it or feeling like I was, so, and then accurately, I, I didn't feel like the, I felt like the camera for the first tase showed more than I saw and I felt like for the second, it showed less than I saw because it was on the center of the chest and I'm on top of him."

Mr. Wolfer told me the next morning he returned to work to finish his report in regards to [REDACTED]. He told me when he finished the report Lieutenant Hernandez and a human resources representative approached him. He told me Lieutenant Hernandez told him that he reviewed the video footage with their tribal attorney and he believed Wolfer violated the Taser Policy. He told me Lieutenant Hernandez asked him a few brief questions about why he tased [REDACTED] and then Lieutenant Hernandez told him he was being placed on administrative leave. He told me Lieutenant Hernandez hadn't even read his report when this happened. He told me Sergeant McAllister called him on Wednesday and told him to come to the office on Friday.

Mr. Wolfer told me he came into the office on Friday and he was told by Lieutenant Hernandez that he violated the Taser Policy and they had a write up recommending termination. He told me Lt. Hernandez told him he could appeal within five days. He told me he asked Lt. Hernandez if he violated anything else and Hernandez said no. Lt. Hernandez told him they did not review this for use-of-force violation or anything else. He told me Lt. Hernandez told him Dallas Police Department conducted a review of the case and found the video didn't match up to what he [Wolfer] was saying. He told me Lt. Hernandez said, "If you resign today, we're not gonna review it for anything else. We don't, we're not saying you violated the use-of-force policy, just the Taser policy." He told me he resigned in lieu of termination.

I asked Mr. Wolfer a series of questions related to his thoughts and decisions when he gave commands to [REDACTED] and how he felt when [REDACTED] did not cooperate (see transcript from the interview with Mr. Wolfer page 37 lines 9-55 and page 38 lines 1-46 for additional details). He told me he gave commands for [REDACTED] to get on the ground because he thought it would be easier to handcuff [REDACTED]. He told me he thought [REDACTED] would be less likely to be violent if he was lying on the ground. He told me he did not feel proficient in hand to hand fighting because he had had no defensive tactics training since he graduated the academy in 2011.

I asked Mr. Wolfer to define passive resistance versus active resistance. He told me passive resistance would be like refusing to

listen to commands and active resistance is like pulling away or fighting. I asked him if [REDACTED] was passively resisting or actively resisting. He said, "My perception was that he was actively resisting. After watching the video later, I see that, without knowing what his intention was, it does appear he was passive resisting when he raised his hands. I interpreted that as an act of resisting as he, as a pre assault"

Below is an excerpt of the transcript from the interview with Mr. Wolfer (page 43 lines 41-56, page 44 lines 1-10)

Detective Hegney-Bach: Okay. Um, how did the actions of the suspect during the encounter make you feel?

James Wolfer: Scared, thought I was gonna be assaulted.

Detective Hegney-Bach: Okay.

James Wolfer: So --

Detective Hegney-Bach: What about, um, when he was on the ground and you had him in handcuffs?

James Wolfer: Uh, I think I --

Detective Hegney-Bach: Much of the same?

James Wolfer: Yeah, I was still afraid he was gonna push me off of him, and I had, at the time, still believed he had just tried to assault me with this other person that I didn't know who they were yet, um, so I was afraid of that, you know, if I got knocked off balance, then she might come run at me, and then now I'm on the ground, there's two of 'em, and even though he's in handcuffs, you know, who knows, or if he's got a weapon. I, I don't know yet. I, I don't believe I'd even done a pat-down yet or finished it --

Detective Hegney-Bach: Okay.

James Wolfer: -- before I tased him again, um, so I was, I was still in the same frame of mind. Uh, I thought if I don't control this now, um, this may still, I may still get assaulted at any point here, so --

At this time during the interview we took a break. When we re-convened I asked a few clarifying questions and I verified his contact information. This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 15:29

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 15:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marlon County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview – Lieutenant Tim Hernandez

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

ACTION TAKEN:

On January 8, 2018, Detective Carlos Barrientos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim Hernandez and Sergeant Rod McAllister.

At approximately 11:00am, I interviewed Lieutenant Tim Hernandez. I asked him to talk with me about the events that occurred on and after August 13, 2017 as it related to Officer Wolfer. Lieutenant Hernandez told me he was driving home from work on August 13, 2017 around 5:00pm when he heard Officer Wolfer go out on a call for service at Spirit Mountain Casino. He told me he listened to the radio and heard that Officer Wolfer tased [REDACTED] [REDACTED]

Lieutenant Hernandez told me he came into work the morning of 8/14/17 and reviewed the video footage. He told me the use of force for the second tase was unjustified. He told me the video revealed Officer Wolfer calling McAllister via telephone and saying [REDACTED] squared off on him so Officer Wolfer tased him. He told me the video also shows Officer Wolfer saying that he was handcuffing by himself and [REDACTED] resisted so he tased him again. He told me after reviewing the video he initiated a complaint with Sergeant McAllister. He told me Sergeant McAllister is their agency's primary training officer and handles investigations.

Lieutenant Hernandez told me Wolfer edited his report the next day and it reads differently than his probable cause statement. I later reviewed both reports and found that the Probable Cause Affidavit has a lot less detail than the Incident summary, which is normal for police reports. There are also differences in some of the justifications for the initial tase and reasons

for charges he cited [REDACTED]. However none of these are the cause for this investigation so they were not addressed during this investigation.

Lieutenant Hernandez told me on 8/14/17 he placed Officer Wolfer on paid administrative leave. He told me Officer Wolfer told him he meant [REDACTED] pointed his feet at him in an aggressive manner, not squared off. He told me Officer Wolfer was upset when placed on administrative leave. He told me this was the second investigation Officer Wolfer has gone through while working for Grand Ronde Tribal Police Department.

Lieutenant Hernandez told me he was shocked when he watched Wolfer's body camera. He told me he was more surprised by the lie than the tasing. He told me Wolfer did well with community policing but not with hostile contacts. I asked Lieutenant Hernandez to elaborate and he told me that while on a traffic stop, Officer Wolfer dealt with a rowdy family and he cowered. He told me Sergeant McCallister had to have a talk with him about officer safety.

Lieutenant Hernandez told me on August 18, 2017, Officer Wolfer was given a preparation letter and told he had a right to review all documents before being interviewed. He told me Officer Wolfer decided to resign.

I asked Lieutenant Hernandez about Wolfer's police background and he told me Wolfer worked for Warm Springs Tribal Police for around a year. He told me Wolfer was let go during his probationary period with Warm Springs. He told me there was an evidence issue where Officer Wolfer left marijuana out and other officers hid it as a joke. He told me Wolfer thought he put it away. He told me Wolfer was investigated regarding this incident and Wolfer passed a polygraph. There was also a DUI investigation where Wolfer's report did not match the events that occurred. He told me he could not remember the exact reason, but knew it had to do with the HGN test.

Lieutenant Hernandez continued telling me that Wolfer did not get along with his Sergeant in Warm Springs and that sergeant was later fired for dealing marijuana. He told me Wolfer applied with Vancouver Police Department around the same time he applied with Grand Ronde, but was not hired by Vancouver because he didn't pass the psychological test. He told me Wolfer did pass the psychological test for Grand Ronde Tribal Police Department.

Lieutenant Hernandez told me there have been no other complaints involving Wolfer and his use of force. Other officers complained about Wolfer's attitude. He told me Wolfer did not get along well with management. He told me Wolfer tried to start conflict between the officers and management on more than one occasion.

I asked Lieutenant Hernandez if after reviewing the case if he believed the use of force by Wolfer against [REDACTED] rose to the level of assault and he told me yes.

//End of Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 16:29

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 15:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview – Sergeant Rod McAllister

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

[REDACTED] [REDACTED]

Mother of Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 – DVD with body camera footage from James Wolfer, dated 8/13/17.

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 8, 2018, Detective Carlos Barrientos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim

Hernandez and Sergeant Rod McAllister.

At approximately 11:39 am, I interviewed Sergeant McAllister. I asked him to talk with me about the events that occurred on and after August 13, 2017 as it related to James Wolfer. He told me August 13, 2017 was a Sunday and it was his day off. He told me he received a phone call from Wolfer that evening reporting that Wolfer used his taser two times on [REDACTED]. He told me Wolfer told him first tase was because [REDACTED] squared off on him and would not listen to commands to get on the ground and the second cycle occurred when Wolfer was trying to get [REDACTED] into handcuffs and [REDACTED] was not compliant and struggled so he tased him again.

Sergeant McAllister told me he told Wolfer to make sure his use of force report was done by the end of his shift. He told me that the next morning Lieutenant Hernandez reported to him that Wolfer was still working on his report. He told me Lieutenant Hernandez also reported the use of force by Wolfer was bad. He told me Lieutenant Hernandez told him the video was inconsistent with the notification to him [McAllister].

Sergeant McAllister told me he viewed Wolfer's body camera on either Tuesday or Wednesday and then began a personnel investigation into Wolfer. He told me he did not interview [REDACTED] or any of the witnesses. He told me the focus of the investigation was that Wolfer was untruthful and violated the taser policy.

I asked Sergeant McAllister if Wolfer had ever been disciplined prior to this incident and he told me yes. He told me Wolfer was given a letter of reprimand for violating Grand Ronde Police Department policies during an incident that occurred on September 10, 2016. He told me the discipline was not related to use of force. He told me it dealt with inconsistencies between Wolfer's report and video footage and also the lack of use of his body camera.

Sergeant McAllister told me he is their agency's primary training officer. I asked what kind of reoccurring training they require from their officers and he told me they have the following training:

1. Monthly training modules through Police One.
2. Firearms training three times per year.
3. Taser training once per year,
 - a. Includes written, practical, demo, commands, control and discharge (no shooting live cartridges).

Sergeant McAllister told me he is the Taser instructor. He told me he received his certification in 2016 through Newburg Police Department with Taser International, now called Axon. He told me the class included an online training module and sixteen hours of classroom training.

Sergeant McAllister provided me with the Taser download paperwork from the Taser used by Wolfer. A copy of the Taser download is attached to this report. The Taser's life began May 2015. He told me the Taser belonged to a different officer before Wolfer. He told me Wolfer was given the Taser in May 2016. He explained what the codes on the Taser download meant and below is a list of the codes and their meanings in regards to Wolfer's Taser on August 13, 2017.

06:38:18 Armed – Turned on
06:38:18 Safe – Holstered
06:38:24 Armed – Un-holstered
06:38:25 Trigger – Trigger pulled
06:38:30 Safe – Holstered
17:15:20 Armed – Turned on
17:15:27 Trigger – Trigger pulled
17:16:51 Trigger – Trigger pulled
17:20:40 Safe – Holstered

Sergeant McAllister provided me with copies of his Taser Instructor Certification, dated May 19, 2016. He also provided me with Wolfer's Taser Certification and Taser Tests dated June 16, 2016.

I asked Sergeant McAllister if after reviewing the case, if he believed the use of force by Wolfer against [REDACTED] rose to the level of assault and he told me yes.

This concluded our interview.

//End Report//

August 18, 2017

Officer James Wolfer
Grand Ronde Tribal Police Department

hand delivered

Re: Administrative Investigation Findings regarding officer actions in connection with
Case Number GRT17000673

Dear James:

As you are aware, the actions you took in connection with Case Number GRT17000673 came under review due to your use of your Conducted Energy Device (Taser). This incident was reviewed, as required by Policy 304.8 of the Confederated Tribes of Grand Ronde Police Department Policy Manual.

As a result of that review, we have conducted an administrative investigation into the above-referenced case pursuant to Policy 1005.6. The resulting Investigation Report details the circumstances, identifies the policies violated, and recommends appropriate discipline. The findings conclude that you violated a number of department policies – specifically 319.5.8, 319.5.9, and various provisions of 304. The disciplinary recommendation in the report is termination of your employment with the Grand Ronde Tribal Police Department.

After reviewing the Investigation Report and supporting materials, I am accepting the disciplinary recommendation to terminate your employment.

I reviewed the following materials in reaching this decision:

- Body camera footage from the incident identified above.
- GRTPD Crime Incident Report for Case ID GRT17000673 prepared by James Wolfer.
- GRTPD Incident Supplement report Supplement ID 341696 prepared by Tokata Tehama
- Probable Cause Affidavit re: arrestee [REDACTED] prepared by James Wolfer
- Arrest Report for Case 17-673
- Materials from Salem Health West Valley re: patient [REDACTED]
- LEDS report re: [REDACTED]
- GRTPD Dispatch Report for Case GRT 17000673
- Dallas Police Department incident review report prepared by Lt. Jerry Mott 08/16/17
- Investigation Report prepared by Sgt. Rod McAllister 08/16/17
- Memo re: administrative investigation prepared by Acting Chief Hernandez 08/16/17
- Policy 304 – Conducted Energy Device
- Policy 319 – Standards of Conduct
- Policy 1005 – Personnel Complaints

Pursuant to Policy 1005.10.2, you will be provided access to all the referenced materials as well as an opportunity to respond to me orally or in writing within five days of receiving this notice. If you would like further access to the materials during these five days, please call me at 503-

Officer James Wolfer

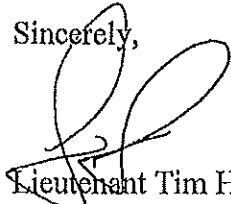
August 18, 2017

Page 2

879-1824 to schedule an appointment. You may wish to review Policy 1005.11 regarding any response you choose to provide. Your response must be received no later than 5:00 p.m. on Friday, August 25, 2017. If you choose to respond orally, the policy requires us to record your response. You may also elect to waive any such response.

I will issue a timely written decision following my review of any response you provide. Please note that if you choose to resign prior to my decision being issued, Policy 1005.12 provides that these disciplinary proceedings will cease.

Sincerely,

A handwritten signature in black ink, appearing to be "TH", written over the printed name of Lieutenant Tim Hernandez.

Lieutenant Tim Hernandez
Acting Chief of Police

Dallas Police Department

To: Lt. Tim Hernandez

From: Lt. Jerry Mott

Date: August 16, 2017

Incident Review

On August 15, 2017, Grand Ronde Tribal Police Department (GRTPD) Lieutenant Tim Hernandez requested assistance with the review of a use of force by one of GRTPD's police officers. Lt. Hernandez asked the review be completed with their policy as metric for the appropriate force decision. Lt. Hernandez provided me with GRTPD Policy 304 "Conducted Energy Device." Lt. Hernandez explained their answer of force policies are tied to the implement and method used. GRTPD's policy 304 governs force decisions where "Conducted Energy Device" tools are used. Taser use is the specific authorized tool governed by GRTPD policy 304.

Lt. Hernandez provided me with Officer Wolfer's body-camera video.

Briefing of incident:

Lt. Hernandez provided me with the facts necessary for me to complete the level of evaluation requested. Lt. Hernandez told me the GRTPD officer, James Wolfer, responded to a call of a trespass at the Casino. Lt. Hernandez told me the suspect was known to GRTPD officers from numerous previous contacts and is often intoxicated. Lt. Hernandez told me he relayed to Officer Wolfer that the suspect was also wanted for an Assault II by the Yamhill County Sheriff's Office and may have a warrant for that crime. I asked if the suspect had a history of assaulting officers. Lt. Hernandez told me he was not aware of any history of the suspect assaulting officers.

Involved Officer's Experience (Graham v. Connor):

The standard of objective reasonableness established by Graham v. Connor requires examination through the perspective of the officer on scene rather than applying 20/20 hindsight. For application of this standard in making this evaluation, I acknowledge the training and experience differences between Officer Wolfer and myself. For those reasons, I will detail observations but opinion indicated as being in "light most favorable to the officer" stands as my judgement.

Officer Training and Authorization to Carry Taser:

Lt. Hernandez told me Officer Wolfer was current on Taser training as required by GRTPD policy (304.3). Officer Wolfer's authorization to carry and use the Taser in accordance with policy is not questioned by this review.

Review of Incident:

I read the GRTPD's policy 304. I found it generally consistent with other police department policies governing the use of Tasers. I did not observe anything in the policy that was extraordinary.

I watched the provided body-camera video. The video has a digital tag on the screen indicating "IWolfer, GRT PD" and date/time stamped "2017/08/13 5:11:42 PM." The video opens with Officer Wolfer making comment to someone to keep eyes on a person and Officer Wolfer getting into a patrol vehicle.

Officer Wolfer drives to a parking lot. I can see in the video that Officer Wolfer is wearing black gloves. They are not latex gloves. It is my experience officers wear this type of glove when they anticipate the need to use force or are going to search a person.

At about 5:12:33 PM, Officer Wolfer arrives in another parking lot. As he exits his vehicle, I hear him get location description from a male telling him where the suspect is located. Officer Wolfer goes in the direction apparently indicated. At 5:12:44 PM, I see the suspect come into the video. I can see his head over the top of a car. It should be noted the camera view will vary from Officer Wolfer's view. Officer Wolfer gives clear command, "Stop. Police." Officer Wolfer rounds a parked car and shouts, "Stop. Get on the Ground." A female asks what he wants.

Officer Wolfer commands the suspect to "Get on the ground now." He points a Taser at the suspect. The woman asks if it is her who Officer Wolfer wants to get onto the ground. Officer Wolfer tells her no and directs her to back up. She does not back up and instead places herself between Officer Wolfer and the suspect. She begins to argue.

Officer Wolfer elevates his voice and shouts for the suspect to get on the ground. Officer Wolfer shouts a warning to the suspect to get on the ground or he will be tased. Officer Wolfer shouted "back away!" I believe, based on the proximity of the female, he was shouting at the female but the male suspect complied with the command and backed away. Officer Wolfer gave command for the suspect to get on the ground. Officer Wolfer tased the suspect. The suspect locked up and fell onto the asphalt parking lot. The time was 5:23:04 PM.

I could see the suspect's hands at his waist and visible when Officer Wolfer rounded the car in the parking lot. I could see the suspect put his hands in the air from where they were at his waist and kept them in the air until he was tased. The suspect did not make any threats. The suspect did not make any physical movement indicating he would assault Officer Wolfer. The suspect did not run from Officer Wolfer. The suspect did not comply with Officer Wolfer's clear and repeat commands to get onto the ground.

Officer Wolfer told the female, who continued to argue and interfere, to get on the ground or she would be tased. She replied for him to "fucking do it then Bltch." I will note it is my opinion that tasing the female would have been objectively reasonable at or before this point. She was reaching into a small purse, her hands were not always visible, she was actively interfering with the arrest and had been given clear and repeated warnings to get back. As this review does not address an answer of force to the female, I will cease description of her actions as I am of the opinion they do not have appropriate bearing on continued use of force on the suspect from this point on and a person I recognize as casino security deescalates her behavior.

Officer Wolfer handcuffs the suspect who complies with commands and is cuffed behind the back. The suspect is face-down, on the asphalt with the Taser probes still attached. While being cuffed, Officer Wolfer directs the suspect where to put his hands and warns he will be tased again if he does not comply.

The suspect repeatedly asks what he did and rolls from side to side. Officer Wolfer tells the suspect he has a warrant and warns him to stop moving or Officer Wolfer would tase him again. Officer Wolfer tells the suspect not to move or he would tase him again. The suspect shouts, "Fuck you!" The suspect's body jars as an apparent component of his shouting and the associated use of chest muscles and diaphragm. Officer Wolfer immediately initiates another cycle of his Taser. The time stamp was about 5:14:27 PM. Officer Wolfer again warns the suspect if he pulls away, "He will get it again."

Officer Wolfer and casino staff begin effectively deescalating the suspect and female. Officer Wolfer summons medics to evaluate the suspect. I will not further detail the period of time between this and when Deputy La Combe (Polk County Sheriff's Office) arrives to cover Officer Wolfer and is briefed by Officer Wolfer.

At about 5:27 PM, Deputy La Combe is being briefed on what happened by Officer Wolfer. Of note, during this briefing, Officer Wolfer tells Deputy La Combe the suspect started to "square-off" with him. This terminology describes a person assuming a fighting posture. I observed this suspect did not assume a fighting posture at any time before being tased. He also stated the female was "jacking the suspect up" and that he was trying to pull away from him on the ground.

At about 5:38:45 PM, Officer Wolfer uses a cellular phone to call Sgt. Rod McAllister. I know that is who he calls because I can see the name and part of the phone number (541)***-7895 displayed on the phone screen. Officer Wolfer briefs Sgt. McAllister. During the briefing, he tells Sgt. McAllister that the suspect "squared-up on me." Officer Wolfer told Sgt. McAllister he tased the suspect a second time because the suspect was resisting while he was trying to get the cuffs on by himself.

I also note that in the briefing to Sgt. McAllister, Officer Wolfer indicates the warrant for the suspect had flags for assaulting and resisting a police officer. I am unable to validate the accuracy of this statement with the resources provided so will accept it as accurate for the purposes of this review.

Opinion:

Officer Wolfer was authorized by GRTPD to carry and use a Taser.

Officer Wolfer gave warning before using the Taser as required in GRTPD policy 304.4.

Officer Wolfer violated GRTPD policy 304.5.1. This section of policy dictates (paraphrased) a person be either (a) violent or physically resisting or (b) demonstrate by words or action an intention to be violent or to physically resist, and appears to present the potential to harm officers, him/herself or others. When viewed in light most favorable to Officer Wolfer, the suspect was merely not complying with commands when the first application of the Taser occurred.

Officer Wolfer violated GRTPD policy 304.5.2 (d) by using a Taser on a handcuffed person who could otherwise be restrained without meeting threshold of increased risk to himself, the suspect or others.

Officer Wolfer violated GRTPD policy 304.5.2 (f) by tasing an individual who was standing on an asphalt parking lot. However, this would not, in my opinion, be a violation if the use of the Taser was appropriate under policy 304.5.1 (a) or (b) because the use would then meet policy 304.5.2's balancing test.

Officer Wolfer did not violate GRTPD policy 304.5.3 because his application of the Taser was dynamic and did not lend itself to more careful targeting. Further, he summoned appropriate medical care for the suspect.

Officer Wolfer did not violate GRTPD policy 304.5.4 because the decision to use multiple applications of a Taser are left, as a matter of policy, to the opinion of the officer that the need to control the suspect outweighs the potentially increased risk posed by multiple applications. It should be noted I do not believe the second application of the Taser reasonable or lawful but in light most favorable to Officer Wolfer, this narrow section of policy leaves the decision to his discretion.

Officer Wolfer violated policy GRTPD 304.5.5. This policy required Officer Wolfer notify a supervisor of the Taser device discharge. It is an implicit component of advising the supervisor to be honest in the recounting of the event. It is possible, albeit remote, to attribute the telling of the initial tasing of the suspect to a perception error on Officer Wolfer's part that the suspect "squared-up" with him or prepared to fight. This does not validate that perception but accepts it as possibility other than an intentional false statement. However, Officer Wolfer's telling Sgt. McAllister he tased the suspect a second time because the suspect was resisting while he was trying to cuff the suspect is plainly false. The suspect had been secured in cuffs behind his back well before being tased the second time.

MATERIALS RETENTION:

I will secure the copy of GRTPD Policy 304, the body-camera video and a copy of this document into Dallas Police Department evidence as Item #001 under case # DAP17001674. The report will contain no personal identification information and the narrative will state, "Assist for another agency internal review. Materials associated with this case number are exempted from public records release under ORS 192.501." The address for the event will be 187 SE Court St. Dallas, Oregon.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Inter-Office Memorandum

Date: August 16, 2017
To: Lieutenant Hernandez (Acting Chief of Police)
CC: Chief Jake McKnight
From: Sgt. Rod McAllister
Subject: **Investigation Report**

On 08-15-2017, I received information from Lieutenant Hernandez regarding an incident involving Officer James Wolfer, [REDACTED] and [REDACTED] while at Spirit Mountain Casino located at 27100 Salmon River Hwy in Grand Ronde, Polk County Oregon.

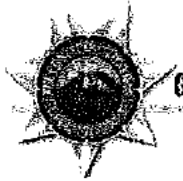
During Officer Wolfer's contact with [REDACTED] and [REDACTED] Officer Wolfer deployed his Department issued CEW (Conducted Electrical Weapon) twice. After Lieutenant Hernandez reviewed video footage, from Officer Wolfer's Department issued body camera, it was determined that several Department policies were violated by Officer Wolfer.

Lieutenant Hernandez requested that I complete an investigation into this incident, regarding the violations of Department policies.

On the evening of 08-13-2017, while I was off duty and at my residence, I had received a telephone call from Officer James Wolfer.

Officer Wolfer advised me that he was calling to let me know that he had been involved in a use of force situation and that he had deployed his Taser while attempting to take [REDACTED] into custody on a felony assault in the second degree warrant and for trespassing at the Casino.

Officer Wolfer stated, "Hey, just thought that I'd let you know." "I tased [REDACTED] I'm calling you for the use of force." "It was right when Lieutenant went end of watch, so he couldn't back me up." "He was already gone."



GRAND RONDE TRIBAL POLICE DEPARTMENT

"He [REDACTED] was trespassed and also had a felony warrant." "Wouldn't stop when I told him to." "His mom (referring to [REDACTED]) kept getting in the middle." "He squared up on me and so I had to tase him." "I actually had to hit him a second time." "He was resisting while I was trying to get the cuffs on him, by myself."

"So, Medics cleared him." "So, I gathered, I took photos of where the doors called, the fibs, whatever." Took photos of those, secured them." "Medics pulled the barbs out after the, whatever they are, the probes after P-020 (Deputy Lacombe, Polk County Sheriff's Office) came as my cover." "He was there because he [REDACTED] was semi-combative." "He's (Deputy Lacombe) actually following me right now."

"Medics cleared him [REDACTED] for transport and, so, we're headed to PCJ. (Polk County Jail)" "So, just giving you a call on the use of force."

Officer Wolfer then began to go into details regarding the incident at Spirit Mountain Casino, involving [REDACTED] [REDACTED] and [REDACTED] [REDACTED]

"Yeah, trespass." "That's what the original call, that he's [REDACTED] been trespassed multiple times." "Yes, he's [REDACTED] also going to have that."

"So, his [REDACTED] mom [REDACTED] almost got those same charges, but she [REDACTED] walked away when I told her that she would be arrested." "Stop interfering and keep your distance."

"So, she [REDACTED] was trying to get between the two of us, multiple times." "Which is part of what escalated." "I put my spare one (Taser cartridge) in there."

After Officer Wolfer provided me with the information regarding the use of force, involving [REDACTED] [REDACTED] I provided him with information regarding the collection of the Taser cartridge, the deployed probes and other evidence that needed to be entered into the evidence room.

After providing Officer Wolfer with direction pertaining to the evidence, I then ended my conversation with Officer Wolfer after he provided me with the information regarding [REDACTED] valid felony warrant, issued out of Yamhill County Circuit Court for the original charge of assault in the second degree and the cautions entered regarding the history of resisting arrest and for assault on an Officer.

While reviewing Officer Wolfer's Department issued body camera footage, I observed Officer Wolfer exit from his marked Grand Ronde Tribal Police Department vehicle and make contact with Spirit Mountain casino Security who advised Officer Wolfer where [REDACTED] was currently located at.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Officer Wolfer then proceeds, across the green lot, towards [REDACTED] and [REDACTED] location. As Officer Wolfer works his way through the parked vehicles, Officer Wolfer yells, "Hey, Stop, Police, Stop, Get on the ground!"

After Officer Wolfer gives his verbal commands, a male and female subject appear in view of Officer Wolfer's body camera, as Officer Wolfer moves towards them. [REDACTED] then asks Officer Wolfer, "What do you want?"

Officer Wolfer then states, "Get on the ground now!" Officer Wolfer has his CEW pointed in the direction of [REDACTED] and [REDACTED]. [REDACTED] and [REDACTED] are standing in the middle of the lane of travel located between the parking stalls. [REDACTED] is holding a white plastic bag in her left hand and [REDACTED] has nothing in his hands.

[REDACTED] then states, "Me?" Officer Wolfer answers, "No, not you!" "Back up!" "Go to the side!" "You on the ground!" while pointing with his left hand and pointing the CEW with his right hand. [REDACTED] is standing between [REDACTED] and Officer Wolfer. [REDACTED] is a couple of feet behind [REDACTED] and Officer Wolfer is several feet away from both [REDACTED] and [REDACTED].

Officer Wolfer then yells, "Get on the ground now!" "Move aside!" "Get on the ground now or you will be Tased!"

At this point, [REDACTED] is standing there with both hands in the air, next to his head. It's clear that [REDACTED] has nothing in his hands.

[REDACTED] steps towards Officer Wolfer. Officer Wolfer moves towards his left and yells, "Back away!" "Get on the ground now!"

[REDACTED] is observed taking small steps backwards while holding his hands in the air, next to his head. [REDACTED] is standing near [REDACTED], with her hands on her hips.

Officer Wolfer yells, while discharging his CEW, "Get on the ground!" Both CEW probes travel past [REDACTED] and strike [REDACTED].

[REDACTED] leans forward, brings his hands down to the front of his chest, just below his chin and falls forward with his body stiff. [REDACTED] lands face down on the asphalt and rolls onto his back while receiving the electrical current from Officer Wolfer's CEW.

Officer Wolfer then notifies Dispatch that he has Tased [REDACTED] while [REDACTED] steps towards Officer Wolfer while stating, "You mother fucker!"



GRAND RONDE TRIBAL POLICE DEPARTMENT

Officer Wolfer then tells [REDACTED] to "Get on the ground or you will be Tased too!" [REDACTED] then yells, "Fucking do it, Bitch!" Officer Wolfer continues to tell [REDACTED] to "Get on the ground!" while Security Supervisor Mickey Wood steps in front of [REDACTED]

At this point, [REDACTED] is lying on his back with his arms extended out to his sides and slightly towards his head, not moving.

Officer Wolfer continues to yell "Get on the ground!" "Get on the ground and don't move!" [REDACTED] is heard saying, "He didn't do anything!"

Officer Wolfer then requests Dispatch to notify medical personnel to respond to the location. Officer Wolfer then tells Security Supervisor Wood to keep [REDACTED] away.

Officer Wolfer then tells [REDACTED] to roll over onto his side twice, which [REDACTED] complies with Officer Wolfer's commands. At this point, [REDACTED] is lying on the asphalt, face down and not moving around.

Officer Wolfer then tells [REDACTED] that he is under arrest. [REDACTED] asks Officer Wolfer, "For what?" Officer Wolfer then tells [REDACTED] "You have a warrant and you have been trespassed." "You are under arrest!" "Do not move!"

Officer Wolfer then moves towards [REDACTED] and [REDACTED] stays standing in the same spot and does not move. Officer Wolfer points towards [REDACTED] and says, "Stay back!" "Keep your hands where we can see them!"

Officer Wolfer then kneels down beside [REDACTED] places his left hand in the lower area of [REDACTED] back and says, "Place your hands right here!" [REDACTED] is heard saying, "He had this under control and you fucking know it!" Officer Wolfer tells [REDACTED] to "Shut up!"

Officer Wolfer then places [REDACTED] hands in the lower portion of his back and says, "Put your hands right here or you'll get it again!" Officer Wolfer then places handcuffs on [REDACTED] wrists, while his hands are behind his back. [REDACTED] is not saying anything nor is he displaying any indications that would indicate that [REDACTED] is resisting Officer Wolfer while being handcuffed.

After [REDACTED] is handcuffed, [REDACTED] asks Officer Wolfer, "What did I do?" "What did I do?" Officer Wolfer states, "Do not move!" [REDACTED] asks again, "What did I do?" Officer Wolfer states, "Do not move!" At this point, [REDACTED] is still lying face down, on the asphalt and not displaying any indication or making any movements that would constitute the crime of resisting arrest.



GRAND RONDE TRIBAL POLICE DEPARTMENT

█████ then asks Officer Wolfer, "What does he have a warrant for?" Officer Wolfer replies, "It doesn't matter!" "Shut up!" █████ begins to move and Officer Wolfer states, "Do not move or I will give it to you again!"

Officer Wolfer then tells █████ to "Shut up!" "It's not about you!" █████ asks Officer Wolfer a second time, "What does he have a warrant for?" Officer Wolfer states to █████ "Shut up!" "It's none of your business!"

█████ then moves towards his left side and yells, "It is my business!" Officer Wolfer tells █████ "Stop moving or I will Tase you again!" █████ then states, "Fuck you!"

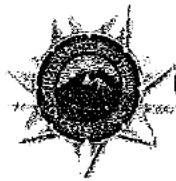
Officer Wolfer then discharges his CEW a second time, while █████ is lying face down on the asphalt, with his hands cuffed behind his back. Officer Wolfer allows his CEW to cycle for the entire five seconds. █████ is heard yelling during the entire five second cycle.

Officer Wolfer tells █████, "Don't move or you'll get it again!" "Shut up!" Officer Wolfer then asks █████ "You done?" Officer Wolfer then states, "You pull away from me again, you get it again!" At no point in time did █████ ever pull away from Officer Wolfer nor did he make any attempts at pulling away. █████ appeared to only attempt to roll to his left side to look at Officer Wolfer while he was saying, "Fuck you!"

█████ then tells Officer Wolfer, "You shot me twice!" Officer Wolfer then answers, "You shouldn't resist." "I told you that you were under arrest and you resisted." █████ asks Officer Wolfer, "How did I resist mother fucker?" Officer Wolfer then states that █████ was moving and pulling away.

After reviewing the video footage from Officer Wolfer's Department issued body camera, I reviewed the content of Officer Wolfer's report that he completed regarding this incident. During my review, I noted multiple inconsistencies regarding the information contained in the report compared to what actually happened on video.

I also learned that the information Officer Wolfer provided to me on the evening of 08-13-2017, regarding the use of force, was untruthful regarding the events that occurred and the conduct █████ displayed, which would justify the use of a CEW.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Findings:

POLICY 319 – STANDARDS OF CONDUCT.

319.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

Officer James Wolfer violated Policy 319.5.8 by intentionally making false statements when reporting the incident to his supervisor, after the deployment of the Department issued CEW. Officer Wolfer made misleading entries into his criminal report, to the Polk County District Attorney's Office, regarding the conduct of [REDACTED] and [REDACTED] to facilitate additional criminal charges consisting of resisting arrest and interfering with a police officer.

319.5.9 CONDUCT

- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.

Officer James Wolfer violated Policy 319.5.9 by intentionally using unreasonable and unwarranted force on [REDACTED] While [REDACTED] was lying face down, on the asphalt, with his hands restrained behind his back with the use of handcuffs, Officer Wolfer intentionally discharged his Department issued CEW after [REDACTED] rolled towards his left side after being told not to move.

Officer Wolfer was untruthful when providing information, to his supervisor, regarding [REDACTED] actions that led to the justification to use a CEW to effectively make an arrest.



GRAND RONDE TRIBAL POLICE DEPARTMENT

POLICY 304 – CONDUCTED ENERGY DEVICE

304.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others. Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

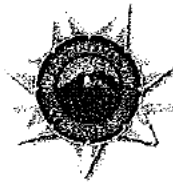
Officer Wolfer violated Policy 304.5.1 by using his Department issued CEW on [REDACTED] who was not actively violent and not physically resisting while restrained by the use of handcuffs.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (d) Individuals who are handcuffed or otherwise restrained.

Officer Wolfer violated Policy 304.5.2 by intentionally discharging his Department issued CEW while [REDACTED] [REDACTED] was restrained by the use of handcuffs.



GRAND RONDE TRIBAL POLICE DEPARTMENT

RECOMMENDATION:

After reviewing all of the information provided, Officer Wolfer's footage from his Department issued body camera and the review of his completed police report, I find that Officer Wolfer grossly violated several Department policies, which affect the mission and vision statements of this Department.

I recommend the following;

- o Termination of employment with the Grand Ronde Tribal Police Department.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Inter-Office Memorandum

Date: August 16, 2017

To: Chief Jake McKnight

CC: Rod McAllister

From: Lt. Tim Hernandez (acting Chief of Police)

GRT 17-673 James Wolfer administrative investigation.

On 08/13/17 I was near my residence for my scheduled shift to end at 1700 hours. I heard radio traffic from 911 Dispatch advising of a trespass in progress. I checked the call notes and saw the suspect was [REDACTED] [REDACTED]. I advised Officer Wolfer of Mr. [REDACTED] past contacts and that I believed that he had a warrant for assault out of Yamhill County. I also requested Polk County respond to cover Officer Wolfer.

I then monitored the radio traffic from my residence. I hear Officer Wolfer tell 911 Dispatch that he had activated his taser while taking Mr. [REDACTED] into custody. I later heard that medics had cleared Mr. [REDACTED]

On 8/14/17 I responded to the Police department and I asked Evidence Technician Leno to make me a copy of the use of force. Officer Wolfer's daily shift report advised that he tased Mr. [REDACTED] because

"his mother was coming at me and he seemed to square up his feet." He stated that he tased Mr. [REDACTED] a second time because, "He resisted."

I then reviewed the video and I saw Officer Wolfer give Mr. [REDACTED] commands at taser point to, stop Police, get on the ground. Mr. [REDACTED] mom gets in between Officer Wolfer and Mr. [REDACTED] Mr. [REDACTED] raises his hands in the air above his head and slowly walks backwards while asking, what did I do? Officer Wolfer steps to the side and tases Mr. [REDACTED]

Mr. [REDACTED] immediately falls to the ground and his mother takes a step towards Officer Wolfer while yelling at him. Officer Wolfer gives Mr. [REDACTED] orders and Mr. [REDACTED] complies. Officer Wolfer handcuffs Mr. [REDACTED] behind his back. Mr. [REDACTED] is upset and he and his mom begin to yell asking what he did. Mr. [REDACTED] moves while yelling and Officer Wolfer tells him not to move or he will be tased again. Mr. [REDACTED] yells "Fuck you" and moves while saying this. Officer Wolfer tases him again for a full five seconds.

CTGR policy 304.5.1 Application of taser

The taser device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

The taser application that I witnessed on body camera footage does not fall in line with the policies of the CTGR Police Department.

I immediately made contact with the CTGR General Manager and the CTGR Tribal Police Attorney. I asked them to view the body camera footage and I provided them with a copy of the CTGR Police Conducted Energy Device policy. After they viewed the body camera footage we made the decision to place Officer Wolfer on paid administrative leave until we could further review this incident.

On 08/14/17 at about 1024 hours, I met with Officer Wolfer at the Grand Ronde Police Department. Also present was Human Resources, Patrick Dempsey. I introduced Officer Wolfer to Mr. Dempsey and I advised him that his use of force was not in line with CTGR Police Department policies and that he was being placed on administrative leave.

I provided Officer Wolfer with a copy of the policy. Officer Wolfer asked me if he could ask a question and I told him he could. He asked what part was not in line. I asked him to look at the policy and I told him Mr. [REDACTED] had his hands in the air and was slowly stepping backwards when he was tased.

Officer Wolfer told me, "He squared up at me." He said after he reviewed his body camera footage he saw his hands were in the air but he felt Mr. [REDACTED] feet were pointed towards him.

I then mentioned the second taser deployment and Officer Wolfer told me, "He kept trying to roll." He told me he had not patted Mr. [REDACTED] down and he had not double locked the handcuffs. He told me his taser deployment was done in good faith. Officer Wolfer asked what the level of punishment was for an incident like this. I advised him that it could be anything from days off, more training or possible termination. I told him we would have to have a full review of the incident.

I asked Officer Wolfer to leave his department equipment in his locker. He was allowed to wear his duty shirt and pants. Officer Wolfer asked me about his off duty weapon and badge. I advised him he was only on administrative leave and he could keep his off duty gear and credentials.

Our meeting concluded at 1030 hours. I walked to the locker room with Officer Wolfer and spoke with him briefly as he was placing items in his locker. I asked him if Nicole was at home or if he wanted to call Nicole with me present and he told me I did not need to. Officer Wolfer stated to me, "This seems like Warm Springs all over again."

I later reviewed the entire incident to its conclusion. I heard Officer Wolfer call Sgt. McAllister and explain that he tased Mr. [REDACTED]. Officer Wolfer said he tased Mr. [REDACTED] because he squared up to me. He told Sgt. McAllister that he had to tase Mr. [REDACTED] a second time because he was resisting while Officer Wolfer was trying to handcuff him by himself.

I later reviewed Officer Wolfer's report where he states that he tased Mr. [REDACTED] because his feet pointed towards him in an aggressive manner. He stated he tased Mr. [REDACTED] a second time because he continued to try to roll away from me.

It is my opinion that Mr. [REDACTED] mother, Mrs. [REDACTED] was more aggressive than Mr. [REDACTED]. I did not see anything in my opinion that either Mr. [REDACTED] or Mrs. [REDACTED] ever displayed anything other than verbal and passive resistance. Mr. [REDACTED] was never told he was under arrest until after he had been tased and handcuffed. He was later handcuffed and lying face down with Officer Wolfer standing over him when he was tased a second time.

On 8/15/17, I made phone contact with the City of Dallas Police Chief, Tom Simpson. I asked the Chief if his department would be willing to assist our department with a use of force review. Chief Simpson advised me he would have a supervisor contact me.

I also briefed Sgt. McAllister and I advised him that I wanted him to conduct an investigation into this incident.

I later spoke with Dallas Police, Lt. Mott. I advised Lt. Mott we had a taser deployment that we wanted his department review and advise if it was in line with the CTGR Police Department policies. Lt. Mott advised me that he would be willing to review our policy and the body camera footage and offer a written opinion.

I later responded to the Dallas Police Department and I provided Lt. Mott with a complete copy of the Grand Ronde Police Conducted Energy Device policy. I also provided him with a DVD with the body camera footage of the taser deployment against Mr. [REDACTED]

On 8/16/17 I received a written response from Lt. Mott. Lt. Mott advised me that he believed that Officer Wolfer violated several CTGR Police Department policies. Please refer to Lt. Mott's report for additional information.

End of report.

Crime/Incident Report

Print Date: 08/14/2017 13:39:10

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case Id GRT17000673	Type Description TRESP1 TRESP1	Report Date 08/13/2017 17:04
Location 27100 SALMON RIVER HWY	Occurred From 08/13/2017 17:04	Occurred To 08/13/2017 19:42
District 01	Linked Incident	
Department Routing ; PCDA		

SYNOPSIS

OFFENSES

OFFENSE	DESCRIPTION	LOCATION TYPE	UCR
164.245(a)	Criminal Trespass II TRESPASSED PERMANENTLY FROM CASINO GROUNDS SINCE 2016	CAS	26
162.247	Interfere with Police Officer REFUSED TO OBEY ORDERS, REFUSED TO OBEY ORDERS	CAS	999
162.315(c)	Resisting Arrest - Dis. Conduct ATTEMPTED TO ROLL AWAY WHILE BEING HANDCUFFED	CAS	24
166.025(b)	Disorderly Conduct 2nd Deg YELLED DURING ENTIRE ARREST, WAS DISRUPTIVE TO FOOD SERVICE	CAS	24
01207	AOA - Warrant Served YAMHILL COUNTY FELONY WARRANT-ASSAULT II-WNO #17CR53185	CAS	999
162.325(e)	Hinder Prosecution - All Other ATTEMPTED TO PHYSICALLY STOP ARREST OF	CAS	999

INVOLVED PARTIES

	DOB	AGE	SEX	RACE	WEIGHT	HEIGHT	HAIR	EYE
ARRESTED		32	M	NAT	150 lbs	5ft10in	BLK	BRO
	GRAND RONDE OR 97347							
	Home #:	Bus #:	Cell #:					
	SSN:	DLN:						

CHARGE	DESCRIPTION	CNTS	WARRANT #	COURT
164.245(a)	Criminal Trespass II	1		CIRC
162.247	Interfere with Police Officer	1		CIRC
162.315(c)	Resisting Arrest - Dis. Conduct	1		CIRC
166.025(b)	Disorderly Conduct 2nd Deg	2		CIRC

OTHER		37	M	NAT	210 lbs	5ft10in	BLK	BRO
	GRAND RONDE OR 97347							
	Home #:	Bus #:	Cell #:					
	SSN:	DLN:	OR					

OTHER

, OR

Home #: (

Bus #: (

Cell #: (

SSN:

DLN:

SUSPECT

57

F

WHI

180 lbs

5ft02in

BRO

, GRAND RONDE OR 97347

Home #:

Bus #:

Cell #: (

SSN:

DLN: OR

Complexion:

Clothing:

Suspect Actions:

VICTIM

SPIRIT MOUNTAIN CASINO

27100 SALMON RIVER HWY , GRAND RONDE OR 97347

Bus #: (503) 879-2350

PROPERTY

Item #	Tag	Category	Make	Model	Serial #
001	R1700673G108001	MISCELLANEOUS			
OAN	COLOR	NCIC	UCR K.		

Description

TASER PROBES, CARTRIDGE AND DOORS

Ownership	Property Status	Estimate	Property Status	Estimate
Name:	Evidence: Y	1.00		
Phone:				
Address:				
Recovered/ Seized From	Seizure			
Name:	Location:			
Address:	Officer:			
Phone:	Recovered Date:			

Item #	Tag	Category	Make	Model	Serial #
003	R1700673G108003	PHOTOS/FILM			
OAN	COLOR	NCIC	UCR K.		

Description

BODY CAMERA FOOTAGE

Ownership	Property Status	Estimate	Property Status	Estimate
Name:	Evidence: Y	1.00		
Phone:				
Address:				
Recovered/ Seized From	Seizure			
Name:	Location:			
Address:	Officer:			
Phone:	Recovered Date:			

Item #	Tag	Category	Make	Model	Serial #
004	R1700673G108004	DOCUMENTS			
OAN	COLOR	NCIC	UCR K.		

Description

SECURITY INCIDENT REPORTS

Ownership			Property Status		Estimate		Property Status		Estimate	
Name:			Evidence: Y		1.00					
Phone:										
Address:										
Recovered/ Seized From			Seizure							
Name:			Location:							
Address:			Officer:							
Phone:			Recovered Date:							
Item #	Tag	Category	Make	Model	Serial #					
005	R1700673G108005	PHOTOS/FILM								
OAN	COLOR	NCIC	UCR							
			K.							

Description

CDR-photos of Taser Deployment area

Ownership			Property Status		Estimate		Property Status		Estimate	
Name:			Evidence: Y		1.00					
Phone:										
Address:										
Recovered/ Seized From			Seizure							
Name:			Location:							
Address:			Officer:							
Phone:			Recovered Date:							

MO

NARRATIVE

On 8/13/2017 I was on duty, in full uniform and clearly displaying a badge. At 1703 hours I was dispatched to Spirit Mountain Casino, located at 27100 Salmon River Highway, Grand Ronde, Polk County, Oregon, for report of a male that was trespassing. While en route, dispatch advised that the male was [REDACTED] DOB [REDACTED], and that he had a felony warrant out of Yamhill County. Lt. Hernandez advised he was already out of the county and end of watch, but advised that [REDACTED] brother, [REDACTED] may be around and has assault law enforcement in the past. Dispatch further advised that the warrant was confirmed for Assault in the second degree and that [REDACTED] had caution flags for assault on a public safety officer. Dispatch also advised he was intoxicated. While en route I located [REDACTED] DMV photo and viewed it, as well as the warrant information. I called for a cover unit, and the closest cover unit was Polk County Deputy LaCombe, who was responding from Dallas. I called Spirit Mountain Casino Security, who advised that [REDACTED] was permanently trespassed from the casino and that he was being confrontational with security. I advised dispatch I would be increasing my response and responding without waiting for a cover unit due to casino security being at risk, especially given [REDACTED] cautions for interfering with police and the warrant being for assault II, which I know includes serious physical injury as an element. As I arrived at the casino, Security Supervisor Micky Wood advised that [REDACTED] was headed towards the valet entrance and the green parking lot. I went to that location and security pointed out [REDACTED] walking with a female in about the third row of parking. I recognized [REDACTED] from his DMV photo. I had my body camera activated already. The following happened in substance, to the best of my recollection and perception at the time of the incident.

I drew my Taser and loudly yelled "stop! Police!" and "get on the ground" to [REDACTED]. The female, later identified as [REDACTED] DOB [REDACTED], asked if I meant her or [REDACTED]. I gave verbal commands for Ms. [REDACTED] to move to the side and gave verbal commands to [REDACTED] to "get on the ground!" [REDACTED] refused to get on the ground and was yelling at me. Ms. [REDACTED] was yelling at me. I sidestepped to my left while pointing my Taser at [REDACTED] while I continued to shout verbal commands to "get on the ground, get on the ground NOW!"

[REDACTED] continued to refuse to get on the ground and yelled at me. Ms. [REDACTED] continued to refuse orders to move aside and kept physically putting herself between my Taser and [REDACTED]. I continued to yell verbal commands to "stop!" and "get on the ground or you will be Tased!" while pointing my Taser at [REDACTED] from about 10 feet away. I observed [REDACTED] put his hands up but point his feet towards me in an aggressive stance, and I believed [REDACTED] was getting ready to assault me. At that time, Ms. [REDACTED] was still yelling at me and walking towards me aggressively.

Due to the severity of the crime of Assault II that [REDACTED] was wanted for, the known factors of [REDACTED] having a history of interfering with police and associated cautions, the fact that [REDACTED] was continually refusing orders to get on the ground and his aggressive stance and shouts, the fact that [REDACTED] appeared to be larger than me, my cover unit likely still being 5-10 minutes away, as well as Ms. [REDACTED] walking towards me while yelling and physically attempting to stop me from taking [REDACTED] into custody, I was afraid I would be assaulted and would have to physically fight both Ms. [REDACTED] and [REDACTED]. I quickly sidestepped to my left and pulled the trigger of my Taser while it was pointed at [REDACTED] and it was effective, with the probes and wires hitting [REDACTED] in the upper Torso area.

I observed [REDACTED] fall back to the ground. Ms. [REDACTED] began screaming at me "you motherfucker!" and I had to yell verbal commands at her to "get on the ground or you will be Tased too!" Ms. [REDACTED] stood back about 6 feet from me, but continued to yell at me and approach me. I repeatedly had to yell at Ms. [REDACTED] to "step back!" "get on the ground" and "shut up!" because she was yelling so loudly that I could not effectively give further instruction to [REDACTED]. I let dispatch know I had Tased [REDACTED] and asked for medics to respond.

I told [REDACTED] to turn over onto his stomach or he would be Tased again, and he complied. I told [REDACTED] to put his hands on the small of his back. I told [REDACTED] he was under arrest for a felony warrant and for trespass. I began putting handcuffs on [REDACTED]. [REDACTED] continued to yell at me and tried to roll away from me while tensing his body up. I told Highpine to stop resisting or he would be tased again. As I attempted to double lock the handcuffs, [REDACTED] tensed his body up and tried to roll away from me, and I told him again to stop resisting but he continued to try and roll away from me. I activated my Taser again for a 5 second cycle, and [REDACTED] immediately stopped resisting. I was able to secure [REDACTED] to the ground with my knee on his upper back.

While securing [REDACTED] Ms. [REDACTED] repeatedly screamed at me and approached me. I had to yell commands at her to stay back and Security Supervisor Wood stepped in and kept Ms. [REDACTED] from approaching me. Ms. [REDACTED] began to record me on her cell phone. I told her that was fine because I was recording on my body camera, but that she needed to do it from that distance and not approach me again. I told her I would need her information, and [REDACTED] told me it was his mother.

[REDACTED] a Casino employee, came outside and identified himself as [REDACTED] brother. [REDACTED] kept trying to calm [REDACTED] down as he would alternate between tensing his body up and screaming at me, and then calming down. [REDACTED] did not seem to recognize [REDACTED] at times, and I could smell a moderate odor of an alcoholic beverage coming from [REDACTED] person. I also observed his speech to be extremely slurred.

[REDACTED] asked to sit up. I told him as long as he did not resist any more I would let him sit up, and he

agreed. I sat [REDACTED] up into a seated position, and he continued to alternate between being calm and screaming at me "what did I do." I repeatedly explained the warrant and trespass charges to [REDACTED]

I asked [REDACTED] if he had any injuries, and he told me he had a heart condition but was not having any issues now. When medics arrived, I advised them to wait for Deputy LaCombe, who was about 2 minutes away. When Deputy LaCombe arrived, medics checked on [REDACTED] removed the Taser probes and wires, and cleared him for transport to the jail. I specifically asked them to check [REDACTED] head for any injuries from falling after being Tased, and they advised there were no visible injuries and [REDACTED] insisted he was fine.

At some point, Ms. [REDACTED] left the scene and was not located again.

The medics placed the Taser probes into a locked sharps container and gave that to me. I photographed the area where I had deployed the Taser. I collected the Taser wires and doors but could not find any other pieces of evidence. Deputy Lacombe and I assisted [REDACTED] to his feet. I checked the handcuffs for proper tightness and fit and conducted an officer safety patdown on [REDACTED] for weapons and means of escape and found none. I escorted [REDACTED] to the back of my patrol vehicle and placed him in the backseat, and placed his seatbelt on. I secured the Taser evidence in the back of my patrol vehicle.

I transported [REDACTED] to the Polk County Jail. While en route, [REDACTED] cycled between calm and quiet to loudly screaming at me while banging his head on the cage divider. I told [REDACTED] several times to stop banging his head and he would immediately comply. While driving to the Polk County Jail, [REDACTED] asked my name repeatedly, and after I told him, he told me that he would kill me. I asked him when, and he said "maybe tonight, maybe next time I see you."

I advised dispatch of the threats made and asked that extra deputies be available at the jail in case [REDACTED] was combative there.

At the jail, [REDACTED] was not combative. [REDACTED] refused to have his blood alcohol content tested. The corrections deputies explained that [REDACTED] needed to provide a sample to see if he was medically cleared to be lodged, as they were worried about him having alcohol poisoning. [REDACTED] refused to provide a sample, so I transported him to the West Valley Hospital in Dallas, Oregon. At the hospital, [REDACTED] was cleared by medical staff and I was given a form. I kept a copy of the form which will be attached to this report.

I called Grand Ronde Tribal Police Sergeant Rod McAllister by telephone and advised him of the use of force.

I transported [REDACTED] to the Polk County Jail, where he was lodged for the following charges:

Yamhill County Felony Warrant for Assault II, Warrant # 17CR53185;

ORS 164.245 Criminal Trespass II, due to [REDACTED] [REDACTED] being at Spirit Mountain Casino after knowingly being permanently trespassed from the casino property. It should be noted that [REDACTED] was previously arrested in case 16-515 for trespassing at the casino on 9/18/2016;

ORS 162.247 Interfering with a police officer, due to [REDACTED] refusing several orders to stop and get on the ground after I identified myself as a police officer and while warning him to get on the ground or he would be Tased;

ORS 162.315 Resisting arrest, due to [REDACTED] physically tensing his body up and attempting to roll away from my several times while I was handcuffing him, after I had informed him he was under arrest for Trespass and a Felony Warrant;

ORS 166.025 Disorderly conduct II, due to [REDACTED] screaming loudly at me during and after the arrest, causing several patrons to stop walking and stare, as well as being so disruptive while being served food that he was asked to leave by Casino staff.

I returned to the Grand Ronde Police station and secured the Taser probes and cartridge in evidence as Item # 001.

Officer Tehama returned to the scene of the incident and retrieved two AFIDS for me, which were secured as Item # 002. See Officer Tehama's supplemental report for further.

I downloaded my body camera footage into DEMS and saved it as evidence, Item # 003.

I burned the photos I had taken onto a CDR and saved it in evidence as Item # 005.

I later reviewed my body camera footage and observed that directly before I activated my Taser, [REDACTED] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that Ms. [REDACTED] was approaching me and I believed I was about to be assaulted and would have to fight both Ms. [REDACTED] and [REDACTED] without a cover unit.

On 8/14/2017 at 0636 hours I returned to Spirit Mountain Casino and spoke with Security Staff. Security staff gave me the security reports for this incident, which is incident number INC-112829, as well as the incident on 9/18/2016, INC-10541. In security report INC-10541, after [REDACTED] was arrested by Grand Ronde Tribal Police for trespass on 9/18/2016, Security explained to [REDACTED] that he was permanently and indefinitely excluded from the casino and that future incidents would result in the Casino pursuing trespass charges. There is a copy of the written exclusion notice in that report. I secured both reports in evidence as Item #004.

I also requested SMC Surveillance provide me a copy of the surveillance footage. I will attach that to this report once received.

Security also identified Ms. [REDACTED] as the female that was with [REDACTED] I looked up Ms. [REDACTED] DMV photo and noted it was a match for the female that attempted to stop me from arresting [REDACTED]

At this time, I have probable cause to arrest Ms. [REDACTED] for the following crimes:

ORS 162.325 Hindering prosecution, due to Ms. [REDACTED] physically attempting to stop me from taking [REDACTED] into custody on his Felony warrant, when she continually stepped between me and [REDACTED] and refused orders to step aside;

ORS 162.247 Interfering with a police officer, due to Ms. [REDACTED] refusing orders to get on the ground, as well as refusing orders to step aside when I attempted to take [REDACTED] into custody.

CASE CLOSED BY ARREST

Copy of report to the Polk County District Attorney

SUMMARY

REVIEW STATUS: PENDING REVW	REVIEWED BY:	DATE: 8/14/2017 9:45:15AM
INVESTIGATOR ASSIGNED:	ASSIGNED DATE:	
DEPT. CASE DISPOSITION: ARREST	DATE: 8/14/2017 9:44:34AM	
UCR STATUS: NA	DATE: 8/13/2017 5:44:01PM	IBR EXEP CLEAR CLASS: NA
Reporting Officer	Reviewed/Approved by	Date Reviewed/Approved
G108 WOLFER,JAMES		

Incident Supplement

Print Date: 08/14/2017 13:39:22

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case ID GRT17000673	Supplement ID 341696	Occurred Date 08/13/2017 17:04	Event Type TRESP1
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Location
27100 SALMON RIVER HWY

Subject
RECOVERY OF ANTI-FELON IDENTIFICATION TAG (AFID TAG)

Dept Routing
; PCDA

NARRATIVE

On 08/13/2017 at approximately 20:15 hours, Grand Ronde Tribal Officer James Wolfer returned from transporting his custody to Polk County Jail. Officer Wolfer advised me that he had deployed the Taser Probes and asked for help in securing the evidence.

I asked Officer Wolfer if he had recovered any Anti-Felon Identification Tags (AFID Tags), and he advised me that he could not locate any.

I returned to the area where Ofc. Wolfer's Taser was deployed and recovered two AFID Tags with matching serial numbers. I transported the AFID Tags to the Grand Ronde Police Department where I placed them onto clear tape so the numbers were clearly visible. I then placed the tape and tags into an evidence bag and secured it into a locked evidence locker.

This ended my involvement in the case.

CASE STATUS: CLOSED

OFFENSES

INVOLVED PARTIES

PROPERTY

Item # 002	Tag R1700673G107002	Category LAW ENF EQ	Make	Model	Serial # C4103AMCR
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OAN

Description
TWO ANTI-FELON IDENTIFICATION TAGS SECURED ON INVISIBLE TAPE

Drug Type	Drug Weight	Quantity 2	Weapon	Size/Calibre	NCIC	UCR
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Ownership Name: Phone: Address:	Property Status Estimate Evidence: Y 1.00
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Recovered/ Seized From Name: Address:	Seizure Location: Officer:
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Officer Id: G107	Officer Name: TEHAMA, TOKATA	Agency: GRT	Date: 8/13/2017 21:44
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Reviewed Status: PENDING REVW	Reviewed by:	Date: 8/13/2017 21:53
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Incident Supplement

Print Date: 08/14/2017 13:39:22

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case ID	Supplement ID	Occurred Date	Event Type
GRT17000673	341696	08/13/2017 17:04	TRESP1
Location			
27100 SALMON RIVER HWY			
Subject			
RECOVERY OF ANTI-FELON IDENTIFICATION TAG (AFID TAG)			
Dept Routing			
; PCDA			
Phone:		Recovered Date:	
VEHICLES			
MO			
Officer Id: G107	Officer Name: TEHAMA, TOKATA	Agency: GRT	Date: 8/13/2017 21:44
Reviewed Status: PENDING REVW	Reviewed by:	Date: 8/13/2017 21:53	



Probable Cause Affidavit

State of Oregon) Arresting Agency: Grand Ronde Tribal PD Venue: ☒ Polk County ☐ Other
County of Polk) Circuit Court: ☒ Dallas Municipal Court: ☐ Monmouth Municipal Court: ☐
Behavioral Health Evaluation: Yes: ☐ No: ☒

I, the undersigned peace officer, after being duly sworn upon oath do hereby swear or affirm that the following information is true to the best of my knowledge and belief.

Arrestee: [REDACTED]

Date & Time of Arrest: 8/13/2017 at 1711 hours

Arresting Officer: J. Wolfer

Date of Crime(s): 8/13/2017 Venue: ☒ Polk County ☐ Other

Crime(s) Alleged:

ORS 164.245 Criminal Trespass II
ORS 162.247 Interfering with a Police Officer
ORS 162.315 Resisting arrest
ORS 166.025 Disorderly conduct in the second degree
Felony Warrant, Yamhill County Warrant 17CR53185

Facts supporting probable cause:

On 8/13/2017 at 1703 hours I was dispatched to Spirit Mountain Casino, located at 27100 Salmon River Highway, Grand Ronde, Polk County, Oregon for report of a male at the location trespassing. Dispatch advised that the male was [REDACTED] DOB [REDACTED], and advised that he had been trespass from that location in the past and was not allowed to be at the location. While en route, dispatch advised that Mr. [REDACTED] had a felony warrant out of Yamhill County and that he had a history of resisting arrest and cautions for assaulting a police officer.

I asked for a cover unit and went towards the location. The closest cover unit was a Polk County deputy coming from the Dallas area. I called Casino Security, who advised that Mr. [REDACTED] was being confrontational with security staff and they were following him to the valet entrance. I went to the valet entrance and Security pointed out Mr. [REDACTED]. I had previously pulled up Mr. [REDACTED] DMV photo and recognized Mr. [REDACTED]. It should be noted that Mr. [REDACTED] has been arrested on previous occasions for being at Spirit Mountain Casino, and he is aware he is permanently trespassed from that location.

Mr. [REDACTED] was with a female that he later said was his mother. I drew my taser and ordered Mr. [REDACTED] to the ground. Mr. [REDACTED] began yelling at me and refusing to cooperate. I continued to order Mr. [REDACTED] to lay on the ground and he continued to refuse. The female kept stepping in between myself and Mr. [REDACTED] and he started walking away. I told Mr. [REDACTED] to stop while pointing my taser at Mr. [REDACTED] with it turned on, and he turned towards me. I observed Mr. [REDACTED] take an aggressive stance towards me while yelling, "squaring up" his body, and I was afraid that he was going to try and assault me. It should be noted that Mr. [REDACTED] is taller than me and his mother continued to try to confront me as well, and I knew my closest cover unit was around 5-10 minutes away. I pulled the trigger and activated the Taser, hitting Mr. [REDACTED] in the upper Torso area. Mr. [REDACTED] fell to the ground. I told him to turn over and he did. I told Mr. [REDACTED] that he was under arrest for trespass and for a felony warrant.

I placed handcuffs on Mr. [REDACTED]. After placing the handcuffs on Mr. [REDACTED] before I could double lock them,

he began to try and roll away from me and yell at me that he did not do anything. I told Mr. [REDACTED] to stop resisting and I tried to hold Mr. [REDACTED] down but he continued to try and roll away from me while yelling at me. I activated the taser a second time as I felt that Mr. [REDACTED] was attempting to try and get up and push me off of him. During this time, the female continued to yell at me and approach me while I yelled at her to stay back. After the second taser cycle, Mr. [REDACTED] stopped resisting. Security was keeping the female subject away from us.

Mr. [REDACTED] agreed to not try and resist any more, and I had him sit up. I asked Mr. [REDACTED] if he had any injuries and he said no. I observed that Mr. [REDACTED] had a strong odor of an alcoholic beverage coming from his breath and person and observed his speech to be slurred. A family member of Mr. [REDACTED] came outside and tried to talk Mr. [REDACTED] into being more calm, as he was yelling loudly at me at times. Mr. [REDACTED] did not recognize the family member, who identified himself as Mr. [REDACTED] brother. From my training and experience as a police officer, I believed Mr. [REDACTED] was intoxicated.

I asked for medics to come and they arrived. When my cover unit, Deputy LaCombe arrived, medics came in and removed the Taser probes from Mr. [REDACTED] and determined he had no injuries and was okay to be transported to the Polk County Jail.

While en route to the Polk County Jail, Mr. [REDACTED] would alternate between being quiet and banging his head on the window of my patrol vehicle while screaming at me. Mr. [REDACTED] also told me that he would kill me, either tonight or next time he saw me.

At the Polk County jail, Mr. [REDACTED] refused to cooperate with jail deputies to be medically cleared. I took Mr. [REDACTED] to West Valley Hospital in Dallas, OR where he was evaluated and medically cleared. I took Mr. [REDACTED] back to the Polk County Jail where he was lodged on the following crimes:

ORS 164.245 Criminal Trespass II, for being at Spirit Mountain Casino after previously being arrested for criminal trespass at that location and being told he was permanently trespassed from the location.

Yamhill County Felony warrant # 17CR53186

ORS 162.247 Interfering with a Police Officer, when Mr. [REDACTED] refused to stop and get on the ground when I gave him several loud verbal commands to stop walking and lay down on the ground.

ORS 162.315 Resisting arrest: for attempting to pull away from me after I told him he was under arrest.

ORS 166.025 Disorderly conduct in the second degree: For yelling loudly in the parking lot, causing multiple patrons to stop and stare, as well as being verbally confrontational with casino security.

Additional statement attached ☐

Signature of Arresting Officer: _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 201____.

Release Assistance Officer/Deputy

Defendant released before probable cause determination.

Bail

Recog Deputy Authorizing Release; _____ Date & Time _____

[] I find probable cause exists to believe the arrestee committed the crime(s).

[] I find Insufficient probable cause exists, based on the Information provided herein.

Judge: _____ Date _____ Time _____

ARREST REPORT

POLK COUNTY JAIL

CASE # 17-673

NAME OF PERSON ARRESTED [REDACTED]				ALIAS OR NICKNAME(S) [REDACTED]				ARREST DATE 8/13/17	
ADDRESS OF ARRESTEE [REDACTED]				OCCUPATION [REDACTED]				TIME 1711 hours	
SOCIAL SECURITY # [REDACTED]		CITIZENSHIP [REDACTED]		BIRTH PLACE [REDACTED]		DRIVER'S LICENSE # STATE [REDACTED] OR [REDACTED]		MAR. STAT [REDACTED]	
BIRTH DATE 2/7/85		AGE 32		RACE American Indian/Alas		SEX M		EYES Brown	
HAIR Brown		LENGTH Short		HEIGHT 5'10"		WEIGHT 185		BUILD Medium	
WHERE ARRESTED Spirit Mountain Casino				HOW ARREST MADE PC, warrant		COURT Polk County		OFFENSE DATE 8/13/2017	
VICTIM NAME / DOB / RACE Spirit Mountain Casino				<input checked="" type="checkbox"/> Drunk <input checked="" type="checkbox"/> Cursed <input type="checkbox"/> Spit at Officers <input type="checkbox"/> Drinking <input checked="" type="checkbox"/> Resisted <input checked="" type="checkbox"/> Under Influence / Drugs					
VICTIM NAME / DOB / RACE				MENTAL HEALTH CONCERN <input type="checkbox"/> Yes <input type="checkbox"/> No		GANG			
WEAPON IF ARMED				OTHER PERSONS ARRESTED FOR SAME OFFENSE					
PROPERTY PLACED IN PROPERTY ROOM						RECEIPT #			
NAME OF COMPLAINANT			ADDRESS			BEST PHONE		OTHER PHONE	
WITNESS'S NAME 1.			BEST CONTACT ADDRESS			BEST PHONE		OTHER PHONE	
WITNESS'S NAME 2.			BEST CONTACT ADDRESS			BEST PHONE		OTHER PHONE	

STATUTE	CHARGE DESCRIPTION	DOMESTIC?	CRIME CLASS	BAIL
164.245	Criminal Trespass II	No	C misd	
162.247	Interfering with police officer	No	A misd	
162.315	Resisting arrest	No	A misd	
166.025	Disorderly conduct II	No	B misd	
Warrant	Felony Warrant, Yamhill County # 17CR53185	No	Felony	

OFFICER'S NARRATIVE

On 8/13/2017 at 1703 hours I was dispatched to Spirit Mountain Casino, located at 27100 Salmon River Highway, Grand Ronde, Polk County, Oregon for report of a male at the location trespassing. Dispatch advised that the male was [REDACTED] DOB [REDACTED], and advised that he had been trespass from that location in the past and was not allowed to be at the location. While en route, dispatch advised that Mr. [REDACTED] had a felony warrant out of Yamhill County and that he had a history of resisting arrest and cautions for assaulting a police officer.

I asked for a cover unit and went towards the location. The closest cover unit was a Polk County deputy coming from the Dallas area. I called Casino Security, who advised that Mr. [REDACTED] was being confrontational with security staff and they were following him to the valet entrance. I went to the valet entrance and Security pointed out Mr. [REDACTED]. I had previously pulled up Mr. [REDACTED] DMV photo and recognized Mr. [REDACTED]. It should be noted that Mr. [REDACTED] has been arrested on previous occasions for being at Spirit Mountain Casino, and he is aware he is permanently trespassed from that location.

Mr. [REDACTED] was with a female that he later said was his mother. I drew my taser and ordered Mr. [REDACTED] to the ground. Mr. [REDACTED] began yelling at me and refusing to cooperate. I continued to order Mr. [REDACTED] to lay on the ground and he continued to refuse. The female kept stepping in between myself and Mr. [REDACTED] and he started walking away. I told Mr. [REDACTED] to stop while pointing my taser at Mr. [REDACTED] with it turned on, and he turned towards me. I observed Mr. [REDACTED] take an aggressive stance towards me while yelling, "squaring up" his body, and I was afraid that he was going to try and assault me. It should be noted that Mr. [REDACTED] is taller than me and his mother continued to try to confront me as well, and I knew my closest cover unit was around 5-10 minutes away. I pulled the trigger and activated the Taser, hitting Mr. [REDACTED] in the upper Torso area. Mr. [REDACTED] fell to the ground. I told him to turn over and he did. I told Mr. [REDACTED] that he was under arrest for trespass and for a felony warrant.

I placed handcuffs on Mr. [REDACTED]. After placing the handcuffs on Mr. [REDACTED] before I could double lock them, he began to try and roll away from me and yell at me that he did not do anything. I told Mr. [REDACTED] to stop resisting and I tried to hold Mr. [REDACTED] down but he continued to try and roll away from me while yelling at me. I activated the taser a second time as I felt that Mr. [REDACTED] was attempting to try and get up and push me off of him. During this time, the female continued to yell at me and approach me while I yelled at her to stay back. After the second taser cycle, Mr. [REDACTED] stopped resisting. Security was keeping the female subject away from us.

Mr. [REDACTED] agreed to not try and resist any more, and I had him sit up. I asked Mr. [REDACTED] if he had any injuries and he said no. I observed that Mr. [REDACTED] had a strong odor of an alcoholic beverage coming from his breath and person and observed his speech to be slurred. A family member of Mr. [REDACTED] came outside and tried to talk Mr. [REDACTED] into being more calm, as he was yelling loudly at me at times. Mr. [REDACTED] did not recognize the family member, who identified himself as Mr. [REDACTED] brother. From my training and experience as a police officer, I believed Mr. [REDACTED] was intoxicated.

I asked for medics to come and they arrived. When my cover unit, Deputy LaCombe arrived, medics came in and removed the Taser probes from Mr. [REDACTED] and determined he had no injuries and was okay to be transported to the Polk County Jail.

While en route to the Polk County Jail, Mr. [REDACTED] would alternate between being quiet and banging his head on the window of my patrol vehicle while screaming at me. Mr. [REDACTED] also told me that he would kill me, either tonight or next time he saw me.

At the Polk County jail, Mr. [REDACTED] refused to cooperate with jail deputies to be medically cleared. I took Mr. [REDACTED] to West Valley Hospital in Dallas, OR where he was evaluated and medically cleared. I took Mr. [REDACTED] back to the Polk County Jail where he was lodged on the following crimes:

ORS 164.245 Criminal Trespass II, for being at Spirit Mountain Casino after previously being arrested for criminal trespass at that location and being told he was permanently trespassed from the location.

Exhibit A9

Page 13 of 23

ARRESTING OFFICER/AGENCY	REPORT MADE BY	FINAL DISPOSITION
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SALEM HEALTH
An OHSU Partner

525 Se Washington St
Dallas OR 97338
503-623-8301

August 13, 2017

Patient:	██████ ██████
Date of Birth:	██████
Date of Visit:	8/13/2017

To Whom It May Concern

██████ ██████ was seen and treated in our emergency department on 8/13/2017. He may be lodged in jail without restrictions .

Additional Information:

If you have any questions or concerns, please don't hesitate to call.

Attending Physician Webb C Wilson, MD



**SALEM HEALTH
WEST VALLEY**
An OHSU Partner

**Dallas Oregon Emergency
Physicians**

Memo

To: Patients of Salem Health West Valley Emergency Department
From: Dallas Oregon Emergency Physicians
Re: Patient Billing

Dallas Oregon Emergency Physicians (the "Physicians" group in the Emergency Department at Salem Health West Valley, Dallas Oregon) is currently contracted as in-network provider with multiple insurance payers.

We will accept the insurance payer's allowable amount as payment in full (the amount may or may not include patient's co-insurance, co-pays and/or deductibles).

You are responsible for any applicable co-insurance, co-pay, and/or deductible under your insurance plan up to the allowed amount.

If you receive an Explanation of Benefits (EOB) statement from your insurance payer and it shows a remaining balance other than the applicable co-insurance, co-pay, and/or deductible, please fax your EOB to the fax number listed below (use this document as the fax cover) to ensure that the bill is adjusted accordingly and shows the applicable co-insurance, co-pay, and/or deductible, and wait for a final statement from the Dallas Oregon Emergency Physicians that will reflect the corrected balance.

1. Should your insurance company send a check directly to you instead of the Physicians, either
 - A. Sign over and send the insurance check to Dallas Oregon Emergency Physicians along with any co-insurance, co-pay, and/or deductible; or
 - B. Cash the insurance check and send a personal check (to include the insurance payment and applicable co-insurance, co-pay, and/or deductible) to the Dallas Oregon Emergency Physicians at the address listed below. Please include your EOB, and if you choose option B, please also include a copy of the insurance check.

Address:
Dallas Oregon Emergency Physicians
PO Box 98585
Las Vegas, NV. 89193-8585

If you have any questions, our dedicated customer service team can respond immediately. The number is 800-355-2470 (this number is also printed on each statement)

Fax Number: 610-834-2826

Attention: Michelle Lewis, Patient Liaison (WDO Account)

Subject: EOB Copy – Request Insurance Adjustment & Revised Bill

Patient Name: _____

Date of Service (Date of ED Visit): _____

No. of Pages: _____



SALEM HEALTH
WEST VALLEY
An OHSU Partner

525 SE Washington St., Dallas, OR 97338

After Visit Summary

8/13/2017

| MRN: [REDACTED]

Survey

If you were given a patient satisfaction survey during this visit, please complete it and place in the box as you leave. Your opinion does matter to us. If you have been referred to your PCP or a local doctor for follow up, please let the office know you were seen in the West Valley Emergency Department at the time you make your appointment so that your records can be obtained prior to your visit.

Do you have questions? Here are some numbers to help

1. **Imaging (X-ray, Scans) or Lab results:** Please contact your primary provider.
2. **Discharge instructions from the Emergency Department:** Please call 503-623-8301, ask for the Emergency Department or access your instructions following the 'MyChart' instructions on your discharge documents.
3. **Dallas Oregon Emergency Physician bill:** Please call 1-800-355-2470 (M-F 0930-4:00)
4. **West Valley Hospital bill:** Please call 503-581-1747

CHEC

An excellent Salem Health resource for educational information or research on medical conditions is the Salem Health Community Health Education Center (CHEC) at 503-814-2432 or go online to Salemhealth.org and click on the CHEC link.

You were seen by

You were seen by Wilson, Webb C, MD.

Visit Information

Date & Time	Department	Encounter #
8/13/2017 6:27 PM	Emergency Department	55454265

Reason for Visit

MEDICAL CLEARANCE

Reason for Visit History

Clinical Impression

Your diagnosis was MEDICAL CLEARANCE FOR INCARCERATION.

If you were given prescriptions, they are listed below. PLEASE NOTE: No refills will be given for prescriptions written in the ED. Please contact your Physician or referring physician for refills.

▼ Notice

You have not been prescribed any medications.

Additional Information

Based on the information you provided to us, as well as any changes during this visit, the following list is your updated medication list. Please do the following: • Update or discard any previous medication lists you may have • Compare this list with your prescription bottles at home and discard any medications that this list indicates should be stopped. • Bring your most up to date medication list to your follow up primary care physician visit. • If you have any questions or concerns, contact your primary care physician's office.

Follow-up Information

Schedule an appointment as soon as possible for a visit with Health, Grand Ronde Tribal.

Why: As needed, If symptoms worsen

Contact information:

9615 Grand Ronde RD
Grand Ronde OR 97367
1-503-879-5211

Appointments for Next 3 Days

None

MyChart Instructions

Activate your MyChart account today!

Thank you for your interest in signing up for MyChart. Please follow the instructions below to securely access your online health information.

Why Should I Sign Up?

- Communicate with your primary care provider's (PCP) office
- Request prescription refills
- View test results
- Schedule appointments with your PCP
- Review information from future and past appointments
- Review your discharge instructions

How Do I Sign Up?

1. In your Internet browser, go to <http://www.salemhealth.org/mychart>
 - Under "New User?" click "Sign Up Now"
2. On the "Please Identify Yourself" screen, enter the following information:
 - Your MyChart Activation Code exactly as it appears:

JB5FP-V7KDJ

Expires: 9/27/2017 6:35 PM

- Your Date of Birth (mm/dd/yyyy)
- Last 4 digits of your Social Security Number
- Click **Next**

3. On the "**Choose a Username & Password**" screen, enter the following information:

- Create and Type In a MyChart Username
- Type In a MyChart password
- Retype your Password
- Select a Security Question from the dropdown list
- Type In your Secret Answer
- Click **Next**

4. On the "E-mail Notifications" screen, enter the following information:

- Click the **Yes** button to Enable E-mail Notifications
- Type In your personal e-mail address
- Retype your e-mail address
- Click **Sign In**

For help with the MyChart web site please refer to the MyChart home page FAQs at
<https://mychart.salemhealth.org/mychart/default.asp?mode=stdfile&option=faq>

For questions about your medical information in MyChart, please contact your doctor or clinic.

SPECIAL ANNOUNCEMENT

Prepare for Eclipse on August 21st, 2017

Local authorities have predicted a significant population increase in our community before, during, and after the eclipse. Please refer to the below suggestions regarding your healthcare needs during this time.

Community impact:

We anticipate that some community services and medical clinics may be closed on August 21st the day of the eclipse. If you anticipate needing non-emergent medical services (lab work, imaging), we encourage you to please call the week prior to determine their availability.

Go to an emergency department or call 911 for problems such as:

- Suddenly not able to speak, see, walk or move
- Dizziness or weakness that does not go away
- Trouble breathing
- Chest pain, pain in jaw or arm
- Coughing or throwing up blood
- Inhaled smoke or poisonous fumes
- Poisoning or overdose of drug/alcohol
- Unusual or bad headache, sudden onset
- Broken bones, deep wounds, heavy bleeding
- Suicidal thoughts
- Throwing up or loose stools that does not stop
- High fever that does not get better with medicine
- High fever with headache and stiff neck
- Severe allergic reaction with trouble breathing, swelling, hives
- Passing out, fainting
- Chemical burns
- Sudden confusion
- Seizures
- Severe pain anywhere on the body

When to go to an Urgent Care:

- Common illnesses, such as colds, the flu, earaches, sore throats, migraines, low-grade fevers, and mild rashes
- Minor injuries, such as sprains, back pain, or minor cuts

GRAND RONDE TRIBAL POLICE DISPATCH REPORT

Case Number: GRT17000673

Response

Location: 27100 SALMON RIVER HW (27100 SALMON RIVER HW, @SPIRIT MOUNTAIN CASINO (MapBook:2792), POLK COUNTY)
 SequenceNumber: GRT201708130027
 Response Type: TRESP1
 Creation Date: 08/13/17 17:04:29
 Priority: 3
 Primary Unit: G108
 Zone: GRT01
 Dispatch Group: GRT01
 AlarmLevel:

Disposition Codes

Code
 01- REPORT

TimeStamp
 08/13/17 19:37:01

Caller Information

CallerName: ELLIS,TANNER
 Caller Address: SECURITY

Caller Phone: 503-879-3732

Response Statuses

Status Name	Status Date/Time
PENDING	08/13/17 17:04:29
DISPATCH	08/13/17 17:06:52
ENROUTE	08/13/17 17:09:55
AT SCENE	08/13/17 17:10:50
TRANSPORT_	08/13/17 17:37:31
AT_FACILITY	08/13/17 18:03:06
TRANSPORT_	08/13/17 18:17:19
LEAVE SCENE	08/13/17 18:38:22
AT_FACILITY	08/13/17 18:38:24
TRANSPORT_	08/13/17 18:38:26
AT_FACILITY	08/13/17 18:40:52
CLEAR	08/13/17 19:37:02
DISPOSED	08/13/17 19:42:04

Resource Statuses

Resource Name	Resource Agency	Status	Status Date/Time
G108	GRT	DISPATCH	08/13/17 17:06:52
G108	GRT	ENROUTE	08/13/17 17:09:54
G108	GRT	AT SCENE	08/13/17 17:10:50
G108	GRT	TRANSPORT_	08/13/17 17:37:31
G108	GRT	AT_FACILITY	08/13/17 18:03:06
G108	GRT	TRANSPORT_	08/13/17 18:17:19
G108	GRT	LEAVE SCENE	08/13/17 18:38:22
G108	GRT	AT_FACILITY	08/13/17 18:38:24
G108	GRT	TRANSPORT_	08/13/17 18:38:26
G108	GRT	AT_FACILITY	08/13/17 18:40:52
G108	GRT	CLEAR	08/13/17 19:37:02

Response Notes

Note	Date/Time	Agent display Name
(G108) G108 Status has been changed to DISPATCH Agent:ABRANLUND Workstation:CP10	08/13/17 17:06:53	PPSS
(G108) G108 Status has been changed to ENROUTE Agent:ABRANLUND Workstation:CP10	08/13/17 17:09:55	PPSS
(G108) G108 Status has been changed to AT SCENE Agent:ABRANLUND Workstation:CP10	08/13/17 17:10:50	PPSS

Exhibit A9

(G108) ONE TASED	08/13/17 17:13:16	ABRANLUND
Milestone of "GRT201708130027" has been modified to "CODE 4"	08/13/17 17:18:03	ABRANLUND
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 17:37:31	PPSS
Milestone of "GRT201708130027" has been modified to "LOCATE ROUTED"	08/13/17 17:46:16	ABRANLUND
(G108) G108 Status has been changed to AT_FACILITY Agent:ABRANLUND Workstation:CP10	08/13/17 18:03:06	PPSS
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 18:17:19	PPSS
(G108) G108 Status has been changed to LEAVE SCENE Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:22	PPSS
(G108) G108 Status has been changed to AT_FACILITY Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:24	PPSS
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:27	PPSS
(G108) PCJ	08/13/17 18:38:35	ABRANLUND
(G108) G108 Status has been changed to AT_FACILITY Agent:RHAY Workstation:CP10	08/13/17 18:40:52	PPSS
(G108) G108 Status has been changed to CLEAR Agent:RHAY Workstation:CP10	08/13/17 19:37:03	PPSS

Incident Notes

Note	Date/Time	Agent display Name
[503-879-3732] MALE AT LOC WHO IS TRESPASSING.. MALE IS IN THE SUMMIT VIEW LOUNGE	08/13/17 17:03:36	MGWYN
[503-879-3732] WILLING TO PRESS CHARGES	08/13/17 17:03:42	MGWYN
[503-879-3732] MALE [REDACTED] APX 30'S	08/13/17 17:04:16	MGWYN
[503-879-3732] MALE HAS BEEN TRESPASSED BEFORE	08/13/17 17:04:24	MGWYN
DOB [REDACTED]	08/13/17 17:04:40	MGWYN
MALE/WMA, MED BUILD, DARK HAIR, UNK CLOTHING	08/13/17 17:05:20	MGWYN
UNK WEAPONS/ MALE IS INTOXICATED ON ALCOHOL	08/13/17 17:05:52	MGWYN
SECURITY OFCR'S ARE WATCHING MALE	08/13/17 17:06:02	MGWYN
CONFIRMED OFN/ASSAULT 2 DOW/2017/08/11 CRT/OR036015J - YAMHILL COUNTY CIRCUIT COURT WTP/FEL WNO/17CR53185 BAL/150000-00..FELONY CAUTION	08/13/17 17:09:45	ABRANLUND
STEPPING UP RESPONSE	08/13/17 17:10:10	ABRANLUND
SUBJ IS NOW CONFRONTATIONAL ON SUBJ	08/13/17 17:11:26	ABRANLUND
YAMHILL CO HAS PC THEY HAVE PC	08/13/17 17:11:48	ABRANLUND
ROLL MEDICS	08/13/17 17:13:46	ABRANLUND
CALLING YCOM.. FOR MEDICS	08/13/17 17:14:09	ABRANLUND
OUTSIDE VALLET	08/13/17 17:14:44	ABRANLUND
G108 ON GROUND HOLDING HIM UNTIL COVER ARRIVES	08/13/17 17:15:26	ABRANLUND
G108 CODE 4 FOR MEDICS TO ENTER..SUBJS STILL ON THE GROUND BUT BEING COMPLIANT	08/13/17 17:18:52	ABRANLUND
P020>> COMPLETE CODE 4	08/13/17 17:31:36	ABRANLUND
PCJ WILL NEED MULTIPLE DEPS.. THREATS TO OFFICERS	08/13/17 17:48:13	ABRANLUND
ETA 10.. JAIL ADVISED	08/13/17 17:49:02	ABRANLUND

Disposition Notes

Note	Date/Time	Agent display Name
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Person Information

Last Name: [REDACTED] First Name: [REDACTED] Middle Name: [REDACTED] Gender/Race: [REDACTED]
 License: [REDACTED] State: [REDACTED] DOB: [REDACTED]

Address: [REDACTED] GRAND RONDE OR City:

Phone Number:

Property Information

Vehicle Information

Conducted Energy Device

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER® devices.

304.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry the TASER device.

TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person.

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.
- (c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the TASER device at the same time.

304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

304.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The TASER device shall not be used to psychologically torment, elicit statements or to punish any individual.

304.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER device probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the TASER device, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with wire, should be submitted into evidence. If under the circumstances, the Patrol Sergeant advises submitting the probes, both probes shall also be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

304.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department TASER devices while off-duty.

Officers shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Officers shall document all TASER device discharges in the related arrest/crime report and the TASER device report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

304.6.1 TASER DEVICE REPORTING

Items that shall be included in the use of force report are:

- (a) The type and brand of TASER device and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the TASER device was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Training Officer should periodically analyze the reports to identify trends, including deterrence and effectiveness.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.6.2 REPORTS

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

304.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, it is preferred that appropriate medical personnel should remove TASER device probes from a person's body. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a supervisor or Rangemaster and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

304.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by a department-approved TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Officer. All training and proficiency for TASER devices will be documented in the officer's training file.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The certified TASER Instructor in the Department is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The certified TASER Instructor in the Department should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

Confederated Tribes of Grand Ronde Police Department
Policy Manual

Conducted Energy Device

- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

Standards of Conduct

319.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Confederated Tribes of Grand Ronde Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

319.2 POLICY

The continued employment or appointment of every member of the Confederated Tribes of Grand Ronde Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

319.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

319.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

319.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

319.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Oregon Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

319.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service.

319.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department, CTGR or CTGR manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, tribal or administrative laws, rules or regulations.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

319.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Confederated Tribes of Grand Ronde Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

319.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

319.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on -duty or through the use of one's official capacity.
- (b) Engaging in on -duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

319.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

319.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Confederated Tribes of Grand Ronde Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

319.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or marital status.

319.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or on department property except as expressly authorized by CTGR policy or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by CTGR policy or the Chief of Police.
- (i) Any act on- or off -duty that brings discredit to this department.

319.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the CTGR.
- (g) Use of obscene, indecent, profane or derogatory language while on--duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on-- or off--duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

319.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

319.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Personnel Complaints

1005.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Confederated Tribes of Grand Ronde Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1005.2 POLICY

The Confederated Tribes of Grand Ronde Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1005.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1005.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Patrol Sergeant is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Sergeant or Chief, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Sergeant or Chief, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1005.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1005.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility. Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1005.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1005.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

1005.5.1 COMPLAINTS ALLEGING PROFILING

Complaints related to profiling should be clearly marked to assist in reporting as required in the Racial or Bias-Based Profiling Policy (ORS 131.920).

1005.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Patrol Sergeant of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Sergeant or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Patrol Sergeant.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Patrol Sergeant and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Department of Human Resources and the Patrol Sergeant for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Patrol Sergeant, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.
- (k) Providing the complainant with periodic updates on the status of the investigation, as appropriate.

1005.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1005.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1005.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Confederated Tribes of Grand Ronde Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action. Forms of discipline include, but are not limited to, training, counseling and punitive action.

1005.10.1 SERGEANT RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Sergeant of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Sergeant may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Sergeant may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Sergeant shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1005.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Sergeant for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1005.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1005.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules.

1005.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

Confederated Tribes of Grand Ronde Police Department
Policy Manual

Personnel Complaints

1005.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.

James Wolfer
DPSST# 51798
[REDACTED]
Newberg, OR 97132
[REDACTED]

To:
Kristen Hibberds, DPSST Professional Standards Coordinator/Investigator
DPSST Police Policy Committee

Ms. Hibberds and members of the Police Policy Committee,

This letter is regarding the Incident that occurred on August 13, 2017 regarding the use of force and associated reports and statements made by me, as well as the allegations of dishonesty being reviewed by the committee.

I would like to begin by stating that I was *never* dishonest in any of my dealing with the Grand Ronde Tribal Police Department in any capacity, neither in my official capacities nor in any unofficial capacity. Specifically, I was not dishonest during the use of force that occurred on August 13, 2017, nor was I dishonest in the phone call to my Sergeant, Sgt. McAllister, nor was I dishonest in any of my written reports or statements.

I was, however, mistaken as to what had occurred, and reported to my supervisors and in my written reports what had occurred according to my perception of the events during a high stress, rapidly evolving and violent situation. During the incident on August 13, 2017, I was alone, with no backup, as the closest backing officer was still about ten minutes away and had told me so via radio. The suspect was reported to be violent, and both dispatch and my Lieutenant had advised me via radio that the suspect had warnings for violent conduct. Additionally, the suspect had a valid and confirmed warrant for Assault II, which I knew meant he was suspected of causing serious physical injury to someone. The suspect was reported to be actively trespassing at the Spirit Mountain Casino as well.

I called casino security via my cell phone, and was advised that the suspect was becoming "confrontational" with casino staff. I believed that meant that the risk to the public was increasing, including non-sworn security staff, and that waiting for backup could mean that a member of the public could be injured by a wanted and known violent individual. I believed it was my duty to intervene at that time in order to protect members of the public. Upon arrival, I was pointed to the suspect by casino security, who was walking away from them in the parking lot and towards a vehicle. There was a female with him, who was later identified as the suspect's mother. Due to the fact that I was alone, without backup, and there were now two subjects, including one known to be violent and wanted for Assault II, I had my taser out.

I gave multiple commands to the suspect, calling him by name, to get on the ground, while I was clearly identified as a police officer. I do not recall if at that time I verbally identified myself as a police officer, but I was in full patrol uniform on a clear, sunny day. The suspect, who I had positively identified, continually ignored my verbal commands to get on the ground. He kept attempting to walk away while the female subject yelled at me and kept getting in between the suspect and myself. I gave commands to the female to back away and to the suspect to get on the ground.

At one point, the suspect stopped and faced me. I kept giving commands to the male suspect to get on the ground or he would be tased, and the female subject suddenly rushed me. At that moment, the male suspect quickly raised his hands about shoulder height into what I believed at the time to be a fighting stance. I had tunnel vision and was afraid I was about to have to fight both subjects alone and without backup. I believed that the male subject, who was a known violent person, was the greater threat, and I tased him and was ready to utilize hands on techniques with the female. The female backed away while continually yelling at me. The taser deployment was effective, and the male suspect had fallen on his back. The suspect turned over on his stomach per my verbal commands. I began to try and handcuff the male suspect while he was facedown, and the female subject continued to yell at me.

I had not double locked the handcuffs yet, and the male subject began to respond to the female subject's yelling. The male suspect began to move around, and what I believed at the time to be attempting to get up. Even though the suspect was in handcuffs, they were not double locked and I had not yet completed a putdown for weapons. Additionally, I was still worried that the female subject would attempt to rush me as I had to yell at her to stay back, and if she did so, even a handcuffed subject with an additional subject's help could attempt to overwhelm me. I gave multiple commands to the suspect to stop resisting or he would be tased again, and he continued to move, while yelling at me "F- you!" With the tenseness of the suspect's body, the highly escalated situation, I believed the suspect was attempted to push me off of him and I activated the taser again. After the cycle, the suspect stopped moving and complied with my verbal commands. The female subject disappeared soon after that. Per policy, I called for medical personnel via radio to evaluated the suspect.

Later, after backup and medical personnel had arrived and cleared the subject for transport, I had him in the back of my vehicle. I called my Sgt., Sgt. McAllister, per policy, to advise him on the use of the force. I told Sgt. McAllister what I believed had happened: that the suspect had "squared up on me," i.e. taken a fighting stance, and that he had resisted on the ground while I was still applying handcuffs. At this time, I had not seen the body camera footage, and I was still flooded with adrenaline.

I took the suspect to the jail. The suspect refused to use the Intoxilyzer, and was extremely intoxicated, so jail staff had me transport the suspect to the hospital to be evaluated. He was eventually medically cleared for lodging at the jail, and was transported back to the jail and lodged by me. I typed a Probable Cause affidavit to lodge the suspect, and again, had not yet seen my body camera footage, so I wrote the affidavit with what I believed happened: that the male subject had "squared up" his body and took an aggressive stance towards me while at the same time the female subject was trying to confront me, so I tased the male suspect. I also wrote that the suspect tried to roll away from me before I could double lock the handcuffs, and that he ignored verbal commands to stop resisting so I activated the taser a second time.

Later, at the police station, per policy, while writing my report I viewed the body camera footage. I was surprised to see that during the initial confrontation with the suspect, when he raised his arms into what I believed to be a fighting stance, I observed that he raised his arms about shoulder high and began walking backwards, and did not appear to actually be taking a fighting stance. I also observed that while I was handcuffing him, the body camera did not pick up all of the factors that I did, such as the suspect's body tensing up, and so it appeared that the suspect was not resisting greatly.

I wrote my report the next morning. During my report, I wrote "the following happened in substance, to the best of my recollection and perception at the time of the incident." I then wrote about what I had experienced and believed *at the time of the incident*, including that I believed the suspect "put his hands up but point his feet towards me in an aggressive stance, and I believed [the suspect] was getting ready to assault me. At that time, [female subject] was still yelling at me and walking towards me aggressively." I then described all the factors I had in making the use of force decision, and described tasing the suspect. I also described how the female subject kept approach me while I was attempting to handcuff the male suspect, and that I continually had to yell commands at her to back up.

I also wrote that the male suspect "continued to yell at me and tried to roll away from me while tensing his body up. I told [suspect] to stop resisting or he would be tased again. As I attempted to double lock the handcuffs, [suspect] tensed his body up and tried to roll away from me, and I told him again to stop resisting but he continued to try and roll away from me. I activated my Taser again for a five second cycle, and [suspect] immediately stopped resisting."

On the last page of my narrative, I also noted the discrepancies between the video footage and my perception at the time of the incident. I wrote "I later reviewed my body camera footage and observe that directly before I activated my Taser, [suspect] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that [female subject] was approaching me and I believed I was about to be assaulted and would have to fight both [female subject] and [male suspect] without a cover unit."

Directly after I completed my report, Lt. Hernandez asked me to come to his office. Lt. Hernandez was there with a representative of HR, and told me that he had not yet read my report, but that he watched the body camera footage and believed I violated policies. He asked me why I tased someone with their hands up, and I told him that at the time, I believed he was not putting his hands up, but trying to actively assault me. I also advised Lt. Hernandez that I had addressed the discrepancy in my report. Lt. Hernandez told me I was being placed on leave, and directed me to be available for an interview and to make a statement with an outside agency, either Oregon State Police or Polk County Sheriff's Office.

During the week, I was called by Sgt. McAllister and advised I needed to come to a meeting on Friday, August 18, 2017 at HR. During that meeting, I was given several pieces of paper (that I was not allowed to keep) that advised that a review had been done of the use of force and that at this time, they were recommending termination. I read a report by Dallas Police Department that indicated that they agreed with Lt. Hernandez that I had violated policy, and in fact, they believed I should have tased the female subject, not the male subject. I do not have a copy of the Dallas Police Report at this time.

I asked Lt. Hernandez why I was not being interviewed and having my statement taken. Lt. Hernandez advised me that he was acting Chief, as the Chief was currently at a training in Virginia. Lt. Hernandez told me they did not require my statement or any interview on my use of force to make the decision to terminate me. Lt. Hernandez advised me that at this time, I was only being recommended for termination based on a violation of the Taser policy, and no other violations. Lt. Hernandez told me I had the right to appeal the termination for five days and give any recorded statement I would like, but that if anything I said would be given to the DA for prosecution. Lt. Hernandez told me that if I resigned immediately, the investigation would stop at that point, only listing the reason for termination as being a violation of the Taser policy, and that

he would advise the DA that they believed I was acting in good faith. I specifically asked Lt. Hernandez if he was terminating me based upon any belief that I was dishonest, and told him that I never lied to him or Sgt. McAllister, and had accurately told them what I believed had happened based upon my perception at the time of the incident, in good faith. Lt. Hernandez told me that he would be reporting to DPSST that I was resigning in lieu of termination for a violation of the Taser policy, because he had not interviewed me and could not say if I had purposely been dishonest or not, and so he was not going to list dishonesty as the reason for termination if I resigned immediately. He did tell me that both the DA and DPSST could do "whatever they want" with an investigation, but that he would let them know he did not believe I should be charged as I was acting in good faith. I then asked why, since I had no citizen complaints and no letters of reprimand in my file, and he believed I was acting in good faith, he did not suspend me instead and do retraining. Lt. Hernandez told me that as acting chief, he could not "live with" the second taser use while the suspect was in handcuffs.

I wrote a letter of resignation and reiterated that I was never dishonest and never meant to mislead anyone.

Later, in February of 2018, I was contacted by OSP Detective Hegney-Bach, who advised she was investigating allegations of excessive force in a criminal investigation and would like my statement. I contacted an attorney and requested the attorney accompany me to give my statement, and told the attorney that I had nothing to hide and wanted to give my statement from the beginning, and that this was my first opportunity to do so. My attorney contacted Detective Hegney-Bach and scheduled a statement in March of 2018.

During the interview in March 2018, Detective Hegney-Bach asked many questions regarding the use of force, my mindset, and what I believed happened. I gave a complete statement, lasting several hours, voluntarily. As a result of Detective Hegney-Bach's statement, where she recommended that no probable cause existed for Assault, the DA advised that I did not exceed the legal justifications for use of force in Oregon.

During Detective Hegney-Bach's report, she viewed the body camera footage and noted that when I first tased the male suspect, he had his hands raised and took steps backward, at the same time the female subject "took a step toward Mr. Wolfer." She also notes during the second taser deployment:

While [suspect] was asking, "What did I do," he started pushing slightly off the ground with his knees; his head stayed on the ground. Mr. Wolfer then told [suspect] he had a warrant. [Suspect] still appeared agitated and flexed his arms and rolled slightly onto his left shoulder and then he rolled back on to his stomach. Mr. Wolfer warned [suspect] to stay on the ground or he would tase him again. [Suspect] said, "Fuck you" and Mr. Wolfer activated a five second taser cycle. [Suspect] was not flexing or rolling or moving his knees at the time Mr. Wolfer activated the taser probes."

While Detective Hegney-Bach notes that the suspect was not flexing or rolling or moving his knees at the time I activated the taser, I believed he was still resisting and was still tense. Looking back, that may have been his body tensing as he yelled to curse at me, which I may have misinterpreted as a continuation of his previously flexing and rolling and pushing off of the ground. Again, I had adrenaline and had a suspect I believed to be resisting who I believed had just tried to assault me.

Detective Hegney-Bach notes during her investigation that I addressed some of the discrepancies in my report as I noted above. She also notes that there was no probable cause to charge me with Assault IV, and that all witnesses believed I had not been excessive. The focus of Detective Hegney-Bach's investigation was not to determine dishonesty, merely to review if the use of force was legal, and she notes that those allegations would not be fully pursued during her investigation. Additionally, multiple witnesses told Detective Hegney-Bach that they observed the suspect to be resisting while on the ground.

Additionally, in October of 2018 I received copies of both Sgt. McAllister's and Lt. Hernandez's reviews of the use of force. After reviewing the reports, both Sgt. McAllister and Lt. Hernandez differ greatly in their perception of the events they viewed on my body camera. Not only do they differ from each other, but they differ from Detective Hegney-Bach's review of the incident. For example, Sgt. McAllister writes about what he observed from my body camera regarding the first use of force:

"Officer Wolfer then yells, 'get on the ground now!' 'Move asidel' 'Get on the ground now or you will be Tased!' At this point, [suspect] is standing there with both hands in the air, next to his head. It's clear that [suspect] has nothing in his hands. [Female subject] steps toward Officer Wolfer. Officer Wolfer moves towards his left and yells 'Back away! Get on the ground now!'

[Male suspect] is observed taking small steps backwards while holding his hands in the air, next to his head..."

Lt. Hernandez, by contrast, writes that in his review, the male suspect "raises his hands in the air above his head and slowly walks backwards while asking what did I do?"

Lt. Hernandez also writes that while the male suspect was on the ground, he moves while yelling and that I told him not to move or he would be tased, and notes: "[Male suspect] yells 'fuck you' and moves while saying this. Officer Wolfer tases him again for a full five seconds." Sgt. McAllister writes of the same incident:

"[Male suspect] then moves towards his left side and yells 'It is my business!' Officer Wolfer tells [male suspect] 'Stop moving or I will tase you again!' [Male suspect] then states 'Fuck you!' Officer Wolfer then discharges his CEW a second time, while [male suspect] is lying face down on the asphalt, with his hands cuffed behind his back...[male suspect] appeared to only attempt to roll to his left side to look at Officer Wolfer while he was saying 'Fuck you!'"

I believe it should be noted that Sgt. McAllister's review of the first incident indicates that the male suspect had his hands raised to about his head, while Lt. Hernandez believed that the male subject had his hands *above* his head. From my recollection, his hands were raised to about shoulder/head height, which is also a fighting stance, and with the adrenaline and tunnel vision I was experiencing at the time while the female subject also aggressively took steps towards me, I interpreted that as a fighting stance. Additionally, both Sgt. McAllister and Lt. Hernandez's review of the footage indicate that the suspect was moving while I was handcuffing him, but they interpreted that as "only attempting to roll to his left side to look at Officer Wolfer."

According to the landmark case, *Graham v. Connor*, "the 'reasonableness' inquiry in an excessive force case is an objective one: the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard

to their underlying intent or motivation...The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." I believe that Sgt. McAllister and Lt. Hernandez were interpreting not only the suspect's motives in his moving around as being passive, while they were not there to feel his level of resistance, while I interpreted it as active resistance from a known and violent offender. The later review by OSP and the DA concluded that "Given the totality of the circumstances, in particular the witness statements and level of threat believed by Mr. Wolfer to be imminent, there is not sufficient evidence to overcome the use of force justification afforded peace officers in ORS 161.235- 161.245."

I fully admit there are discrepancies between the video footage and my perception of what occurred. Lt. Hernandez and Sgt. McAllister both interpreted my actions as dishonesty, rather than a mere mistake of fact due to a "rapidly-evolving" situation, as stated in *Graham v. Connor*. I attempted to address this in my report, as noted above and noted by Detective Hegney-Bach. I want to reiterate that I was never dishonest during my dealings in this case, or any other time, with the Grand Ronde Tribal Police Department, Oregon State Police, the Polk County District Attorney, or any other time. During this use of force incident, I truly believed that the male suspect was attempting to assault me, and that during the second tase, I interpreted his movements as trying to pull away from me.

I do believe that my perception of the events was mistaken. From the beginning, I have been forthright and honest in my perception by immediately calling Sgt. McAllister and telling him what I believed happened, and later, when I learned that my perception was incorrect, I was forthright and honest in addressing that in my official report. My phone call addressing the use of force to Sgt. McAllister was fully recorded on body camera. I had no reason to believe I was not telling Sgt. McAllister the full truth of what happened. I did not know at the time I was mistaken. I never once tried to cover up my mistaken perception, and by writing about both my perception *and* what I later viewed on the body camera footage in my official report, I was taking full responsibility for my perception of the events being different.

I have attached an article from the Force Science Institute regarding body cameras and use of force. Of note in the article is that a camera and the officer's perception can be drastically different, such as an officer's brain suppressing "some incoming visual images that seem unimportant in a life-threatening situation so you can completely focus very narrowly on the threat. You won't be aware of what your brain is screening out...in short, there can be a huge disconnect between your field of view and your visual perception and the camera's. Later, someone reviewing what's caught on camera and judging your actions could have a profoundly different sense of what happened that you had at the time it was occurring."

Additionally, the article talks about how "Some important danger cues can't be recorded," including "resistive tension." Of particular note is this paragraph: "And of course, the camera can't record the history and experience you bring to an encounter...for instance, an assaultive subject who brings his hands up may look to a civilian like he's surrendering, but to you, based on past experience, that can be a very intimidating and combative movement, signaling his preparation for a fighting attack. The camera just captures the action, not your interpretation."

And finally, the articles says that of greater consequence is the body camera's depiction of action and reaction times. "Based on the reactionary curve, an officer can be half a second or more behind the action as it unfolds on the screen." This is what occurred with me when the

male suspect was tensing up and rolling away. While Detective Hegney-Bach notes that the suspect stopped rolling and tensing immediately as I tased him, I was behind the reactionary curve and believed he was still resisting.

I made a mistake of perception in good faith when I interpreted the actions of the male suspect and female subject as an attempt to assault me, and have been upfront about that from the beginning. Additionally, during my termination hearing, I asked Lt. Hernandez for additional training so that I would not make such good faith mistakes in the future. I was absolutely, unequivocally not dishonest. I never had any intent to deceive anyone, neither outright nor by omission. I wished to give a full interview and statement after the event and made myself available, but the first time I was able to give a full statement was in March of 2018 during my interview with Detective Hegney-Bach.

I have been heartbroken that my former employer interpreted my actions as dishonest. Honesty and integrity are both extremely important to me, and I have tried to live my life with those values, especially in all official dealings. I am truly sorry that I was mistaken that day, and saddened that I was not given the opportunity to prove that I was honest. I would have gladly accepted retraining, additional training, and other consequences for my good faith mistakes, but I never lied.

Attached to this are two letters from professionals I have worked with. The first is a letter from Officer Fred Dilworth of Cottage Grove, who worked with me for over a year at our first department, Warm Springs Tribal Police, from 2010-2012. The second is a letter from my immediate supervisor in the Coast Guard Reserve, Petty Officer First Class Jason Armstrong. I have served in the Coast Guard Reserve since 2013, and am a Second Class Petty Officer serving as a Maritime Enforcement Specialist. In this role, I conduct Federal Law Enforcement boardings on the Willamette and Columbia River, and before that, in the Puget Sound area. We conduct civilian law enforcement, under a different set of use of force guidelines, however, we do conduct law enforcement with members of the boating public. I have received several awards in my time in the military, specifically in a law enforcement role, and my supervisors and chain of command have nothing but praise for my conduct and integrity. I hope this letter from PO1 Armstrong can serve to demonstrate that.

I appreciate the time taken to review this matter and this letter. I hope that the Committee is able to see that I acted in full good faith with no intent to deceive or be excessive, and have been forthright and honest from the beginning in this.

Very respectfully submitted,

James K. Wolfer



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10 limitations of body cams you need to know for your protection

A special report from the *Force Science Institute*

The idea is building that once every cop is equipped with a body camera, the controversy will be taken out of police shootings and other uses of force because “what really happened” will be captured on video for all to see.

Well, to borrow the title from an old Gershwin tune, “It Ain’t Necessarily So.”

There’s no doubt that body cameras—like dash cams, cell phone cams, and surveillance cams—can provide a unique perspective on police encounters and, in most cases, are likely to help officers. But like those other devices, a camera mounted on your uniform or on your head has limitations that need to be understood and considered when evaluating the images they record.

“Rushing to condemn an officer for inappropriate behavior based solely on body-camera evidence can be a dicey proposition,” cautions Dr. Bill Lewinski, executive director of the *Force Science Institute*. “Certainly, a camera can provide *more* information about what happened on the street. But it can’t necessarily provide *all* the information needed to make a fair and impartial final judgment. There still may be influential human factors involved, apart from what the camera sees.”

In a recent conversation with *Force Science News*, Lewinski enumerated 10 limitations that are important to keep in mind regarding body-camera evidence (and, for the most part, recordings from other cameras as well) if you are an investigator, a police attorney, a force reviewer, or an involved officer. This information may also be helpful in efforts to educate your community.

(Some of these points are elaborated on in greater depth during the *Force Science Certification Course*. Visit www.forcescience.org for information on the course. An earlier report on body cam limitations appeared in *Force Science News* #145, sent 3/12/10. You will find online it at: www.forcescience.org/fsnews/145.html)

* 1. A camera doesn’t follow your eyes or see as they see.

At the current level of development, a body camera is not an eye-tracker like *FSI* has used in some of its studies of officer attention. That complex apparatus can follow the movement of your eyes and superimpose on video small red circles that mark precisely where you are looking from one microsecond to the next.

“A body camera photographs a broad scene but it can’t document where within that scene you are looking at any given instant,” Lewinski says. “If you glance away from where the

camera is concentrating, you may not see action within the camera frame that appears to be occurring 'right before your eyes.'

"Likewise, the camera can't acknowledge physiological and psychological phenomena that you may experience under high stress. As a survival mechanism, your brain may suppress some incoming visual images that seem unimportant in a life-threatening situation so you can completely focus very narrowly on the threat. You won't be aware of what your brain is screening out.

"Your brain may also play visual tricks on you that the camera can't match. If a suspect is driving a vehicle toward you, for example, it will seem to be closer, larger, and faster than it really is because of a phenomenon called 'looming.' Camera footage may not convey the same sense of threat that you experienced.

"In short, there can be a huge disconnect between your field of view and your visual perception and the camera's. Later, someone reviewing what's caught on camera and judging your actions could have a profoundly different sense of what happened than you had at the time it was occurring."

* **2. Some important danger cues can't be recorded.**

"Tactile cues that are often important to officers in deciding to use force are difficult for cameras to capture," Lewinski says. "Resistive tension is a prime example.

"You can usually tell when you touch a suspect whether he or she is going to resist. You may quickly apply force as a preemptive measure, but on camera it may look like you made an unprovoked attack, because the sensory cue you felt doesn't record visually."

And, of course, the camera can't record the history and experience you bring to an encounter. "Suspect behavior that may appear innocuous on film to a naïve civilian can convey the risk of mortal danger to you as a streetwise officer," Lewinski says. "For instance, an assaultive subject who brings his hands up may look to a civilian like he's surrendering, but to you, based on past experience, that can be a very intimidating and combative movement, signaling his preparation for a fighting attack. The camera just captures the action, not your interpretation."

* **3. Camera speed differs from the speed of life.**

Because body cameras record at much higher speeds than typical convenience store or correctional facility security cameras, it's less likely that important details will be lost in the millisecond gaps between frames, as sometimes happens with those cruder devices.

"But it's still theoretically possible that something as brief as a muzzle flash or the glint of a knife blade that may become a factor in a use-of-force case could still fail to be recorded," Lewinski says.

Of greater consequence, he believes, is the body camera's depiction of action and reaction times.

"Because of the reactionary curve, an officer can be half a second or more behind the action as it unfolds on the screen," Lewinski explains. "Whether he's shooting or

stopping shooting, his recognition, decision-making, and physical activation all take time—but obviously can't be shown on camera.

"People who don't understand this reactionary process won't factor it in when viewing the footage. They'll think the officer is keeping pace with the speed of the action as the camera records it. So without knowledgeable input, they aren't likely to understand how an officer can unintentionally end up placing rounds in a suspect's back or firing additional shots after a threat has ended."

4. A camera may see better than you do in low light.

"The high-tech imaging of body cameras allows them to record with clarity in many low-light settings," Lewinski says. "When footage is screened later, it may actually be possible to see elements of the scene in sharper detail than you could at the time the camera was activated.

"If you are receiving less visual information than the camera is recording under time-pressured circumstances, you are going to be more dependent on context and movement in assessing and reacting to potential threats. In dim light, a suspect's posturing will likely mean more to you immediately than some object he's holding. When footage is reviewed later, it may be evident that the object in his hand was a cell phone, say, rather than a gun. If you're expected to have seen that as clearly as the camera did, your reaction might seem highly inappropriate."

On the other hand, he notes, cameras do not always deal well with lighting transitions. "Going suddenly from bright to dim light or vice versa, a camera may briefly blank out images altogether," he says.

5. Your body may block the view.

"How much of a scene a camera captures is highly dependent on where it's positioned and where the action takes place," Lewinski notes. "Depending on location and angle, a picture may be blocked by your own body parts, from your nose to your hands.

"If you're firing a gun or a Taser, for example, a camera on your chest may not record much more than your extended arms and hands. Or just blading your stance may obscure the camera's view. Critical moments within a scenario that you can see may be missed entirely by your body cam because of these dynamics, ultimately masking what a reviewer may need to see to make a fair judgment."

6. A camera only records in 2-D.

Because cameras don't record depth of field—the third dimension that's perceived by the human eye—accurately judging distances on their footage can be difficult.

"Depending on the lens involved, cameras may compress distances between objects or make them appear closer than they really are," Lewinski says. "Without a proper sense of distance, a reviewer may misinterpret the level of threat an officer was facing."

In the *Force Science Certification Course*, he critiques several camera images in which distance distortion became problematic. In one, an officer's use of force seemed inappropriate because the suspect appears to be too far away to pose an immediate threat.

In another, an officer appears to strike a suspect's head with a flashlight when, in fact, the blow was directed at a hand and never touched the head.

"There are technical means for determining distances on 2-D recordings," Lewinski says, "but these are not commonly known or accessed by most investigators."

7. The absence of sophisticated time-stamping may prove critical.

The time-stamping that is automatically imposed on camera footage is a gross number, generally measuring the action minute by minute. "In some high-profile, controversial shooting cases that is not sophisticated enough," Lewinski says. "To fully analyze and explain an officer's perceptions, reaction time, judgment, and decision-making it may be critical to break the action down to units of one-hundredths of a second or even less.

"There are post-production computer programs that can electronically encode footage to those specifications, and the *Force Science Institute* strongly recommends that these be employed. When reviewers see precisely how quickly suspects can move and how fast the various elements of a use-of-force event unfold, it can radically change their perception of what happened and the pressure involved officers were under to act."

8. One camera may not be enough.

"The more cameras there are recording a force event, the more opportunities there are likely to be to clarify uncertainties," Lewinski says. "The angle, the ambient lighting, and other elements will almost certainly vary from one officer's perspective to another's, and syncing the footage up will provide broader information for understanding the dynamics of what happened. What looks like an egregious action from one angle may seem perfectly justified from another.

"Think of the analysis of plays in a football game. In resolving close calls, referees want to view the action from as many cameras as possible to fully understand what they're seeing. Ideally, officers deserve the same consideration. The problem is that many times there is only one camera involved, compared to a dozen that may be consulted in a sporting event, and in that case the limitations must be kept even firmer in mind.

9. A camera encourages second-guessing.

"According to the U. S. Supreme Court in *Graham v. Connor*, an officer's decisions in tense, uncertain, and rapidly evolving situations are not to be judged with the '20/20 vision of hindsight,' " Lewinski notes. "But in the real-world aftermath of a shooting, camera footage provides an almost irresistible temptation for reviewers to play the coulda-shoulda game.

"Under calm and comfortable conditions, they can infinitely replay the action, scrutinize it for hard-to-see detail, slow it down, freeze it. The officer had to assess what he was experiencing while it was happening and under the stress of his life potentially being on the line. That disparity can lead to far different conclusions.

"As part of the incident investigation, we recommend that an officer be permitted to see what his body camera and other cameras recorded. He should be cautioned, however, to regard the footage only as informational. He should not allow it to supplant his first-hand

memory of the incident. Justification for a shooting or other use of force will come from what an officer reasonably perceived, not necessarily from what a camera saw.”

[For more details about *FSI*’s position on whether officers should be allowed to view video of their incidents, see *Force Science News* #114 (1/17/09). You will find online it at: www.forcescience.org/fsnews/114.html]

10. A camera can never replace a thorough investigation.

When officers oppose wearing cameras, civilians sometimes assume they fear “transparency.” But more often, Lewinski believes, they are concerned that camera recordings will be given undue, if not exclusive, weight in judging their actions.

“A camera’s recording should never be regarded solely as *the* Truth about a controversial incident,” Lewinski declares. “It needs to be weighed and tested against witness testimony, forensics, the involved officer’s statement, and other elements of a fair, thorough, and impartial investigation that takes human factors into consideration.

“This is in no way intended to belittle the merits of body cameras. Early testing has shown that they tend to reduce the frequency of force encounters as well as complaints against officers.

“But a well-known police defense attorney is not far wrong when he calls cameras ‘the best evidence and the worst evidence.’ The limitations of body cams and others need to be fully understood and evaluated to maximize their effectiveness and to assure that they are not regarded as infallible ‘magic bullets’ by people who do not fully grasp the realities of force dynamics.”

Our thanks to Parris Ward, director and litigation graphics consultant with Biodynamics Engineering, Inc., for his help in facilitating this report.

For more information on the work of the Force Science Institute, visit www.forcescience.org. To reach the Force Science News editorial staff please e-mail: editor@forcescience.org.

Greetings,

I met James Wolfer in October 2010 while we were both employed by the Warm Springs Police Department, I became employed with the Warm Springs Police Department in September 2010, and James was hired approx one month later.

Due to our different hire dates, he and I were in different phases of our field training, but I observed early on James had what appeared to be an attention for detail with interviews, investigations, and reports. I observed James was well spoken and confident in his job, and appeared to possess a high level of education which was easy to identify while speaking with him and from reading his police reports. To this day James' Warm Springs Police Department police reports are some of the best police reports I have ever read.

I observed James' investigations were methodical, honest, logical, and fair. I never observed James take any short cuts or engage in any questionable practices. I worked with James repeatedly and handled countless calls for service with him. At no time did I ever observe anything dishonest or unethical. James always had a calm, professional, and logical demeanor. I never observed James abuse his police powers in any way, and all use of force incident I was aware of always appeared reasonable and justified.

There were a total five officers hired around the same time James and I hired, and James quickly became my favorite officer to work with. I attended the D.P.S.S.T. police academy with James and during our time there I observed he became liked and respected by the rest of the class, and was always helpful to other new recruits.

James and I have maintained a friendship since we both left the Warm Springs Police Department. I continue to visit with James on a regular basis, and I know he is still working in a career where he is regularly conducting investigations. I also know James is still an active Coast Guard member and conducts law enforcement operations in that capacity.

I am still currently employed in full time law enforcement and I have on multiple occasions contacted James with law enforcement related questions, and I have always trusted and respected his opinions and advice. And if I was given the opportunity to work with James in a law enforcement capacity again I would do so without hesitation.

Fred Dilworth.
541-601-2859



0754
26 DEC 18

MEMORANDUM

From: J. R. Armstrong, ME1
STA PORTLAND

Reply to
Attn of: Jason R. Armstrong ME1
909-758-6262

To: Whom it May Concern

Subj: ME2 James Wolfer, ---5776

The purpose of this letter is to speak to the character of Petty Officer James Wolfer. I have known Petty Officer Wolfer for over four years while working together at Station Portland as reserve members of the United States Coast Guard. We have performed numerous waterborne law enforcement missions together, and for the last three years I have served as Petty Officer Wolfer's direct supervisor.

Petty Officer Wolfer has proven himself to me to be a man of integrity and someone that I can count on. I have never once questioned his judgement in a law enforcement capacity in the performance of his duty here at the station. Petty Officer Wolfer has demonstrated leadership in volunteering to train other members at the station on a variety of law enforcement skills. He is dependable and often volunteers to assist with additional tasks that need to be accomplished at the station. I have full faith in Petty Officer Wolfer's ability and forthrightness as a law enforcement officer. I can be reached on my cell phone at (909) 758-6262 or by email at Jason.r.armstrong@uscg.mil if you have any further questions.

#

**Department of Public Safety Standards and Training
Memo**

Date: February 21, 2019

To: Police Policy Committee

From: Kristen Hibberds
Professional Standards Coordinator/Investigator

Discipline: Police

Subject: Wolfer, James DPSST# 51798
Basic Police Certification
Grand Ronde Tribal Police Department

OVERVIEW:

In August, 2017, DPSST received notification that Wolfer separated from employment with the Grand Ronde Tribal Police Department.

STAFF ANALYSIS:

After reviewing the investigative materials staff has identified potential violations of the Board's minimum moral fitness standards for public safety professionals. Specifically:

- On August 13, 2017, Wolfer allegedly engaged in dishonesty when he stated that a suspect "squared-up on me" leading to the use of his Taser.
- Wolfer allegedly engaged in dishonesty when he stated that he tased the suspect a second time because the suspect was resisting while he was trying to get cuffs on him.

POLICY COMMITTEE DELIBERATION:

#1 VOTE: Determine whether to adopt the staff report as the record upon which its recommendations are based.

#2 CONSENSUS: By discussion and consensus, determine if the officer violated the Board's moral fitness standard by engaging in behavior that constitutes any or all of the following:

- a. **Gross Misconduct:** Includes behavior that deliberately or recklessly disregards the law, threatens persons or property or the efficient operations of any agency. (Ineligibility period if actionable: 3 years to 10 years)
- b. **Disregard for the Rights of Others:** Includes conduct that knowingly violates the constitutional or civil rights of others. (Ineligibility period if actionable: 3 years to 15 years)
- c. **Misuse of Authority:** Includes the use or attempt to use one's position to obtain a benefit, avoid a detriment, or harm another while acting under the color of office. (Ineligibility period if actionable: 3 years to 10 years)
- d. **Dishonesty:** Includes conduct that is knowingly dishonest and includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth. (Ineligibility period if actionable: 10 years to Lifetime)

The following is considered when violations of the moral fitness standard are identified

AGGRAVATING/MITIGATING CIRCUMSTANCES:

Pursuant to OAR 259-008-0070(4)(f)(B) staff has identified no mitigating circumstances.

Pursuant to OAR 259-008-0070(4)(f)(B) staff has identified the following aggravating circumstances:

- Conduct occurred during employment in public safety;
- Conduct occurred while acting in an official capacity.

Pursuant to OAR 259-008-0070(4)(f)(B) the following circumstances have been considered neutral:

- The conduct did not occur multiple times;
- The individual's conduct did not result in a criminal disposition;

- The individual's conduct has not been reviewed in the past by the Committee and Board;
- The individual's conduct did not involve domestic violence or child abuse.

#3 CONSENSUS: By discussion and consensus, when considering only what is contained in the record, identify any additional aggravating or mitigating circumstances specific to this case.

#4 VOTE: After considering the identified violations of the Board's moral fitness standard and weighing the aggravating and mitigating circumstances unique to this case, should Board action be taken against the individual's certification/application?

Proceed if the Committee votes YES to #4

#5 VOTE: Determine the period for which this individual will be ineligible to hold public safety certification based on the identified behavior.

D/N view video
Cummins
Admission

**Department of Public Safety Standards and Training
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CZ/CH + Video
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DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

OF THE STATE OF OREGON

In the Matter of the Revocation/Suspension of
the Basic Police Certification for:

JAMES WOLFER

DPSST No.: 51798

DEPARTMENT EXHIBIT LIST

EXHIBIT #		DESCRIPTION	OFFERED		ADMITTED
A1		DPSST Training Profile		-	
A2	8-18-17	F4 – Resignation during investigation		-	
A3	9-28-18	Letter from DA regarding prosecution and Brady		-	
A4	8-13-07	Oregon State Police Incident Report		-	
A5	8-18-17	Administrative Investigation Findings		-	
A6	8-16-17	Dallas PD review of use of force		-	
A7	8-16-17	Grand Ronde Investigation Report		-	
A8	8-16-17	Memo to Chief – Administrative IV		-	
A9	8-13-17	Wolfer's Incident Report, Supplemental, PC & Misc.		-	
A10	8-13-17	Body Cam Video – Available upon request		-	
A11		Grand Ronde PD Policies		-	
A12		Mitigation		-	

NOTE: Only the portions of the Investigative materials pertaining to the behavior identified above have been included. Information determined not to be relevant to the Board's certification standards have been redacted.

#2

Lack of training
Lack of experience
Performance
Issue

Only had
1 hour of
Training

Differ stmts
Contributed to
a high risk/tense
situation

perceptions
change

Only 2.5
years of exp

fact finder
warned
officer of
violent
offenders
& then
checked by
off duty

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From: Kristen Hibberds
Professional Standards Coordinator/Investigator

Discipline: Police

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DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
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AUG 29, 2017
11:57AM

**DPSST Public Safety
Employee Profile**

Page: 1

Wolfer, James K. (51798)

Gender	Male	Emp Type	
Birth Date		Ethnicity	White
Age	31	Education	
File Number		Email	james.wolfer@grandronde.org
		Supervisor	
			Photo

Employment Summary

Grand Ronde Tribal Police Department	- Inactive	Total Service:	1 Years 87 Days
Hired: 5-23-2016	Last Action: 8-18-2017	Resigned	

Assignment:	Pos/Rank: Police Officer
Level:	Class:
Shift:	:
Function: Police	

Warm Springs Police Department	- Inactive	Total Service:	1 Years 91 Days
Hired: 10-18-2010	Last Action: 1-17-2012	Discharged	

Assignment:	Pos/Rank: Police Officer
Level:	Class:
Shift:	:
Function: Police	

Certification

Date	Status	Certified	Expires	Probation	Cert #
Police Maintenance / Basic					
1-01-2017	Required		12-31-2019		
Police Officer / Basic					
12-22-2016	Granted	12-22-2016	11-18-2017		

111616-da pending entry of Final F6 for PCOD 055 OK

Employment History

Grand Ronde Tribal Police Department	
Date: 8-18-2017 Action: Resigned	Status: Inactive

Assignment:	Pos/Rank: Police Officer
Level:	Class:
Shift:	:
Function: Police	

Grand Ronde Tribal Police Department	Service: 1 Years 87 Days
Date: 5-23-2016 Action: Hired	Status: Active

Assignment:	Pos/Rank: Police Officer
Level:	Class:
Shift:	:

AUG/29/2017

DPSST Public Safety
Employee Profile

Page: 2

11:57AM

Wolfer, James K. (51798)

Function: Police

Warm Springs Police Department

Date: 1-17-2012 Action: Discharged

Status: Inactive

Assignment:

Pos/Rank: Police Officer

Level:

Class:

Shift:

:

Function: Police

Warm Springs Police Department

Date: 1-20-2011 Action: DPSST Reclassification

Service: Years 363 Days

Status: Active

Assignment:

Pos/Rank: Police Officer

Level:

Class:

Shift:

:

Function: Police

Warm Springs Police Department

Date: 10-18-2010 Action: Hired

Service: Years 95 Days

Status: Active

Assignment:

Pos/Rank: Civilian Employee

Level:

Class:

Shift:

:

Training

Course	Title	Date	Hours	Score	Status
F6C24972	Firearms Training	6-28-2017	1.00	0.00	Passed
F6C18153	Firearms Qualification	6-28-2017	1.00	0.00	Passed
F6C36316	Ethics Bulletin Vol 164	6-26-2017	0.50	0.00	Passed
F6C04461	Advanced Roadside Impaired Driving Enforcement	6-09-2017	16.00	0.00	Passed
F6C30724	Ethics Bulletin Vol 161	4-19-2017	0.50	0.00	Passed
F6C14523	Hazmat First Responder Awareness (FRA) Level I	3-31-2017	2.00	0.00	Passed
F6C18537	Counter Assault	3-22-2017	1.00	0.00	Passed
F6C02801	Naloxone Training Protocol	3-13-2017	1.00	0.00	Passed
F6C37327	Ethics Bulletin Vol 160	3-10-2017	0.50	0.00	Passed
F6C13068	Ethics Bulletin Vol 159	3-10-2017	0.50	0.00	Passed
F6C26596	Initial Response and Investigation of Child Deaths	2-22-2017	1.00	0.00	Passed
F6C29664	40 Hour CITR Training Day 1	2-17-2017	8.00	0.00	Passed

AUG 29, 2017
11:57AM

**DPSST Public Safety
Employee Profile**

Page: 3

Wolfer, James K. (51798)

F6C29664	40 Hour CITR Training Day 1	2-16-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C29664	40 Hour CITR Training Day 1	2-15-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C29664	40 Hour CITR Training Day 1	2-14-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C29664	40 Hour CITR Training Day 1	2-13-2017	8.00	0.00	Passed
	CITY: Dallas; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C39434	Low Light/Night Shooting/Qualification	1-25-2017	3.00	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C23657	DPSST Ethics Bulletin Vol 158	1-24-2017	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C04689	Agency Policies and Procedures-Lexipol	1-16-2017	8.00	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				

2017 Pass/Complete: 76.50

F6C31343	DPSST Ethics Bulletin Vol 157	12-27-2016	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6C19092	DPSST Ethics Bulletin Vol 156	11-17-2016	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
16T001	Police Field Training Manual	11-14-2016	50.00	0.00	Completed
16-0009	DPSST Basic Police COD	11-11-2016	80.00	0.00	Passed
	Sgt. Hernandez 503-879-1824 ;timothy.hernandez@grandronde.org 083016 mriesterer changed from pending to regist.				
F6A01949	DPSST Ethics Bulletin Vol 153	8-26-2016	0.50	0.00	Passed
	Grand Ronde				
F6A01774	CPR/First Aid Recertification /AED	8-12-2016	6.00	0.00	Passed
	Grand Ronde				
16-0011	Intoxilyzer 8000-Training hours included in Basic	8-11-2016	8.00	0.00	Passed
	Salem, Oregon				
F6A01827	SFST/DID	8-04-2016	24.00	0.00	Passed
	Salem, Oregon				
F6C31336	DPSST Ethics Bulletin	6-27-2016	0.50	0.00	Passed
	CITY: Grand Ronde; INSTRUCTOR CONTACT: ; AUTHORIZEDSUBMITTER: ; SUBMITTED BY:				
F6A00764	Ethics Bulletin #149	6-14-2016	0.50	0.00	Passed
F6A00765	Ethics Bulletin #150	6-14-2016	0.50	0.00	Passed

2016 Pass/Complete: 171.00

11-0834	Investigation Training - Other	12-15-2011	1.00	0.00	Passed
11-0132	Firearms Qualification	10-04-2011	4.00	0.00	Passed
11-0008	DPSST Basic Police	9-16-2011	640.00	0.00	Passed
	Lt. Oswald "Bear" Tias, 541-553-3272 otias@wstribes.org fax 541-553-1376				
11-0011	Intoxilyzer 8000-Training hours included in Basic	8-19-2011	0.00	0.00	Passed
11-0010	SFST/DID- Training hours included in Basic	8-11-2011	0.00	0.00	Passed
11-3087	Lidar Operators Course	7-27-2011	6.00	0.00	Passed
11-3092	Radar Operators Course	7-12-2011	8.00	0.00	Passed
11-1106	Criminal Jurisdiction in Indian Country	4-13-2011	2.00	0.00	Passed
11-0132	Firearms Qualification	4-05-2011	4.00	0.00	Passed

AUG 29, 2017

**DPSST Public Safety
Employee Profile**

Page 4

11:57AM

Wolfer, James K. (51798)

11-1116	Legal/Legislative Update	4-05-2011	2.00	0.00	Passed
11-1237	Traffic Enforcement	3-24-2011	3.00	0.00	Passed
11-1198	Building Searches	3-23-2011	3.00	0.00	Passed
11-1075	Intoxilyzer 8000	1-14-2011	8.00	0.00	Passed

2011 Pass/Complete: 681.00

10-1120	Search & Seizure	12-30-2010	1.00	0.00	Passed
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2010 Pass/Complete: 1.00

Total Pass/Complete: 929.50

Education

Date	Degree	Major	School	Hours	Q/S
------	--------	-------	--------	-------	-----

Attributes

Effective	Expires	Topic	Attribute
8-25-2016		Training Deficiency	F4 Personnel action report missing
5-23-2016		Form Received	F2 completed on
1-20-2011		Form Received	F4
1-20-2011		Form Received	F5
1-03-2011		Form Received	F2 completed on

Notes

Date	Topic	Title / Description
11-03-2016	Code of Ethics	OK
3-12-2012	Certification Notes	F-8 Received-ok
5-23-2011	Code of Ethics	ok



OREGON DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

Personnel Action

COPY 4

Send to DPSST within ten days of effective date of action (OAR 259-008-0020)

See instructions on second page

Employee Information	1. Type of Action: <input type="checkbox"/> New Hire <input type="checkbox"/> Status Change <input checked="" type="checkbox"/> Separation <input type="checkbox"/> Amended (Reason for Amendment):						
	2. Name: Last Wolfer		First James	MI K	3. DOB: [REDACTED]	4. Hire Date: 05/23/2016	5. DPSST Number (leave blank if new) 51798 51798
	6. Agency Grand Ronde Tribal Police			7. Division/Branch/Institution Patrol		8. Rank or Position Patrol Officer	
New Hire	9. Current Discipline(s) which employee is actively working. <input checked="" type="checkbox"/> Police <input type="checkbox"/> Regulatory Specialist <input type="checkbox"/> Telecommunications <input type="checkbox"/> Reserve Police Officer <input type="checkbox"/> Corrections <input type="checkbox"/> Parole & Probation <input type="checkbox"/> Emergency Medical Dispatch <input type="checkbox"/> DPSST/DOC Mandated Course Instructor						
	10. Is Multi Discipline certification required to fulfill a need for the efficient operation of your agency? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
	11. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female		12. Race/Ethnicity:		13. High School Education <input type="checkbox"/> Diploma <input type="checkbox"/> School Name, Location, State: <input type="checkbox"/> GED		
Status Change	14. Background/Fingerprints <input checked="" type="checkbox"/> a. Date Fingerprints submitted to Oregon State Police I.D. Services. b. Has a background investigation been completed as required by OAR 259-008-0015? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No c. Optional: Did the background investigation reveal any convictions or pending criminal matters other than traffic violations? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
	15. Status Change Date:		16. Status Change <input type="checkbox"/> Name Change: From: To: <input type="checkbox"/> Promotion <input type="checkbox"/> Multi-Discipline Reclassification <input type="checkbox"/> Leave of Absence <input type="checkbox"/> Reclassification <input type="checkbox"/> Demotion <input type="checkbox"/> Military Leave of Absence <input type="checkbox"/> DOC Transfer <input type="checkbox"/> Demotion-Voluntary <input type="checkbox"/> Return from Leave of Absence				
	16a. Previous Rank, Position, Branch, Discipline:		16b. Current Rank, Position, Branch, Discipline:		16c. <input type="checkbox"/> Certifiable <input type="checkbox"/> Non-Certifiable		
Separation	17. Separation Date: 08/18/2016 2017		17a. Is this employee scheduled to attend a DPSST academy? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
	18. Separation Type <input checked="" type="checkbox"/> Resignation <input type="checkbox"/> Retirement-During an Investigation <input type="checkbox"/> <input type="checkbox"/> Deceased <input type="checkbox"/> Resignation-Settlement Agreement <input type="checkbox"/> Retirement-in lieu of termination <input type="checkbox"/> <input type="checkbox"/> Discharge <input checked="" type="checkbox"/> Resignation-During an Investigation <input type="checkbox"/> Retirement-Medical <input type="checkbox"/> <input type="checkbox"/> Lay-off <input type="checkbox"/> Resignation-in lieu of termination <input type="checkbox"/> Other: <input type="checkbox"/> Attach additional pages as necessary. <input type="checkbox"/> Probationary Discharge <input type="checkbox"/> Retirement <input type="checkbox"/> Retirement-Settlement Agreement <input type="checkbox"/> Will require further review by DPSST <input type="checkbox"/> Probationary Discharge (FTEP Failure)						
Contacts	20. Provide up to three individuals who DPSST may contact regarding this form. Include only work email addresses. <input checked="" type="checkbox"/> Rank, Name, Email and Phone Number:						
	timothy.hernandez@grandronde.org Lt.						
	rod.mcallister@grandronde.org Sgt.						
Signature	jake.mcknight@grandronde.org Chief						
	I attest that I am the Department Head or hold DPSST Certification and am authorized by the Department Head to sign below. I certify that the information entered on this form has been verified and is substantiated by records maintained by my agency. If certified by DPSST, I understand that falsification of this document makes my certification(s) subject to denial, suspension or revocation under ORS 181A.640 and OAR 259-008-0070. <input checked="" type="checkbox"/> Signature: <u>[Signature]</u> Date: <u>8/18/17</u> Printed Name: <u>Tim Hernandez</u> Title: <u>Lt. (acting Chief)</u> DPSST No.: <u>32195</u> Email Address: <u>timothy.hernandez@grandronde.org</u> Phone: <u>503-879-1824</u>						

Please send to DPSST: Email: schedulecert@state.or.us; Fax: 503-378-4600; Mail: 4190 Aumsville HWY SE; Salem OR 97317

DPSST USE	Certified Position <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Police <input type="checkbox"/> Corrections <input type="checkbox"/> P&P <input type="checkbox"/> Regulatory Specialist <input type="checkbox"/> Telecommunicator <input type="checkbox"/> EMD <input type="checkbox"/> Instructor	Date copy forwarded for review 8-29-17	Processed by/Date 8-29-17
	FP Number	LEDS <input type="checkbox"/> Clear	ONLINE Court <input type="checkbox"/> Clear	



POLK COUNTY

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338-3177
CRIMINAL DIVISION * (503) 623-9268
SUPPORT ENFORCEMENT * (503) 623-9269
VICTIM ASSISTANCE * (503) 623-9268
FAX * (503) 623-7556

DISTRICT ATTORNEY

AARON FELTON
District Attorney
felton.aaron@co.polk.or.us



September 28, 2018

G. Aron Perez-Selsky
Attorney at Law
Perez-Selsky Law Office
P.O. Box 1656
315 NE Evans St. # 8 & 9
McMinnville, OR 97128

Re: James Wolfer
OSP Case No.: SP18-001897

Dear Mr. Perez-Selsky:

This matter has been referred back to this office by the Marion County District Attorney's Office after completion of an independent investigation into the conduct of your client, James Wolfer, for the actions he is alleged to have been taken on August 13, 2017.

The purposes of my evaluation of Mr. Wolfer's actions are two-fold. First, to determine whether Mr. Wolfer's conduct constituted any sort of criminal act for which a prosecution is appropriate under Oregon law. Second, whether Mr. Wolfer's actions triggered my duty to disclose his conduct in cases in which he may be called as a witness for the state pursuant to *Brady v. Maryland*. Let me be clear, no analysis I conducted or conclusion I reached should be imparted to any civil or administrative proceeding related to these events which is assigned a lower burden of proof by law.

I have reviewed the written materials as well as the audio and video media compiled as part of the investigations conducted by the Oregon State Police, Dallas Police Department, and Grand Ronde Tribal Police Department. It is important to note that only the Oregon State Police had the benefit of a complete, counseled, interview with Mr. Wolfer to rely on during its investigation. Consequently, I, too, had the benefit of that information before me in reaching my decision.

Based on my review of these materials, I find that there is not sufficient evidence to prove a crime beyond a reasonable doubt. Given the totality of the circumstances, in particular the witness statements and level of threat believed by Mr. Wolfer to be imminent, there is not sufficient

G. Aron Perez-Selsky

September 28, 2018


Page 2

evidence to overcome the use of force justification afforded peace officers in ORS 161.235 – 161.245.

However, I reach a different conclusion as regards my duty under *Brady v. Maryland*. As you know, The United States Supreme Court in *Brady v. Maryland*, as well as the Ninth Circuit Court of Appeals in *United States v. Henthorn*, has held that prosecutors bear a personal responsibility to make the court aware of any materials possessed by an investigative agency that are helpful to the defense. Such materials include not only exculpatory information, but also any findings or substantiated allegations that call into question the credibility of a government witness (impeachment information). The investigations conducted by the Grand Ronde Tribal Police, Dallas Police and Oregon State Police each contain material that would be considered exculpatory if Mr. Wolfer were to be called as a witness for the state in any criminal proceeding. Therefore, pursuant to *Brady v. Maryland*, it will now be the practice of this office to disclose these materials to defense counsel in Polk County cases (or other cases that we are aware of) in which Mr. Wolfer may be called as a witness for the state.

If you have additional questions, please do not hesitate to contact me.

Sincerely,



Aaron Felton
District Attorney

cc: Chief Jake McKnight
Grand Ronde Tribal Police

Kristen L. Hibberds
Oregon Department of
Public Safety Standards and Training



Oregon State Police

Incident: SP18001897

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 Oregon State Police

Incident Details:

Incident Type: Assault
Incident time: 08/13/2007 17:03 - 08/13/2017 17:51
Reported time: 01/02/2018 16:53
Incident location: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Incident status: Referred to DA for consideration
Summary: On January 2, 2018, I was tasked with investigating a use of force incident from Grand Ronde Tribal Police Department, located in Polk County. Subsequent investigation revealed that there was not probable cause to charge James Wolfer with Assault IV.

Involved Persons:

Name: SCOTT, KAITLYN **Gender:** Female
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: WOOD, MICKEY **Gender:** Male
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: MALMQUIST, LEN **Gender:** Male
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: NORWEST, ROBIN **Gender:** Male

Classification: Witness**DOB:****DL:****Address:** 27100 SW SALMON RIVER HWY, GRAND RONDE,
POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO)
(Beat: GHQ, Region: NWR) 97347**Telephone:** (Cell phone) [REDACTED]**Name:** [REDACTED]**Gender:** Female**Classification:** Witness**DOB:** [REDACTED]**DL:****Address:** [REDACTED] KLAMATH FALLS, KLAMATH
OR USA (Beat: SMO, Region: NWR)**Telephone:** (Cell phone) [REDACTED]**Name:** HERNANDEZ, TIM**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:** 26870 SALMON RIVER HWY, GRAND RONDE, POLK
OR USA 97347 (Beat: MNO, Region: NWR) 97347**Telephone:** (Landline) (503) 879-2417**Name:** MCALLISTER, ROD**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:****Telephone:** (Landline) (503) 879-1826**Telephone:** (Landline) (541) 247-3242**Name:** MCKNIGHT, JAKE**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:****Name:** WOLFER, JAMES**Gender:** Male**Classification:** Other Involved person**DOB:****DL:****Address:****Telephone:** (Landline) (503) 879-5211**Involved Property:**

- P18005066 / Police recording / Evidence / BODY CAM
- P18005067 / Police recording / Evidence / AUDIO RECORDING
- P18005447 / Police recording / Evidence / AUDIO RECORDING
- P18005449 / Police recording / Evidence / AUDIO RECORDING
- P18005451 / Police recording / Evidence / AUDIO RECORDING

- P18010453 / Police recording / Evidence / AUDIO RECORDING
- P18010454 / Police recording / Evidence / AUDIO RECORDING

Involved Officers:

- Supporting officer / BARRIENTOS, CARLOS / #41614 / OSP / Officer / SALEM DETECTIVES
- Supporting officer / MOISAN, THEODORE / #42094 / OSP / Officer / SALEM DETECTIVES
- Reporting Officer/Case Lead / HEGNEY-BACH, CASI / #49678 / OSP / Officer / SALEM PATROL
- Dispatcher/TC2 / CLEMENTS, ARIN / #56444 / OSP / Officer / DISPATCH

Reports:

General report:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 15:26

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 15:26

Narrative:

Case #SP18001897

DISTRIBUTION:

Marlon County District Attorney's Office

ASSOCIATED CASES:

Grand Ronde Tribal Police GRT17000673

CRIMES UNDER INVESTIGATION:

Assault IV – ORS 163.160

SUBJECT OF THIS REPORT:

Initial Report – Use of Force

SUSPECT:

Mr. Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

[REDACTED] [REDACTED]

Mother of Victim

Security Guard Robin Norwest

Spirit Mountain Casino

Security Guard Len Malmquist

Spirit Mountain Casino

Security Guard Mickey Wood
Spirit Mountain Casino

Security Guard Kaitlyn Scott
Spirit Mountain Casino

MENTIONED POLICE:

Sergeant Matt Lawson
Oregon State Police

Chief Jake McKnight
Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez
Grand Ronde Tribal Police Department

Sergeant Rod McAllister
Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 – DVD with body camera footage from James Wolfer, dated 8/13/17.
CHB-E2 – Interview with [REDACTED]
CHB-E3 – Interview with Robin Norwest
CHB-E4 – Interview with Len Malmquist
CHB-E5 – Interview with Kaitlyn Scott
CHB-E6 – Interview with Mickey Wood
CHB-E7 – Audio interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

Probable Cause Affidavit from James Wolfer

Incident Report from James Wolfer

Incident Supplement from Tokata Tehama

Dispatch Report

Inter-Office Memorandum, James Wolfer Administrative Leave Investigation

Inter-Office Memorandum Investigation Report

Salem Health West Valley Emergency Report for [REDACTED] [REDACTED]

Arrest Report – Polk County Jail

Dallas Police Department Incident Review

Letter of Resignation from James Wolfer

Trespass Notice from Spirit Mountain Casino

Certified Letter that houses Trespass Notice

Grand Ronde Tribal Police Department Conducted Energy Device Policy

Grand Ronde Tribal Police Department Use of Force Policy

Grand Ronde Tribal Police Department Personnel Complaint Policy

Public Records Request from [REDACTED] [REDACTED]

Taser Certification and Test for James Wolfer

Taser Instructor Certification for Rod McAllister

Taser download for James Wolfer

DPSST Training record for James Wolfer

ACTION TAKEN:

On January 2, 2018, I was tasked with investigating a use of force case from Grand Ronde Tribal Police Department, located in Polk County. Sergeant Matt Lawson explained to me that the use of force occurred between former police officer, James Wolfer and a male he arrested, [REDACTED] on August 13, 2017. Sergeant Matt Lawson told me the case involved Mr. Wolfer and the use of his taser during the arrest of Mr. [REDACTED]

I read through the documents of this case, watched the body camera footage from James Wolfer and interviewed witnesses. According to the Grand Ronde Tribal Police Dispatch Report the following events occurred prior to Mr. Wolfer making contact with Mr. [REDACTED]

- 5:03pm Initial call for service came from Spirit Mountain Casino. Casino reported a trespass.
- 5:04pm – 5:05pm, trespasser identified as [REDACTED] [REDACTED] descriptors were given. Male had been trespassed from casino before.
- 5:06pm, security officers were watching Mr. [REDACTED]
- 5:09pm, confirmed warrant for Assault II, felony cautions reported.
- 5:10pm, Mr. Wolfer steps up response to casino and then also arrived on scene.

On January 2, 2018, I reviewed Mr. Wolfer's body camera. Here is a summary of what I saw on Mr. Wolfer's body camera:

On August 13, 2017 at approximately 5:11pm, Mr. Wolfer was on duty and in uniform. At this time Mr. Wolfer activated his body camera at Spirit Mountain Casino. He was on a call for service dealing with a trespassed male named [REDACTED]

Mr. Wolfer got out of his patrol vehicle and briefly talked to a security officer, who told him where Mr. [REDACTED] was located in the parking lot. Mr. Wolfer ran toward Mr. [REDACTED] in the parking lot while also pulling out his Taser. A female appeared to be with Mr. [REDACTED]

As Mr. Wolfer ran toward Mr. [REDACTED] he yelled, "Hey Stop, Police. Stop, get on the ground." Mr. Wolfer had his Taser pointed toward Mr. [REDACTED]. The female, later identified as [REDACTED] said, "What do you want?"

Mr. Wolfer yelled, "Get on the ground now!" Ms. [REDACTED] asked, "Me?" Ms. [REDACTED] at this time stepped between Mr. Wolfer and Mr. [REDACTED]. Mr. Wolfer yelled commands to Mr. [REDACTED] and Ms. [REDACTED] and he used his hands to point at which person he was referring; Mr. Wolfer began yelling commands, "No not you. Back up. Go to the side. You on the ground. Get on the ground now! Move aside. Get on the ground or you will be tased. Back away, get on the ground, now." Get on the grou. . ." While Mr. Wolfer was yelling, Mr. [REDACTED] put his hands up in the air and took steps backwards.

Next Ms. [REDACTED] took a step toward Mr. Wolfer and at the same time Mr. Wolfer pulled the trigger on his Taser deploying a taser cartridge that hit Mr. [REDACTED] in the front of his upper body. Mr. [REDACTED] fell forward to the ground and then he rolled onto his back. Ms. [REDACTED] yelled, "You mother fucker!"

Mr. Wolfer said to Ms. [REDACTED] "Get on the ground or you will be tased too!" Ms. [REDACTED] yelled back "Fucking do it, bitch!" Mr. Wolfer continued to tell Ms. [REDACTED] to get on the ground. Security Supervisor Mickey Wood stepped in front of Ms. [REDACTED]. At this time, Mr. [REDACTED] was lying on his back with his arms extended out to his sides and he remained motionless.

Mr. Wolfer requested Dispatch to send medics to his location. Mr. Wolfer told Ms. [REDACTED] to say away. Mr. Wolfer then told Mr. [REDACTED] two times to roll over onto his side and Mr. [REDACTED] complied with the commands and rolled onto his stomach.

Mr. Wolfer told Mr. [REDACTED] he was under arrest for a warrant and trespassing. He knelt down, gave Mr. [REDACTED] commands so he could place him in handcuffs and Mr. [REDACTED] complied.

While Mr. Wolfer was cuffing Mr. [REDACTED] Ms. [REDACTED] continued yelling at Mr. Wolfer and Mr. Wolfer yelled back at her.

Once in handcuffs Mr. [REDACTED] asked several times, "What did I do?" Mr. [REDACTED] appeared to be getting getting agitated during the verbal exchange between Mr. Wolfer and Ms. [REDACTED]

While Mr. [REDACTED] was asking, "What did I do," he started pushing slightly off the ground with his knees; his head stayed on the ground. Mr. Wolfer then told Mr. [REDACTED] he had a warrant. Mr. [REDACTED] still appeared agitated and flexed his arms and rolled slightly onto his left shoulder and then he rolled back onto his stomach. Mr. Wolfer warned Mr. [REDACTED] to stay on the ground or he would tase him again. Mr. [REDACTED] said, "Fuck you" and Mr. Wolfer activated a five second taser cycle. Mr. [REDACTED] was not flexing or rolling or moving his knees at the time Mr. Wolfer activated the taser probes.

After the taser cycled, Mr. Wolfer said, "Don't move or you'll get it again." He then said to Mr. [REDACTED] "You done? You pull away from me again you'll get it again. Turn your head the other way, turn your head." Mr. Wolfer put his hand on the back of Mr. [REDACTED] head to turn his head and Mr. [REDACTED] moved his head to face away from Mr. Wolfer.

At approximately 5:22pm Mr. [REDACTED] brother, [REDACTED] Mr. [REDACTED] arrived on scene. Mr. [REDACTED] did not recognize [REDACTED] and said, "Who the fuck are you?" Mr. [REDACTED] was verbally argumentative throughout the rest of the video footage. Mr. [REDACTED] speech was repetitive and slurred. He repeatedly asked what he did wrong and asked why he got tased.

At approximately 5:23pm, medics arrived on scene. At approximately 5:26pm medics checked Mr. [REDACTED] for injuries and found he had an elevated heart rate and no injuries. During this time Mr. Wolfer was talking to a Deputy La Combe and explained the situation including that Mr. [REDACTED] was intoxicated.

At approximately 5:30pm, Mr. Wolfer talked to one of the Spirit Mountain's security personnel and told him that he tased Mr. [REDACTED] because Mr. [REDACTED] squared up on him.

At approximately 5:34pm, Mr. Wolfer helped Mr. [REDACTED] stand and then he double locked the handcuffs. At approximately 5:35pm, Mr. Wolfer and Mr. [REDACTED] walked to Mr. Wolfer's patrol vehicle and Mr. [REDACTED] was placed in the backseat.

At approximately 5:37pm, Mr. Wolfer transported Mr. [REDACTED] to the Polk County Jail. At approximately 5:39pm, Mr. Wolfer called Sergeant McAllister via telephone and told him the following:

"Hey just thought I'd let you know uh I tased [REDACTED] [REDACTED] So calling you for the use of force. It was right when LT went uh end of watch so he couldn't back me up. So he was already gone. So... uh...he ([REDACTED] was trespassed and uh also had a felony warrant, wouldn't stop when I told to his mom was getting in the middle and then he squared up on me and so I had to tase him. And then I actually hit him a second time because he was resisting when I put the...when I was trying to get the cuffs on by myself so."

Mr. Wolfer continued telling Sergeant McAllister that Mr. [REDACTED] was medically cleared on scene and that he was on him way to Polk County Jail. During transport there was a banging sound and Mr. Wolfer told McAllister that Mr. [REDACTED] was banging his head against the car. Mr. Wolfer ended his phone call with McAllister and then Mr. [REDACTED] began yelling in the backseat asking what he did. Mr. Wolfer told Mr. [REDACTED] he was trespassing. Mr. [REDACTED] continued yelling for a few minutes including making threats that Mr. Wolfer may end up

getting killed and then he was silent for a while.

At approximately 5:48pm, Mr. Wolfer radioed to dispatch to let the jail know to have multiple deputies ready to help because Mr. [REDACTED] was making threats to harm police. At approximately 5:54pm, there was a banging sound and Mr. Wolfer told Mr. [REDACTED] to stop. Mr. [REDACTED] again asked where he was going. Mr. [REDACTED] began yelling again and was argumentative. Mr. Wolfer initially talked with him and then ignored Mr. [REDACTED] yelling.

At approximately 6:03pm, Mr. Wolfer arrived at Polk County Jail. Mr. [REDACTED] refused to give a breath sample to jail staff to show level of intoxication. Mr. Wolfer transported Mr. [REDACTED] to Salem Health West Valley Emergency room where he was medically cleared; report is attached.

At approximately 6:40pm, Mr. Wolfer returned to the jail and lodged Mr. [REDACTED] on for the following charges (according to the Probable Cause Affidavit):

1. "ORS 162.245 Criminal Trespass II – for being at Spirit Mountain Casino after previously being arrested from criminal trespass at that location and being told he was permanently trespassed from the location."
2. "ORS 162.247 Interfering with a Police Officer, when Mr. [REDACTED] refused to stop and get on the ground when I [Wolfer] gave him several loud verbal commands to stop walking and lay down on the ground."
3. "ORS 162.315 Resisting Arrest: for attempting to pull away from me [Wolfer] after I told him he was under arrest."
4. ORS 166.025 Disorderly Conduct in the second degree: For yelling loudly in the parking lot, causing multiple patrons to stop and stare, as well as being verbally confrontational with casino security."
5. "Yamhill Court Felony Warrant 17CR53185."

I reviewed the Probable Cause Affidavit and the Arrest Report for the Polk County Jail, dated August 13, 2017. I found the following actions listed in the report were not seen in the body camera footage (these were addressed during the interview with Mr. Wolfer):

- Mr. [REDACTED] yelling at Mr. Wolfer when confronted in the parking lot at Spirit Mountain Casino.
- Mr. [REDACTED] walking away during the confrontation with Mr. Wolfer.
- Mr. [REDACTED] turning towards Mr. Wolfer and taking an aggressive stance while yelling and "squaring up" his body.
- After first tase, Mr. [REDACTED] rolling away from Mr. Wolfer and continuing this behavior until the taser was activated for a second cycle.

I reviewed the Incident Report written by Mr. Wolfer on 8/14/17. Mr. Wolfer addressed some of the above discrepancies by writing, "I later reviewed my body camera footage and observed that directly before I activated by Taser, [REDACTED] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that Ms. [REDACTED] was approaching me and I believed I was about to be assaulted and

would have to fight both Ms. [REDACTED] and [REDACTED] without a cover unit."

I reviewed the Incident Supplement Report written by Grand Ronde Tribal Police Department Tokata Tehama. In the report he wrote that on 8/13/17 at approximately 2015 hours he went to Spirit Mountain Casino and retrieved the Anti-Felon Identification Tags (AFID Tags) from the Taser deployment and placed them into evidence for Mr. Wolfer.

I reviewed the Inter-Office Memorandum, James Wolfer Administrative Leave Investigation written by Lieutenant Tim Hernandez. According to this memorandum Lieutenant Hernandez reviewed the body camera footage from Mr. Wolfer dated 8/13/17 and concluded the following:

- The Taser application that he witnessed on the body camera footage violates Confederated Tribes Grand Ronde (CTGR) policy 304.5.1 Application of Taser. This policy states that the Taser device may be used when such application is reasonably necessary to control a person that is violent or physically resisting or the subject has demonstrated by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm to others.

According to the Inter-Office Memorandum, James Wolfer Administrative Leave Investigation on 8/14/17 at approximately 10:24am, Lieutenant Hernandez met with Mr. Wolfer and placed him on paid administrative leave. On 8/15/17, Lieutenant Hernandez made phone contact with the City of Dallas Police Chief Tom Simpson and requested a use of force review. On 8/16/17 Dallas Police Lieutenant Mott completed a use of force report.

I reviewed the Dallas Police Department Incident Review. In the incident review Lieutenant Mott wrote that Mr. Wolfer violated several sections of the Conducted Energy Device Policy (Taser Policy):

- 304.5.1 Application of Taser (already addressed above).
- 304.5.2 (d) by using a Taser on a handcuffed person who could otherwise be restrained without meeting threshold of increased risk to himself, the suspect or others.
- 304.5.2(f) by tasing an individual who was standing on an asphalt parking lot.
- 304.5.5 "This policy required Mr. Wolfer notify a supervisor of the Taser device discharge. It is an implicit component of advising the supervisor to be honest in the recounting of the event.

I reviewed the Inter-Office Memorandum Investigation Report written by Sergeant Rod McAllister. In this report Sergeant McAllister reviewed the body camera and reports written by Mr. Wolfer and recommended Mr. Wolfer's employment be terminated due to the following policy violations:

- Policy 319 Standards of Conduct; 319.5.8 Performance(a)(b)(c) deals with false statements, falsifying documents and failing to report false statements, etc.
- Policy 319 Standards of Conduct; 319.5.9 Conduct (b)(c)(h) deals with unreasonable force, exceeding lawful authority and criminal dishonest or disgraceful conduct.

I interviewed the following people in this case:

1. Chief Jake McKnight – Grand Ronde Tribal Police Department
2. Lieutenant Tim Hernandez – Grand Ronde Tribal Police Department
3. Sergeant Rod McCallister – Grand Ronde Tribal Police Department
4. [REDACTED] – mother of [REDACTED]
5. Robin Norwest – Security guard at Spirit Mountain Casino
6. Len Malmquist – Security guard at Spirit Mountain Casino
7. Mickey Wood – Security guard at Spirit Mountain Casino
8. Kaitlyn Scott – Security guard at Spirit Mountain Casino
9. James Wolfer – Suspect and former police officer at Grand Ronde Tribal Police Department

The four security guards I interviewed regarding this case believe Mr. Wolfer acted appropriately and professionally and used the appropriate level of force to control the situation. They all told me Mr. [REDACTED] was trespassing at Spirit Mountain Casino and he had a warrant for Assault II. They also told me Mr. [REDACTED] was intoxicated, confrontational, belligerent and they believed him to be a violent and dangerous individual. See the interview reports, the audio recordings and the transcripts for Robin Norwest, Len Malmquist, Mickey Wood and Kaitlyn Scott for more details.

All of those interviewed, who saw Mr. [REDACTED] inside the Spirit Mountain Casino on August 13, 2017 told me he was intoxicated and confrontational. When I interviewed Mr. [REDACTED] mom, she admitted her son was intoxicated and acting irrationally. However, she believed Mr. Wolfer used excessive force when he tased Mr. [REDACTED].

Ms. [REDACTED] told me Spirit Mountain Casino sent a trespass notice to Mr. [REDACTED] after this incident. She sent me a picture of the certified envelope, dated 8/22/17 and the Notice of Trespass. The letter states [REDACTED] is indefinitely excluded from the Spirit Mountain Casino; signed by Security Manager Mickey Wood and dated 8/19/17.

I asked Ms. [REDACTED] for contact information for Mr. [REDACTED]. She told me he was living in the Portland area with his girlfriend. She gave me the cell phone number to his girlfriend, [REDACTED]. I gave Ms. [REDACTED] my contact information and she told me she would try to get Mr. [REDACTED] to call me. See the interview report, audio recording and transcript from the interview with Ms. [REDACTED] for more information.

I made several attempts to reach Mr. [REDACTED]. I did get ahold of [REDACTED] on 1/25/18 and told her I needed to talk with Mr. [REDACTED] and I explained the investigation to her. I gave her my contact information. I stopped attempting to make contact in the beginning of February. I have not heard back from Mr. [REDACTED] as of the day of this report.

On January 8, I met with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McCallister from Grand Ronde Tribal Police Department. Collectively they provided me with the following documents:

- Grand Ronde Tribal Police Department Conducted Energy Device Policy
- Grand Ronde Tribal Police Department Use of Force Policy

- Grand Ronde Tribal Police Department Personnel Complaint Policy
- Public Records Request from [REDACTED] seeking reports and video from the incident that occurred on 8/13/17.
- Taser Certification and Test for James Wolfer
- Taser Instructor Certification for Rod McAllister
- Taser download for James Wolfer

From my interviews with Chief McKnight, Lieutenant Hernandez, Sergeant McAllister and Mr. Wolfer, I found Mr. Wolfer was never interviewed regarding this incident. Mr. Wolfer was placed on paid administrative leave on 8/14/17. Mr. Wolfer had a meeting with Lieutenant Hernandez on 8/18/17 and he was told they were recommending termination due to violating the Standards of Conduct and Taser policies. Mr. Wolfer wrote a letter of resignation that day; attached to this report.

I additionally found from my interviews with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McAllister that they unanimously believe that Mr. Wolfer used excessive force that rose to the level of a criminal assault. However the investigation report completed by Sergeant Rod McAllister did not address excessive force. See the interview reports with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McAllister and the investigation report completed by Sergeant McAllister for more information.

On March 2, I interviewed former Police Officer James Wolfer regarding the events that occurred on August 13, 2017. Mr. Wolfer went into detail describing his interaction with Mr. [REDACTED]. Mr. Wolfer told me he was by himself. He told me while he was responding to the scene, his supervisor warned him that Mr. [REDACTED] usually has his brother with him and then his supervisor went off duty. He told me his back up from Polk County was at least ten minutes away. He told me from his experience, most security officers won't get involved in physical confrontations. He told me he was aware that Mr. [REDACTED] was violent, uncooperative, and aggressive prior to his arrival on scene.

Once on scene, the situation became more serious because he was faced with Mr. [REDACTED] and an unknown female who was interfering with him making an arrest. He stated Mr. [REDACTED] was larger than him in size and was not cooperative. He told me he also believed Mr. [REDACTED] brother was somewhere in the area. After being cuffed, Mr. [REDACTED] began resisting again and Mr. Wolfer believed the unknown woman would make an effort to assault him in an effort to free Mr. [REDACTED]. The unknown woman was later identified as [REDACTED] mother. Mr. Wolfer said he used his Taser to control the situation and stop Mr. [REDACTED] from resisting further. Looking at the totality of the circumstances, Mr. Wolfer told me he used the force he felt necessary in order to make an arrest.

Mr. Wolfer was able to articulate himself well and he addressed the differences seen on the video compared to his reports. He talked about having tunnel vision and how the camera did not pick up what he was feeling and seeing. Mr. Wolfer also explained that he was scared during this incident and Lieutenant Hernandez told me during his interview that Mr. Wolfer did not do well with hostile contacts.

In addition, from 2011 through 2017, Mr. Wolfer only attended one, one hour defensive tactics training class. He Wolfer did not meet the maintenance standards set by DPSST for annual required training for use of force. DPSST requires 8 hours every year for use of force or firearms. From June 2016 to August 2017, Mr. Wolfer attended 6 hours of training, five of them for firearms and one hour for defensive training; Counter Assault.

See the Interview report, audio recording and transcript from the interview with Mr. Wolfer for more information.

The victim in this case, [REDACTED] [REDACTED] was not cooperative and did not give a statement during this investigation.

DISPOSITION:

Refer to the Marion County District Attorney's Office for consideration.

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 13:52

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 13:52

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview - [REDACTED] [REDACTED]

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Mother of [REDACTED] [REDACTED]

DOB: [REDACTED]

[REDACTED] [REDACTED] - Victim

DOB: [REDACTED]

[REDACTED] [REDACTED]

Girlfriend of [REDACTED] [REDACTED]

Phone: [REDACTED]

Security Manager Mickey Wood

Spirit Mountain Casino

EVIDENCE:

CHB-E2 - Interview with [REDACTED] [REDACTED]

ATTACHED:

Oregon State Police Property Report Form 85

Trespass Notice from Spirit Mountain Casino

Certified Letter Envelope that housed Trespass Notice

ACTION TAKEN:

On January 12, 2018 at approximately 10:23am I interviewed [REDACTED] [REDACTED] via telephone. I told Ms. [REDACTED] our conversation was being recorded and I asked her to tell me what she witnessed on August 13, 2017 concerning her son, [REDACTED] [REDACTED]

Ms. [REDACTED] told me that on August 12, 2017 she and her son were headed back home from a Pow-Wow in Siletz. She told me they stopped at Spirit Mountain Casino to eat at the buffet. She told me when she went to pay for the buffet she realized she needed her tribal identification in order to get a discount. She told me she went back to her car and grabbed her ID and when she got back her son was gone.

Ms. [REDACTED] told me staff told her [REDACTED] was using the bathroom. She told me she waited for a long time and then knocked on the men's bathroom door and he wasn't in there. She told me she went looking for him. She told me at first she couldn't find him and she ended up ordering food in the dell. She told me she finally found him in the lounge sitting at a bench seat and there were two security guards at each exit. She told me the security guards were staring at [REDACTED] She told me she walked up to her son and told him they were leaving.

Ms. [REDACTED] told me [REDACTED] seemed drunk and she thought how could he be drunk when they had only been at the casino for around twenty five minutes. She told me she asked the bartender if she gave him shots. She told me the bartender said she only gave him bread and water. She told me she locked arms with her son at the elbow and said, "Let's go."

Ms. [REDACTED] continued telling me [REDACTED] was being difficult and he didn't want to leave. She told him she ordered food from the dell and they needed to go pick it up and leave. She told me the security guards followed them when they left. She told me they exited the lounge through the high stakes gaming area. She told me [REDACTED] grabbed a chair that was sitting at one of the slot machines and knocked it over. She told me she scolded him and told him he was going to make things worse.

Ms. [REDACTED] told me they went to the dell and got their food and the security guards were still following them from a distance and watching them. She told me the security guards did not talk with her.

I asked Ms. [REDACTED] if she talked with [REDACTED] about why security guards were following them and she told me [REDACTED] seemed drunk and was slurring his words so she didn't feel like she could ask him. She told me she just wanted to get out of there.

Ms. [REDACTED] told me while they were in the parking lot walking towards her car Officer Wolfer came racing towards them with his taser drawn. Below is an excerpt from the interview with Ms. [REDACTED] (page 2, lines 1 - 41).

[REDACTED] [REDACTED] Um, well, I was trying to get my son to leave the casino with me, uh, 'cause we ordered food to go and it was ready, and so we got our food from the dell and we were walking out the, um, entrance near, um, the, uh, Legends **** and, uh, we went out that way and were probably 30 or 40 feet from my car when, um, we heard Officer Wolfer, I didn't know who he was at the time, but, uh, come running up behind us with his taser drawn, yelling at us stop or I'm gonna tase you, and took my son and I both - we were, I do, we were the only people I saw around the parking lot 'cause I looked around like is he talking to us?

Detective Hegney-Bach: Mm hmm.

[REDACTED] [REDACTED] And, and, uh, turned around and looked at him and we both stopped and, uh, I wanna say we threw our hands up and said what, what did we do, we didn't do anything.

Detective Hegney-Bach: Yeah.

[REDACTED] [REDACTED] And, uh, and he told me, he threatened me saying, um, because my son was walking in front of me, so when we turned around to face Officer Wolfer that made me in between Officer Wolfer and my son, and, and he said if you don't move, if you don't get out of the way I'm gonna tase you and I said what, I didn't do anything, and, and I kept saying we didn't do anything. What, what do you want and, and my son stepped out from behind me and, and he just tased him.

Detective Hegney-Bach: Mm hmm, okay.

And, um, and he just stiffened up and fell over and, um, it really – that was traumatizing to see your son get tased like that 'cause, I mean it's the helpless situation. I mean he –

Detective Hegney-Bach: Yeah.

– fell over and I told him like right away like that was totally uncalled for, that was unnecessary, what's this all about?

Detective Hegney-Bach: Yeah.

And, um, he just started going over to my son and, and putting handcuffs on him and as he was laying there still stiff and I look at the security officers around there who apparently had gone and got, called the tribal police officer, uh, to come and arrest him and he said there's a warrant for his arrest. I said out of where and he said that doesn't concern you, and, um, and I pulled out my phone to, um, video record it, but I didn't have enough memory on my phone to video record anything.

Ms. [REDACTED] told me one of the security guards asked Officer Wolfer if he wanted him to take her (Ms. [REDACTED]) down. She told me Officer Wolfer said it's okay she can take pictures and record video.

Ms. [REDACTED] told me she called her other son [REDACTED] who was working in the casino and he came out to the scene. She told me she felt like she was being bullied by the officer and the security guards, but once [REDACTED] showed up everyone calmed down. She told me Officer Wolfer was being rough on her son and had his knee in the back of his head like was trying to grind his face into the asphalt. She told me when [REDACTED] showed up Officer Wolfer loosened up and let up on his knee. Ms. [REDACTED] told me [REDACTED] convinced her to leave the scene and she went home to Klamath Falls.

Ms. [REDACTED] told me she saw [REDACTED] around a week later at the Polk County Jail and she told me she did not see any obvious injury on [REDACTED]. She told me she saw a little discoloration, like old bruises faded from the left side of his face around his forehead and cheek. She thought the mark was probably where [REDACTED] fell and hit the concrete. She told me [REDACTED] also complained to her that he was sore where the taser probes hit him.

I asked Ms. [REDACTED] if she knew how I could get ahold of [REDACTED]. She told me he lives in the Portland area with his girlfriend, [REDACTED]. She told me she doesn't know exactly where they are living but she gave me Ms. [REDACTED] phone number.

Ms. [REDACTED] told me Spirit Mountain sent a delayed trespass notice to [REDACTED]. She told me she had the notice and would send it to me. I asked her if [REDACTED] knew he was trespassed from the casino. She told me she thought [REDACTED] was aware because she talked with [REDACTED] and [REDACTED] told her they went in June 2017 and they told him to leave and that he was going to be trespassed. She told me [REDACTED] told her [REDACTED] was drunk at the time.

This concluded our interview. Ms. [REDACTED] sent me a picture of the certified envelope, dated 8/22/17 and the Notice of Trespass. The letter states [REDACTED] is indefinitely excluded from the Spirit Mountain Casino; signed by Security Manager Mickey Wood and dated 8/19/17.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:26

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:26

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Robin Norwest

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Robin Norwest

Security Officer at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Molsan

Oregon State Police

EVIDENCE:

CHB-E3 – Interview with Robin Norwest

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Molsan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 3:11pm we interviewed Robin Norwest. I told Mr. Norwest our conversation was being recorded and I asked him to tell me what he witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Mr. Norwest told me on August 13, 2017 he was dispatched to handle an intoxicated person. He told me he recognized [REDACTED] because he has dealt with him before. He told me Mr. [REDACTED] was intoxicated and he knew this because Mr. [REDACTED] was rambling, the way he smelled, and his lack of focus. He told me Mr. [REDACTED] was happy one moment and sad the next. He told me Mr. [REDACTED] was in the lounge but the lounge did not serve him any alcohol, he showed up intoxicated.

Mr. Norwest told me he asked Mr. [REDACTED] to leave the premises. He told me he told Mr. [REDACTED] he would not be served anymore and he needed to leave because he was excluded from the casino. He told me Mr. [REDACTED] got really mad and started screaming at him; cussing and swearing.

Mr. Norwest continued telling me when Mr. [REDACTED] left the lounge he went through High Stakes area and knocked over chairs because he couldn't walk well, he was stumbling and his mom had to hold him up.

My audio recorder ran out of batteries around this time. I restarted a recording at approximately 3:19pm.

Mr. Norwest continued telling me Mr. [REDACTED] exited the building with his mother out of the valet entrance. He told me they were in the green parking lot. He told me he saw Officer Wolfer walk up and he told Officer Wolfer Mr. [REDACTED] was in the red shirt and pointed to his location. He told me he saw Officer Wolfer approach Mr. [REDACTED]

Below is an excerpt from the Interview with Mr. Norwest (page 2, lines 30 – 36).

Robin Norwest: Well, the verbal commands he was giving him to stop, he was ignoring 'em, cussing and swearing. He was still cussing and swearing at me. His mom kept trying to grab him and *** on the ground. He refused, kept doing over and over, I don't know how many times he told them, you know, ***, Finally told him that he needed to get down or he will be tased. [REDACTED] didn't seem to care about that, and he got tased, went down, kept fighting with Wolfer while he was down, got tased the second time, and then became pretty compliant. Got the cuffs on. Wolfer kind up helped him up a little bit, sitting up.

Mr. Norwest told me he was standing approximately five feet away from Officer Wolfer during the confrontation with Mr. [REDACTED]. He told me Mr. [REDACTED] mom kept trying to get involved and they had to ask her multiple times to step away. He told me Mr. [REDACTED] mom was cussing and swearing at them. He told me Mr. [REDACTED] brother who works at the casino came outside and talked with his mother and told her to go home. He told me Mr. [REDACTED] mom finally left around this time.

Mr. Norwest told me he thinks Mr. [REDACTED] is dangerous, but Mr. [REDACTED] has never assaulted any of the casino staff and has only verbally combative.

Mr. Norwest continued telling me he thinks Officer Wolfer did the right thing. He told me he does not see any issues with how Officer Wolfer handled the situation.

This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:29

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Len Malmquist

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Len Malmquist

Security Officer at Spirit Mountain Casino

Robln Norwest

Security Officer at Spirit Mountain Casino

Mickey Wood

Security Supervisor at Spirit Mountain Casino

Kaitlyn Scott

Security Officer at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Molsan

Oregon State Police

EVIDENCE:

CHB-E4 – Interview with Len Malmquist

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Molsan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 3:36pm we interviewed Len Malmquist. I told Mr. Malmquist our conversation was being recorded and I asked him to tell me what he witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Mr. Malmquist told me he was an acting supervisor on August 13, 2017 and the security staff got a call from surveillance saying that [REDACTED] [REDACTED] an excluded person was in Summit View Lounge. He told me Mr. [REDACTED] was trespassed due to his violent tendencies and outbursts. He told me they immediately called for law enforcement. He told me he, Robln Norwest, Supervisor Mickey Wood and Kaitlyn Scott were near a door that goes between the Summit View Lounge and the high stakes area.

Mr. Malmquist told me the Summit View Lounge manager was a woman named Kaylee and Kaylee asked that Mr. [REDACTED] be

removed from the lounge because he was getting very loud and causing a scene. He told me Mr. [REDACTED] appeared intoxicated, he had slurred speech and an unsteady gait. He told me he and the other security staff were keeping an eye on Mr. [REDACTED] but did not contact him at that time.

Mr. Malmquist told me Mr. [REDACTED] mother arrived at the lounge and she was trying to get Mr. [REDACTED] to leave, tugging on him and saying "come on, let's go, let's go." He told me they went out the door that connects the lounge to the high stakes area and Mr. [REDACTED] threw a couple of chairs out of his way and continued to make a scene. He told me he and security were following from a distance. He told me Mr. [REDACTED] and his mom went to the dell. He told me while they were at the dell he heard surveillance come across the radio and say that a tribal police officer was on the property. He told me he broke away to talk with the police officer.

Mr. Malmquist told me he went outside and talked with Officer Wolfer. He told me he told Officer Wolfer that Mr. [REDACTED] was heading towards the valet entrance to exit the casino. He told me Officer Wolfer drove to the valet entrance.

Mr. Malmquist told me he walked around the outside of the building to the valet entrance. He told me he could hear on the radio that Mr. [REDACTED] went from the valet entrance through the green lot. He told me as he approached the area where Officer Wolfer was, he saw Mr. [REDACTED] on the ground face down. Officer Wolfer was trying to handcuff Mr. [REDACTED] and Mr. [REDACTED] was very combative and not following directions.

Mr. Malmquist continued telling me Mr. [REDACTED] mother was trying to interfere with the arrest. He told me Mickey Wood was trying to keep her out of Officer Wolfer's way. He told me he was standing around ten feet away during the confrontation between Officer Wolfer and Mr. [REDACTED]

Mr. Malmquist told me there were a few casino guests in the parking lot and he immediately tasked himself to crowd control. He told me he had his back to the confrontation and he glanced back to make sure things were going ok when he heard yelling. He told me he remembered Officer Wolfer yelling at Mr. [REDACTED] to quit fighting. He told me this happened when Officer Wolfer was trying to handcuff Mr. [REDACTED], while Mr. [REDACTED] was lying face down on the ground.

Below is an excerpt from the transcript from the interview with Mr. Malmquist (page 9 lines 16-18).

Len Malmquist: Uh, when I approached him, he had tased him once. Um, got him on the ground. Was trying to handcuff him. And, then I heard him quit fighting me, quit fighting me, you keep fighting me, I'm gonna tase you again. And, I did hear the second tase.

Mr. Malmquist continued telling me that during the second tase, Officer Wolfer had one wrist handcuffed and was trying to get ahold of Mr. [REDACTED] other wrist. He told me Officer Wolfer was also yelling at Mr. [REDACTED]'s mother to get out of the area. He told me the following people witnessed the incident besides himself: Kaitlyn Scott, Mickey Wood, Robin Norwest, Mary Williams and Tyler White.

Mr. Malmquist told me Mr. [REDACTED] continued to try and fight after Officer Wolfer put him in handcuffs. He told me Mr. [REDACTED] was "trying to do something. Anything."

I asked Mr. Malmquist if he had any concerns about what happened between Officer Wolfer and Mr. [REDACTED]. He told me he spent fifteen years in the military and four of those years as a military police officer. Below is an excerpt from the interview with Mr. Malmquist regarding some of his training and experience and his opinion regarding the interaction between Officer Wolfer and Mr. [REDACTED] (page 14 lines 22 - 55).

Len Malmquist: -- I also spent 5 years as a, um, antiterrorist force protection instructor.

Detective Molsan: Okay.

Len Malmquist: So, I taught self-defense --

Detective Molsan: Uh huh.

Len Malmquist: -- I taught non-lethal weapons.

Detective Molsan: Uh huh.

Len Malmquist: Nothing would have tripped any triggers with me.

Detective Molsan: Huh. Okay.

Len Malmquist: He's a single officer. He didn't have a cover officer.

Detective Molsan: Right.

Len Malmquist: [REDACTED] is known to sometimes be violent.

Detective Hegney-Bach: When you say he's been known to be violent, has, has he ever been physically violent with you or any of your staff or anyone you know of?

Len Malmquist: Not hands on.

Detective Hegney-Bach: Okay.

Len Malmquist: Uh, he's thrown chairs around and kicked stuff and –

Detective Hegney-Bach: Okay.

Len Malmquist: – um, and of course, ya know, we've seen his, ya know, on arrest.org.

Mr. Malmquist continued telling me Mr. [REDACTED] grabbed Officer Wolfer a couple times before he was handcuffed. He also told me that Mr. [REDACTED] squared off towards him inside the casino. He told me Mr. [REDACTED] is around 5'11", 110 and in his mid to late 20's.

This concluded our interview. I ended the recording at 3:59pm.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:51

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:51

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Mickey Wood

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Security Supervisor Mickey Wood

Spirit Mountain Casino

[REDACTED] Victim

DOB: [REDACTED]

EVIDENCE:

CHB-E6 – Interview with Mickey Wood

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 at approximately 3:33pm, I interviewed Mickey Wood via telephone. Mickey Wood is a security supervisor at Spirit Mountain Casino. Mr. Wood was working On August 13, 2017 and witnessed the events that took place between Officer James Wolfer and [REDACTED] [REDACTED] I asked him to tell me about the events he witnessed.

Below is an excerpt from the transcript from the interview with Mr. Wood (page 3 lines 23 – 55, page 4 lines 1-2).

Mickey Wood: Okay, uh, I got a call that, uh, [REDACTED] was in the, uh, Summit View lounge. Uh, I believed him to be

Indefinitely excluded from the casino. I contacted dispatch and confirmed that he was still currently excluded from the casino. Dispatch advised me, uh, uh, okay, dispatch advised me the last time we dealt with [REDACTED], uh, law enforcement came out, and he was combative, uh, and they actually took him down. Uh, so, with that I requested law enforcement and went into the, uh, to the area where he was. Uh, once I saw him, and we knew who he was, uh, he was being, um, disruptive and bothering guests, and the, um, supervisor there, Kayley Compton, uh, had requested that he be removed from that venue, because of the issues he was causing. Uh, as he left that area, he went into the high limits area, and, uh, one of the reports said he knocked over a chair. When I got there, uh, they were just picking up the chair, so I actually didn't witness him knock it over, just the picking up of it. Uh, and, um, so anyhow, he was argumentative at the time. Him and the female that he was with, who turned out to be his mother, uh, went out of high limits after being told they were excluded and had to leave. They went into, uh, a little area. It's called, uh, a dell where you get sandwiches. The food and beverage supervisor, Tyler White, had showed up, because we were going to, uh, confirm that he had been cut off from alcohol, and typically we try to get other supervisors from food and beverage involved. Uh, so, I, uh, I had told Tyler that we were, if they were gonna sit there and just not cause any trouble, we were just gonna wait till law enforcement got there, so that we wouldn't stir him up or agitate or make the situation any worse. Uh, then they got up and left, uh, the mother and him, and they headed out toward the green lot. Uh, Officer Wolfer arrived and asked me where he was, and I pointed to [REDACTED]. Uh, he was the male in the red shirt. Uh, Officer, uh, Wolfer went out there and immediately, uh, started telling him to get on the ground, uh, which he would not, uh, he wouldn't, he just wouldn't do, and the mother repeatedly tried to step between, uh, Officer Wolfer and [REDACTED] uh, trying to interfere with the arrest. I'm not sure how many times, but it was multiple times that, uh, uh, Officer Wolfer told him to get on the ground, uh, and he just, he would not comply. So, eventually, uh, Officer Wolfer was able to get, uh, between, uh, [REDACTED] without the mother involved, and he tased, tased him and took him down. Uh, after they got him down, he continued and continued to struggle. The mother kept yelling and interfering. Um, I believe he was tased again to try and maintain control. Then, he basically was just left on the ground until cover officers could come. Uh, Wolfer called medics, uh, right after he got him down and somewhat secured, and they came and, uh, medics removed the tongs, and he was placed in the patrol car and taken to jail.

I asked Mr. Wood to tell me about the prior incidents where [REDACTED] was combative. He told me [REDACTED] has never had any physical altercations with security but was verbally combative. He told me [REDACTED] is unreasonable when he gets intoxicated. He told me on one occasion, when talking with Spirit Mountain Security, [REDACTED] said, "either you kill me or I will kill you." He told me the report said they had to take him to the ground and take him into custody.

Mr. Wood continued telling me that considering [REDACTED] had a warrant for assault, a prior track record of being verbally combative to security and police and [REDACTED] mother interfering he believed Officer Wolfer responded appropriately to the situation. He told me he believed if Officer Wolfer had not taken control of the situation it would have escalated.

This concluded my interview with Mr. Wood.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/27/2018 12:36

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/27/2018 12:36

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Kaitlyn Scott

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Kaltlyn Scott

Security Officer at Spirit Mountain Casino

Mickey Wood

Security Supervisor at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Moisan

Oregon State Police

EVIDENCE:

CHB-E5 – Interview with Kaltlyn Scott

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Moisan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 4:08pm we interviewed Kaltlyn Scott. I told Ms. Scott our conversation was being recorded and I asked her to tell me what she witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Ms. Scott told me on August 13, 2017 around 5pm [REDACTED] was "red lighted," meaning he was cut off from alcohol. She told me [REDACTED] was being aggressive with wait staff and yelling. She told me [REDACTED] was there with his mom. She told me [REDACTED] mom was trying to calm him down, but he was "definitely loud, definitely belligerent." She told me she waited outside of the lounge in the high limits area while other security officers were in the lounge.

Ms. Scott told me [REDACTED] knocked over chairs and stormed outside. She told me [REDACTED] and his mom "seemed to be in quite a rush after they found out that security had been notified." She told me they (the security guards) "were hanging back quite a bit" because law enforcement was on their way. She told me she was with Security Supervisor Mickey Wood near the valet entrance. She told me shortly after this Officer Wolfer arrived at their location.

Below is an excerpt from the interview with Ms. Scott (page 6 lines 3-11), regarding what she remembered about Officer Wolfer's initial contact with [REDACTED]

Kaltlyn Scott: Um, he could've been in a hurry because he thought he might have

gotten in his vehicle. I'm not sure what his thought process was, it just struck me as odd. Um, so he hit the first row of cars, had his hand on his taser but hadn't pulled it yet, if I remember correctly, and then went down, made contact, uh, verbal contact with [REDACTED] and said, you know, Officer Wolfer, Tribal Police, um, like, please raise your hands, or you need to put your hands up, or you need to stop walking. I believe he said to stop walking first, and then, you know, I need to see your hands. Um, and Highpine wanted no part of that. He was like I'm just gonna go home. His mom got in the way of everything. Um, she got in Officer Wolfer's face.

Ms. Scott told me she hung back for crowd control. She told me while she was asking people in the parking lot not to gawk she heard a "thud" behind her and when she turned around she saw [REDACTED] on the ground. She told me [REDACTED] fell because Officer Wolfer tased him. She told me [REDACTED] tried to get up and Officer Wolfer gave him warnings like "you need to stay where you are and he still tried to get up" so Officer Wolfer tased him again. She told me when the second tase occurred Officer Wolfer was still standing up and approaching [REDACTED]

Ms. Scott told me she did not think that Officer Wolfer used excessive force during his interaction with [REDACTED]

//End of report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/27/2018 12:49

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/27/2018 12:49

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview with James Wolfer

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Aaron Perez Selsky

Attorney for James Wolfer

DOB: [REDACTED]

MENTIONED POLICE:

Detective Carlos Barrientos
Oregon State Police

EVIDENCE:

CHB-E7 – Audio Interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On February 12, 2018 I contacted James Wolfer to set up an interview. He told me he needed to contact his lawyer and told me he would call me back on Thursday February 15. On February 15, I was contacted by Aaron Perez-Selsky who told me he was Mr. Wolfer's attorney. We set up an interview for March 2, 2018 at 10:30am at the Salem Patrol Office.

On March 2, 2018 at approximately 10:42 am, I interviewed James Wolfer. Aaron Perez-Selsky and Detective Carlos Barrientos were also present during the interview. I told Mr. Wolfer our conversation was being recorded. I explained to Mr. Wolfer that I was investigating an incident involving him and [REDACTED] that occurred on August 13, 2017. I told him I was assigned to investigate whether excessive force was used during the arrest.

I asked Mr. Wolfer to tell me about his law enforcement experience. He told me the following:

- He worked as a police officer for Warm Springs Police Department from October 2010 – January 2012.
- He attended Basic Police Academy in January 2011.
- He had a gap in law enforcement work from January 2012 – May 2016. During this time he worked in banking and then for SAIF as a State Workers Comp investigator.
- He worked as a police officer for Grand Ronde Tribal Police Department May 2016 – August 2017.
- He went to Career Officer Development (COD) during his employment at Grand Ronde Tribal Police Department due to the gap in law enforcement employment.

I asked him questions about his duties and shift being worked on and around August 13, 2017. He told me the following:

- His scheduled shift was Sunday through Wednesday 6a-6p.
- His job was focused on community policing with a high number of contacts.

I asked Mr. Wolfer questions about his Taser training during his employment with Grand Ronde Tribal Police Department. He told he did not remember how long the initial Taser training

lasted, but said it was "short." He told me the training consisted of a power point presentation and short scenarios where he shot a training cartridge, which does not shoot probes. He told me this was the only training he had with his Taser.

I asked him how his relationship was with the people he worked with at Grand Ronde Tribal Police Department. He told me he and Lieutenant Hernandez "kinda butted heads." He told me he got along well with everyone else.

I asked Mr. Wolfer to tell me about the events that occurred on August 13, 2017 at Grand Ronde Casino. He told me the following occurred leading up to seeing [REDACTED]

- Around 5pm, he received a call from dispatch that [REDACTED] was actively trespassing at Grand Ronde Casino.
- He asked for back up and was told a Polk County Deputy was in route but was a ways out.
- Dispatch informed him that [REDACTED] had a warrant for Assault II.
- Lt. Hernandez told him via radio to be careful because [REDACTED] has a brother who is usually with him. He got the impression that [REDACTED] brother would help [REDACTED] fight.
- While in-route he called Grand Ronde Casino Security and they told him [REDACTED] was inside at a bar and they told him [REDACTED] was being "confrontational."
- When he arrived at the casino, he activated his body camera and was told [REDACTED] was in the parking lot.
- He felt that he could not wait for backup due to [REDACTED] behavior and he initiated contact.

Mr. Wolfer went into detail describing his interaction with [REDACTED]. Review transcript page 27 lines 17-56, page 28 lines 1-42 for more details. Mr. Wolfer told me he drove to the parking lot where security officers told him [REDACTED] was located; he got out of his vehicle and drew his Taser. He said, "If I saw him I was gonna have to arrest him 'cause he had a warrant and was actively trespassing."

Mr. Wolfer told me he was by himself. He told me from his experience most security officers won't get involved in physical confrontations. He told me when he saw [REDACTED] there was a woman with him and he found out later it was [REDACTED] mother. He told me pointed the Taser at [REDACTED] and yelled at [REDACTED] to get on the ground. He told me he kept yelling "Get on the ground, get on the ground." He told me [REDACTED] wouldn't get on the ground and the woman kept trying to get between them so he moved laterally. Mr. Wolfer said, "I perceived her to be a threat, but not as big of a threat as him [REDACTED]"

Mr. Wolfer continued telling me [REDACTED] was walking away and then he thought he yelled stop and [REDACTED] stopped and turned and the woman rushed at him. He told me at the same time [REDACTED] made a sudden movement that he perceived as [REDACTED] about to charge him or squaring up to fight so he tased [REDACTED]. He said, "I remember he did something very, very quickly and so right at the same time she was rushing me, so then I tased him, and I got ready to go hands on with her, but she stepped back, and I think I said somethin' like stay back or

you'll get tased too, and so she stepped back but she was yellin' at me, so then I went over to him. Security was there, but they weren't like grabbing her."

Mr. Wolfer told me there were a lot of people in the parking lot and he remembers looking around for this other brother that might be there. He told me he was on the ground with his back exposed to everybody. He told me the woman was still yelling at him as he put handcuffs on [REDACTED]. He said, "I wasn't able to pat him down yet, and I was on top of him but not fully, because I was also still tryin' to be able to spring back up in case I got hit from behind from wherever this other brother was gonna be, and, um, and then I felt him moving, which I interpreted as him tryin' to get back up, and I didn't know if he had weapons or anything yet."

Below is an excerpt from the transcript from the interview with Mr. Wolfer describing what led to the second cycle of taser activation (page 28 lines 21-42).

James Wolfer: When I worked in Warm Springs, I have had people try to fight. Like I had someone in handcuffs once like, like sho, run his shoulder into me and knock me over and like fight and then run, you know, so I, I don't know what, what he's tryin' to do. Just 'cause he was in handcuffs, I, I don't even think I had double locked 'em yet, and I kept tellin' him to stop resisting, um, and I felt like when he would turn and look at me, and I remember tellin' him to look away, when he'd turn and look at me, like I felt like he was tryin' to get up off the ground 'cause I would, I mean he, I felt, I felt like he was bigger than me, so he was, like it was like lifting me up. At the same time the mom was yelling at him or something, and I remember telling her to shut up 'cause I felt like she was also amping him up and I just wanted the situation to, to calm down and resolve, and I, I warned him. I told him he was under arrest. I told him why, and, and I don't remember if this happened before or after the tase but, a second tase, but I remember to, giving him several warnings that if he didn't stop resisting I was gonna tase him again, and he, I felt like he kept resisting. I kept feeling the movement and I felt like he was gonna push me off of him, so I gave him a second tase, let it run through the cycle, and then he, it stopped, and he stopped resisting, and so I said, "Are you done?" I think he said yes or something or I got the impression he was done. I detached it, holstered it, re ho, like was able to finish my pat down and everything else, sat him up. Um at some point during that I remember the female, I believe she started takin' a step towards me, and also so did the security supervisor, and I remember yelling like stay back, and I meant her, but I remember the security supervisor's face thought I was talkin' to him, so then he stepped back and kinda put his arm near the, the female.

Mr. Wolfer told me at some point after things started to calm down the woman disappeared. He told me paramedics arrived on scene and he waited for a Polk County Deputy to arrive before letting paramedics check on [REDACTED]. He told me he didn't want to risk any of the paramedics being attacked by [REDACTED]. He told me [REDACTED] was "completely intoxicated" and in his experience intoxicated people often "want to fight and don't make good decisions." He told me once a deputy arrived, paramedics checked [REDACTED] out and then he was able to put

██████ in his patrol vehicle.

Mr. Wolfer continued telling me he called Sergeant McAllister to notify him of the use of force. He told me he drove ██████ to the jail and at the jail ██████ refused to provide a breath test for the Intoxylizer. He told me he had to take ██████ to the hospital to get cleared due to his level of intoxication. He told me once ██████ was cleared he took him back to the jail. He told me he wrote a probable cause affidavit to lodge ██████ in jail and then cleared the call.

Mr. Wolfer continued telling me he went back to the patrol office and talked with Officer Dana and watched the video footage for the first time. He told me he was "actually surprised to see that he ██████ hadn't squared up" with him. He told me he realized when he saw the video that ██████ actually took a step back and raised his hands. He explained that he thought the female was running at him and he had tunnel vision focused on this and when he saw movement from ██████ he interpreted the movement as a threat and he tased ██████. He told me he felt the body camera saw more than he did, meaning a wider angle without tunnel vision.

Mr. Wolfer then addressed the second taser cycle. He said, "You couldn't see on the footage what I felt which was, I felt like I was getting picked up from it, so, um, I remember being physically moved from it or feeling like I was, so, and then accurately, I, I didn't feel like the, I felt like the camera for the first tase showed more than I saw and I felt like for the second, it showed less than I saw because it was on the center of the chest and I'm on top of him."

Mr. Wolfer told me the next morning he returned to work to finish his report in regards to ██████. He told me when he finished the report Lieutenant Hernandez and a human resources representative approached him. He told me Lieutenant Hernandez told him that he reviewed the video footage with their tribal attorney and he (Hernandez) believed Wolfer violated the Taser Policy. He told me Lieutenant Hernandez asked him a few brief questions about why he tased ██████ and then Lieutenant Hernandez told him he was being placed on administrative leave. He told me Lieutenant Hernandez hadn't even read his report when this happened. He told me Sergeant McAllister called him on Wednesday and told him to come to the office on Friday.

Mr. Wolfer told me he came into the office on Friday and he was told by Lieutenant Hernandez that he violated the Taser Policy and they had a write up recommending termination. He told me Lt. Hernandez told him he could appeal within five days. He told me he asked Lt. Hernandez if he violated anything else and Hernandez said no. Lt. Hernandez told him they did not review this for use-of-force violation or anything else. He told me Lt. Hernandez told him Dallas Police Department conducted a review of the case and found the video didn't match up to what he was saying. He told me Lt. Hernandez said, "If you resign today, we're not gonna review it for anything else. We don't, we're not saying you violated the use-of-force policy, just the Taser policy." He told me he resigned in lieu of termination.

I asked Mr. Wolfer a series of questions related to his thoughts and decisions when he gave commands to ██████ and how he felt when ██████ did not cooperate. Review the

transcript from the interview with Mr. Wolfer page 37 lines 9-55 and page 38 lines 1-46.

I asked Mr. Wolfer to define passive resistance versus active resistance. He told me passive resistance would be like refusing to listen to commands and active resistance is like pulling away or fighting. I asked him if [REDACTED] was passively resisting or actively resisting. He said, "My perception was that he was actively resisting. After watching the video later, I see that, without knowing what his intention was, it does appear he was passive resisting when he raised his hands. I interpreted that as an act of resisting as he, as a pre assault"

Mr. Wolfer told me he did not complete any defensive tactics training while working at Grand Ronde Tribal Police Department. Below is an excerpt of the transcript from the interview with Mr. Wolfer (page 43 lines 41-56, page 44 lines 1-10)

Detective Hegney-Bach: Okay. Um, how did the actions of the suspect during the encounter make you feel?

James Wolfer: Scared, thought I was gonna be assaulted.

Detective Hegney-Bach: Okay.

James Wolfer: So –

Detective Hegney-Bach: What about, um, when he was on the ground and you had him in handcuffs?

James Wolfer: Uh, I think I –

Detective Hegney-Bach: Much of the same?

James Wolfer: Yeah, I was still afraid he was gonna push me off of him, and I had, at the time, still believed he had just tried to assault me with this other person that I didn't know who they were yet, um, so I was afraid of that, you know, if I got knocked off balance, then she might come run at me, and then now I'm on the ground, there's two of 'em, and even though he's in handcuffs, you know, who knows, or if he's got a weapon. I, I don't know yet. I, I don't believe I'd even done a pat-down yet or finished it –

Detective Hegney-Bach: Okay.

James Wolfer: – before I tased him again, um, so I was, I was still in the same frame of mind. Uh, I thought if I don't control this now, um, this may still, I may still get assaulted at any point here, so –

At this time during the interview we took a break. When we re-convened I asked a few clarifying questions and I verified his contact information. This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI**Report time:** 03/27/2018 14:38**Entered by:** #49678 HEGNEY-BACH, CASI**Entered time:** 03/27/2018 14:38**Narrative:****Case #SP18001897****DISTRIBUTION:**

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview – Chief Jake McKnight

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

[REDACTED] [REDACTED]

Mother of Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 – DVD with body camera footage from James Wolfer, dated 8/13/17.

ATTACHED:

Oregon State Police Property Report Form 65
Grand Ronde Tribal Police Department Conducted Energy Device Policy
Grand Ronde Tribal Police Department Use of Force Policy
Grand Ronde Tribal Police Department Personnel Complaint Policy

Public Records Request from [REDACTED]

ACTION TAKEN:

On January 2, 2018, I contacted Chief Jake McKnight with Grande Ronde Tribal Police Department via telephone and set up a meeting for January 8. I sent him a follow up email asking for the following documents:

1. Taser Policy
2. Use of Force Policy
3. Internal Memos and documents relating to Case #GRT17000673
4. Copies of Internal documents relating to disciplinary action for James Wolfer.

On January 8, 2018, Detective Carlos Barrientos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim Hernandez and Sergeant Rod McAllister.

At approximately 10:27 am, I interviewed Chief Jake McKnight. He provided me with copies of Grand Ronde PD's Taser Policy, Use of Force Policy and Personnel Complaint Policy.

I asked him to tell me what he knew about the events that occurred on August 13, 2017. He told me he was at the FBI Academy at that time, but was informed on August 14 around 7 am, by Lieutenant Tim Hernandez of the events that occurred on August 13. He told me Lieutenant Hernandez called him and told him there was an issue with James Wolfer. He told me Lieutenant Hernandez told him Wolfer tased [REDACTED] after he applied handcuffs.

Chief McKnight told me [REDACTED] was someone they have dealt with before. He told me [REDACTED] is not verbally compliant but hasn't ever gotten physical with them. He told me Officer Wolfer was more adrenalized than he should have been. He told me Officer Wolfer was not clear in his commands. He told me there were issues with the tasings but there were also issues with the way he told the events to Sergeant McAllister. He told me Officer Wolfer was immediately placed on administrative leave.

Chief McKnight told Lieutenant Hernandez met with Wolfer and gave him the option to resign after being put on administrative leave and Officer Wolfer chose to resign. He told me Officer Wolfer worked for Grand Ronde Tribal Police Department for a little over a year. He told me Officer Wolfer was not interviewed regarding the events that occurred on August 13, 2017 because he resigned.

Chief McKnight told me he that [REDACTED] mother of [REDACTED] filed a Public

Records Request requesting copies of the police reports and the body camera footage regarding the 8/13/17 Interaction between Wolfer and [REDACTED] case #17-673.

This concluded our interview.

I reviewed the Conducted Energy Device Policy, Personnel Complaints Policy and Use of Force Policy. I found all of the policies to be fairly standard and are attached to this report.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 14:22

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 14:22

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview with James Wolfer

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Aaron Perez Selsky

Attorney for James Wolfer

[REDACTED]
Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Officer Dana

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E7 -- Audio Interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

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On March 2, 2018 at approximately 10:42 am, I interviewed James Wolfer. Aaron Perez-Selsky and Detective Carlos Barrientos were also present during the interview. I told Mr. Wolfer our conversation was being recorded. I explained to Mr. Wolfer that I was investigating an incident involving him and [REDACTED] that occurred on August 13, 2017. I told him I was assigned to investigate whether excessive force was used during the arrest.

I asked Mr. Wolfer to tell me about his law enforcement experience. He told me the following:

- He worked as a police officer for Warm Springs Police Department from October 2010 – January 2012.
- He attended Basic Police Academy in January 2011.
- He had a gap in law enforcement work from January 2012 – May 2016. During this time he worked in banking and then for SAIF as a State Workers Comp Investigator.
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- His job was focused on community policing with a high number of contacts.

I asked Mr. Wolfer questions about his Taser training during his employment with Grand Ronde Tribal Police Department. He told he did not remember how long the initial Taser training lasted, but said it was "short." He told me the training consisted of a power point presentation and short scenarios where he shot a training cartridge, which does not shoot probes. He told me this was the only training he had with his Taser.

I asked him how his relationship was with the people he worked with at Grand Ronde Tribal Police Department. He told me he and Lieutenant Hernandez "kinda butted heads." He told me he got along well with everyone else.

I asked Mr. Wolfer to tell me about the events that occurred on August 13, 2017 at Grand Ronde Casino. He told me the following occurred leading up to seeing [REDACTED]

- Around 5pm, he received a call from dispatch that [REDACTED] was actively trespassing at Grand Ronde Casino.
- He asked for back up and was told a Polk County Deputy was in route but was a ways out.
- Dispatch informed him that [REDACTED] had a warrant for Assault II.
- Lt. Hernandez told him via radio to be careful because [REDACTED] has a brother who is usually with him. He got the impression that [REDACTED] brother would help [REDACTED] fight.
- While in-route he called Grand Ronde Casino Security and they told him [REDACTED] was inside at a bar and they told him [REDACTED] was being "confrontational."
- When he arrived at the casino, he activated his body camera and was told [REDACTED] was in the parking lot.
- He felt that he could not wait for backup due to [REDACTED] behavior and he initiated contact.

Mr. Wolfer went into detail describing his interaction with [REDACTED] (see transcript page 27 lines 17-56, page 28 lines 1-42 for more details). Mr. Wolfer told me he drove to the parking lot and security officers told him where [REDACTED] was located; he got out of his vehicle and drew his Taser. He said, "If I saw him I was gonna have to arrest him 'cause he had a warrant and was actively trespassing."

Mr. Wolfer told me he was by himself. He told me from his experience, most security officers won't get involved in physical confrontations. He told me when he saw [REDACTED] there was a woman with him and he found out later she was [REDACTED] mother. He told me he pointed the Taser at [REDACTED] and yelled at [REDACTED] to get on the ground. He told me he kept yelling "Get on the ground, get on the ground." He told me [REDACTED] wouldn't get on the ground and the woman kept trying to get between them so he moved laterally. Mr. Wolfer said, "I perceived her to be a threat, but not as big of a threat as him [REDACTED]"

Mr. Wolfer continued telling me that [REDACTED] was walking away and he thought he yelled stop. He told me [REDACTED] stopped and turned and the woman rushed at him. He told me when she rushed at him [REDACTED] made a sudden movement that he perceived as [REDACTED] about to charge him or squaring up to fight so he tased [REDACTED]. He said, "I remember he did something very, very quickly and so right at the same time she was rushing me, so then I tased him, and I got ready to go hands on with her, but she stepped back, and I think I said somethin' like stay back or you'll get tased too, and so she stepped back but she was yellin' at me, so then I went over to him. Security was there, but they weren't like grabbing her."

Mr. Wolfer told me there were a lot of people in the parking lot and he remembers looking around for this other brother that might be there. He told me he was on the ground with his back exposed to everybody. He told me the woman was still yelling

at him as he put handcuffs on [REDACTED]. He said, "I wasn't able to pat him [REDACTED] down yet, and I was on top of him but not fully, because I was also still tryin' to be able to spring back up in case I got hit from behind from wherever this other brother was gonna be, and, um, and then I felt him moving, which I interpreted as him tryin' to get back up, and I didn't know if he had weapons or anything yet."

Mr. Wolfer told me when he worked at Warm Springs someone in handcuffs tried to fight him. He told me he had not double locked [REDACTED] handcuffs yet. He told me he kept telling [REDACTED] to stop resisting and [REDACTED] kept looking at him and he felt like [REDACTED] was trying to get up off the ground. He told me [REDACTED] kept lifting him up off the ground and at the same time the woman kept yelling and it caused [REDACTED] to amp up.

Mr. Wolfer continued telling me he wanted the situation to calm down and he warned [REDACTED] to stop resisting or he would tase him again. He told me he felt like [REDACTED] continued resisting so he gave him a second tase and then [REDACTED] stopped resisting.

Mr. Wolfer told me at some point after things started to calm down the woman disappeared. He told me paramedics arrived on scene and he waited for a Polk County Deputy to arrive before letting paramedics check on [REDACTED]. He told me he didn't want to risk any of the paramedics being attacked by [REDACTED]. He told me [REDACTED] was "completely intoxicated" and in his experience intoxicated people often "want to fight and don't make good decisions." He told me once a deputy arrived, paramedics checked [REDACTED] out and then he was able to put [REDACTED] in his patrol vehicle.

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Mr. Wolfer told me he came into the office on Friday and he was told by Lieutenant Hernandez that he violated the Taser Policy and they had a write up recommending termination. He told me Lt. Hernandez told him he could appeal within five days. He told me he asked Lt. Hernandez if he violated anything else and Hernandez said no. Lt. Hernandez told him they did not review this for use-of-force violation or anything else. He told me Lt. Hernandez told him Dallas Police Department conducted a review of the case and found the video didn't match up to what he [Wolfer] was saying. He told me Lt. Hernandez said, "If you resign today, we're not gonna review it for anything else. We don't, we're not saying you violated the use-of-force policy, just the Taser policy." He told me he resigned in lieu of termination.

I asked Mr. Wolfer a series of questions related to his thoughts and decisions when he gave commands to [REDACTED] and how he felt when [REDACTED] did not cooperate (see transcript from the interview with Mr. Wolfer page 37 lines 9-55 and page 38 lines 1-46 for additional details). He told me he gave commands for [REDACTED] to get on the ground because he thought it would be easier to handcuff [REDACTED]. He told me he thought [REDACTED] would be less likely to be violent if he was lying on the ground. He told me he did not feel proficient in hand to hand fighting because he had had no defensive tactics training since he graduated the academy in 2011.

I asked Mr. Wolfer to define passive resistance versus active resistance. He told me passive resistance would be like refusing to

listen to commands and active resistance is like pulling away or fighting. I asked him if [REDACTED] was passively resisting or actively resisting. He said, "My perception was that he was actively resisting. After watching the video later, I see that, without knowing what his intention was, it does appear he was passive resisting when he raised his hands. I interpreted that as an act of resisting as he, as a pre assault"

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Detective Hegney-Bach: Okay. Um, how did the actions of the suspect during the encounter make you feel?

James Wolfer: Scared, thought I was gonna be assaulted.

Detective Hegney-Bach: Okay.

James Wolfer: So --

Detective Hegney-Bach: What about, um, when he was on the ground and you had him in handcuffs?

James Wolfer: Uh, I think I --

Detective Hegney-Bach: Much of the same?

James Wolfer: Yeah, I was still afraid he was gonna push me off of him, and I had, at the time, still believed he had just tried to assault me with this other person that I didn't know who they were yet, um, so I was afraid of that, you know, if I got knocked off balance, then she might come run at me, and then now I'm on the ground, there's two of 'em, and even though he's in handcuffs, you know, who knows, or if he's got a weapon. I, I don't know yet. I, I don't believe I'd even done a pat-down yet or finished it --

Detective Hegney-Bach: Okay.

James Wolfer: -- before I tased him again, um, so I was, I was still in the same frame of mind. Uh, I thought if I don't control this now, um, this may still, I may still get assaulted at any point here, so --

At this time during the interview we took a break. When we re-convened I asked a few clarifying questions and I verified his contact information. This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 15:29

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 16:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marlon County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview – Lieutenant Tim Hernandez

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

MENTIONED POLICE:

Detective Carlos Barrlentos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

ACTION TAKEN:

On January 8, 2018, Detective Carlos Barrlentos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim Hernandez and Sergeant Rod McAllister.

At approximately 11:00am, I interviewed Lieutenant Tim Hernandez. I asked him to talk with me about the events that occurred on and after August 13, 2017 as it related to Officer Wolfer. Lieutenant Hernandez told me he was driving home from work on August 13, 2017 around 5:00pm when he heard Officer Wolfer go out on a call for service at Spirit Mountain Casino. He told me he listened to the radio and heard that Officer Wolfer tased [REDACTED] [REDACTED]

Lieutenant Hernandez told me he came into work the morning of 8/14/17 and reviewed the video footage. He told me the use of force for the second tase was unjustified. He told me the video revealed Officer Wolfer calling McAllister via telephone and saying [REDACTED] squared off on him so Officer Wolfer tased him. He told me the video also shows Officer Wolfer saying that he was handcuffing by himself and [REDACTED] resisted so he tased him again. He told me after reviewing the video he initiated a complaint with Sergeant McAllister. He told me Sergeant McAllister is their agency's primary training officer and handles investigations.

Lieutenant Hernandez told me Wolfer edited his report the next day and it reads differently than his probable cause statement. I later reviewed both reports and found that the Probable Cause Affidavit has a lot less detail than the Incident summary, which is normal for police reports. There are also differences in some of the justifications for the initial tase and reasons

for charges he cited [REDACTED]. However none of these are the cause for this investigation so they were not addressed during this investigation.

Lieutenant Hernandez told me on 8/14/17 he placed Officer Wolfer on paid administrative leave. He told me Officer Wolfer told him he meant [REDACTED] pointed his feet at him in an aggressive manner, not squared off. He told me Officer Wolfer was upset when placed on administrative leave. He told me this was the second investigation Officer Wolfer has gone through while working for Grand Ronde Tribal Police Department.

Lieutenant Hernandez told me he was shocked when he watched Wolfer's body camera. He told me he was more surprised by the lie than the tasing. He told me Wolfer did well with community policing but not with hostile contacts. I asked Lieutenant Hernandez to elaborate and he told me that while on a traffic stop, Officer Wolfer dealt with a rowdy family and he cowered. He told me Sergeant McCallister had to have a talk with him about officer safety.

Lieutenant Hernandez told me on August 18, 2017, Officer Wolfer was given a preparation letter and told he had a right to review all documents before being interviewed. He told me Officer Wolfer decided to resign.

I asked Lieutenant Hernandez about Wolfer's police background and he told me Wolfer worked for Warm Springs Tribal Police for around a year. He told me Wolfer was let go during his probationary period with Warm Springs. He told me there was an evidence issue where Officer Wolfer left marijuana out and other officers hid it as a joke. He told me Wolfer thought he put it away. He told me Wolfer was investigated regarding this incident and Wolfer passed a polygraph. There was also a DUI investigation where Wolfer's report did not match the events that occurred. He told me he could not remember the exact reason, but knew it had to do with the HGN test.

Lieutenant Hernandez continued telling me that Wolfer did not get along with his Sergeant in Warm Springs and that sergeant was later fired for dealing marijuana. He told me Wolfer applied with Vancouver Police Department around the same time he applied with Grand Ronde, but was not hired by Vancouver because he didn't pass the psychological test. He told me Wolfer did pass the psychological test for Grand Ronde Tribal Police Department.

Lieutenant Hernandez told me there have been no other complaints involving Wolfer and his use of force. Other officers complained about Wolfer's attitude. He told me Wolfer did not get along well with management. He told me Wolfer tried to start conflict between the officers and management on more than one occasion.

I asked Lieutenant Hernandez if after reviewing the case if he believed the use of force by Wolfer against [REDACTED] rose to the level of assault and he told me yes.

//End of Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 15:29

Entered by: #49878 HEGNEY-BACH, CASI

Entered time: 04/02/2018 15:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview -- Sergeant Rod McAllister

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED]

Victim

[REDACTED]

Mother of Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 -- DVD with body camera footage from James Wolfer, dated 8/13/17.

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 8, 2018, Detective Carlos Barrientos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim

Hernandez and Sergeant Rod McAllister.

At approximately 11:39 am, I interviewed Sergeant McAllister. I asked him to talk with me about the events that occurred on and after August 13, 2017 as it related to James Wolfer. He told me August 13, 2017 was a Sunday and it was his day off. He told me he received a phone call from Wolfer that evening reporting that Wolfer used his taser two times on [REDACTED]. He told me Wolfer told him first tase was because [REDACTED] squared off on him and would not listen to commands to get on the ground and the second cycle occurred when Wolfer was trying to get [REDACTED] into handcuffs and [REDACTED] was not compliant and struggled so he tased him again.

Sergeant McAllister told me he told Wolfer to make sure his use of force report was done by the end of his shift. He told me that the next morning Lieutenant Hernandez reported to him that Wolfer was still working on his report. He told me Lieutenant Hernandez also reported the use of force by Wolfer was bad. He told me Lieutenant Hernandez told him the video was inconsistent with the notification to him [McAllister].

Sergeant McAllister told me he viewed Wolfer's body camera on either Tuesday or Wednesday and then began a personnel investigation into Wolfer. He told me he did not interview [REDACTED] or any of the witnesses. He told me the focus of the investigation was that Wolfer was untruthful and violated the taser policy.

I asked Sergeant McAllister if Wolfer had ever been disciplined prior to this incident and he told me yes. He told me Wolfer was given a letter of reprimand for violating Grand Ronde Police Department policies during an incident that occurred on September 10, 2016. He told me the discipline was not related to use of force. He told me it dealt with inconsistencies between Wolfer's report and video footage and also the lack of use of his body camera.

Sergeant McAllister told me he is their agency's primary training officer. I asked what kind of reoccurring training they require from their officers and he told me they have the following training:

1. Monthly training modules through Police One.
2. Firearms training three times per year.
3. Taser training once per year,
 - a. Includes written, practical, demo, commands, control and discharge (no shooting live cartridges).

Sergeant McAllister told me he is the Taser instructor. He told me he received his certification in 2016 through Newburg Police Department with Taser International, now called Axon. He told me the class included an online training module and sixteen hours of classroom training.

Sergeant McAllister provided me with the Taser download paperwork from the Taser used by Wolfer. A copy of the Taser download is attached to this report. The Taser's life began May 2015. He told me the Taser belonged to a different officer before Wolfer. He told me Wolfer was given the Taser in May 2016. He explained what the codes on the Taser download meant and below is a list of the codes and their meanings in regards to Wolfer's Taser on August 13, 2017.

06:38:18 Armed – Turned on
06:38:18 Safe – Holstered
06:38:24 Armed – Un-holstered
06:38:25 Trigger – Trigger pulled
06:38:30 Safe – Holstered
17:15:20 Armed – Turned on
17:15:27 Trigger – Trigger pulled
17:16:51 Trigger – Trigger pulled
17:20:40 Safe – Holstered

Sergeant McAllister provided me with copies of his Taser Instructor Certification, dated May 19, 2016. He also provided me with Wolfer's Taser Certification and Taser Tests dated June 16, 2016.

I asked Sergeant McAllister if after reviewing the case, if he believed the use of force by Wolfer against [REDACTED] rose to the level of assault and he told me yes.

This concluded our interview.

//End Report//

August 18, 2017

Officer James Wolfer
Grand Ronde Tribal Police Department

hand delivered

Re: Administrative Investigation Findings regarding officer actions in connection with
Case Number GRT17000673

Dear James:

As you are aware, the actions you took in connection with Case Number GRT17000673 came under review due to your use of your Conducted Energy Device (Taser). This incident was reviewed, as required by Policy 304.8 of the Confederated Tribes of Grand Ronde Police Department Policy Manual.

As a result of that review, we have conducted an administrative investigation into the above-referenced case pursuant to Policy 1005.6. The resulting Investigation Report details the circumstances, identifies the policies violated, and recommends appropriate discipline. The findings conclude that you violated a number of department policies – specifically 319.5.8, 319.5.9, and various provisions of 304. The disciplinary recommendation in the report is termination of your employment with the Grand Ronde Tribal Police Department.

After reviewing the Investigation Report and supporting materials, I am accepting the disciplinary recommendation to terminate your employment.

I reviewed the following materials in reaching this decision:

- Body camera footage from the incident identified above.
- GRTPD Crime Incident Report for Case ID GRT17000673 prepared by James Wolfer.
- GRTPD Incident Supplement report Supplement ID 341696 prepared by Tokata Tehama
- Probable Cause Affidavit re: arrestee [REDACTED] prepared by James Wolfer
- Arrest Report for Case 17-673
- Materials from Salem Health West Valley re: patient [REDACTED]
- LEDS report re: [REDACTED]
- GRTPD Dispatch Report for Case GRT 17000673
- Dallas Police Department incident review report prepared by Lt. Jerry Mott 08/16/17
- Investigation Report prepared by Sgt. Rod McAllister 08/16/17
- Memo re: administrative investigation prepared by Acting Chief Hernandez 08/16/17
- Policy 304 – Conducted Energy Device
- Policy 319 – Standards of Conduct
- Policy 1005 – Personnel Complaints

Pursuant to Policy 1005.10.2, you will be provided access to all the referenced materials as well as an opportunity to respond to me orally or in writing within five days of receiving this notice. If you would like further access to the materials during these five days, please call me at 503-

Officer James Wolfer

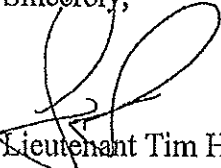
August 18, 2017

Page 2

879-1824 to schedule an appointment. You may wish to review Policy 1005.11 regarding any response you choose to provide. Your response must be received no later than 5:00 p.m. on Friday, August 25, 2017. If you choose to respond orally, the policy requires us to record your response. You may also elect to waive any such response.

I will issue a timely written decision following my review of any response you provide. Please note that if you choose to resign prior to my decision being issued, Policy 1005.12 provides that these disciplinary proceedings will cease.

Sincerely,

A handwritten signature in black ink, appearing to be 'TH', written over the printed name of the signatory.

Lieutenant Tim Hernandez
Acting Chief of Police

Dallas Police Department

To: Lt. Tim Hernandez

From: Lt. Jerry Mott

Date: August 16, 2017

Incident Review

On August 15, 2017, Grand Ronde Tribal Police Department (GRTPD) Lieutenant Tim Hernandez requested assistance with the review of a use of force by one of GRTPD's police officers. Lt. Hernandez asked the review be completed with their policy as metric for the appropriate force decision. Lt. Hernandez provided me with GRTPD Policy 304 "Conducted Energy Device." Lt. Hernandez explained their answer of force policies are tied to the implement and method used. GRTPD's policy 304 governs force decisions where "Conducted Energy Device" tools are used. Taser use is the specific authorized tool governed by GRTPD policy 304.

Lt. Hernandez provided me with Officer Wolfer's body-camera video.

Briefing of Incident:

Lt. Hernandez provided me with the facts necessary for me to complete the level of evaluation requested. Lt. Hernandez told me the GRTPD officer, James Wolfer, responded to a call of a trespass at the Casino. Lt. Hernandez told me the suspect was known to GRTPD officers from numerous previous contacts and is often intoxicated. Lt. Hernandez told me he relayed to Officer Wolfer that the suspect was also wanted for an Assault II by the Yamhill County Sheriff's Office and may have a warrant for that crime. I asked if the suspect had a history of assaulting officers. Lt. Hernandez told me he was not aware of any history of the suspect assaulting officers.

Involved Officer's Experience (Graham v. Connor):

The standard of objective reasonableness established by Graham v. Connor requires examination through the perspective of the officer on scene rather than applying 20/20 hindsight. For application of this standard in making this evaluation, I acknowledge the training and experience differences between Officer Wolfer and myself. For those reasons, I will detail observations but opinion indicated as being in "light most favorable to the officer" stands as my judgement.

Officer Training and Authorization to Carry Taser:

Lt. Hernandez told me Officer Wolfer was current on Taser training as required by GRTPD policy (304.3). Officer Wolfer's authorization to carry and use the Taser in accordance with policy is not questioned by this review.

Review of Incident:

I read the GRTPD's policy 304. I found it generally consistent with other police department policies governing the use of Tasers. I did not observe anything in the policy that was extraordinary.

I watched the provided body-camera video. The video has a digital tag on the screen indicating "IWolfer, GRT PD" and date/time stamped "2017/08/13 5:11:42 PM." The video opens with Officer Wolfer making comment to someone to keep eyes on a person and Officer Wolfer getting into a patrol vehicle.

Officer Wolfer drives to a parking lot. I can see in the video that Officer Wolfer is wearing black gloves. They are not latex gloves. It is my experience officers wear this type of glove when they anticipate the need to use force or are going to search a person.

At about 5:12:33 PM, Officer Wolfer arrives in another parking lot. As he exits his vehicle, I hear him get location description from a male telling him where the suspect is located. Officer Wolfer goes in the direction apparently indicated. At 5:12:44 PM, I see the suspect come into the video. I can see his head over the top of a car. It should be noted the camera view will vary from Officer Wolfer's view. Officer Wolfer gives clear command, "Stop. Police." Officer Wolfer rounds a parked car and shouts, "Stop. Get on the Ground." A female asks what he wants.

Officer Wolfer commands the suspect to "Get on the ground now." He points a Taser at the suspect. The woman asks if it is her who Officer Wolfer wants to get onto the ground. Officer Wolfer tells her no and directs her to back up. She does not back up and instead places herself between Officer Wolfer and the suspect. She begins to argue.

Officer Wolfer elevates his voice and shouts for the suspect to get on the ground. Officer Wolfer shouts a warning to the suspect to get on the ground or he will be tased. Officer Wolfer shouted "back away!" I believe, based on the proximity of the female, he was shouting at the female but the male suspect complied with the command and backed away. Officer Wolfer gave command for the suspect to get on the ground. Officer Wolfer tased the suspect. The suspect locked up and fell onto the asphalt parking lot. The time was 5:23:04 PM.

I could see the suspect's hands at his waist and visible when Officer Wolfer rounded the car in the parking lot. I could see the suspect put his hands in the air from where they were at his waist and kept them in the air until he was tased. The suspect did not make any threats. The suspect did not make any physical movement indicating he would assault Officer Wolfer. The suspect did not run from Officer Wolfer. The suspect did not comply with Officer Wolfer's clear and repeat commands to get onto the ground.

Officer Wolfer told the female, who continued to argue and interfere, to get on the ground or she would be tased. She replied for him to "fucking do it then Bitch." I will note it is my opinion that tasing the female would have been objectively reasonable at or before this point. She was reaching into a small purse, her hands were not always visible, she was actively interfering with the arrest and had been given clear and repeated warnings to get back. As this review does not address an answer of force to the female, I will cease description of her actions as I am of the opinion they do not have appropriate bearing on continued use of force on the suspect from this point on and a person I recognize as casino security deescalates her behavior.

Officer Wolfer handcuffs the suspect who complies with commands and is cuffed behind the back. The suspect is face-down, on the asphalt with the Taser probes still attached. While being cuffed, Officer Wolfer directs the suspect where to put his hands and warns he will be tased again if he does not comply.

The suspect repeatedly asks what he did and rolls from side to side. Officer Wolfer tells the suspect he has a warrant and warns him to stop moving or Officer Wolfer would tase him again. Officer Wolfer tells the suspect not to move or he would tase him again. The suspect shouts, "Fuck you!" The suspect's body jars as an apparent component of his shouting and the associated use of chest muscles and diaphragm. Officer Wolfer immediately initiates another cycle of his Taser. The time stamp was about 5:14:27 PM. Officer Wolfer again warns the suspect if he pulls away, "He will get it again."

Officer Wolfer and casino staff begin effectively deescalating the suspect and female. Officer Wolfer summons medics to evaluate the suspect. I will not further detail the period of time between this and when Deputy La Combe (Polk County Sheriff's Office) arrives to cover Officer Wolfer and is briefed by Officer Wolfer.

At about 5:27 PM, Deputy La Combe is being briefed on what happened by Officer Wolfer. Of note, during this briefing, Officer Wolfer tells Deputy La Combe the suspect started to "square-off" with him. This terminology describes a person assuming a fighting posture. I observed this suspect did not assume a fighting posture at any time before being tased. He also stated the female was "jacking the suspect up" and that he was trying to pull away from him on the ground.

At about 5:38:45 PM, Officer Wolfer uses a cellular phone to call Sgt. Rod McAllister. I know that is who he calls because I can see the name and part of the phone number (541)***-7895 displayed on the phone screen. Officer Wolfer briefs Sgt. McAllister. During the briefing, he tells Sgt. McAllister that the suspect "squared-up on me." Officer Wolfer told Sgt. McAllister he tased the suspect a second time because the suspect was resisting while he was trying to get the cuffs on by himself.

I also note that in the briefing to Sgt. McAllister, Officer Wolfer indicates the warrant for the suspect had flags for assaulting and resisting a police officer. I am unable to validate the accuracy of this statement with the resources provided so will accept it as accurate for the purposes of this review.

Opinion:

Officer Wolfer was authorized by GRTPD to carry and use a Taser.

Officer Wolfer gave warning before using the Taser as required in GRTPD policy 304.4.

Officer Wolfer violated GRTPD policy 304.5.1. This section of policy dictates (paraphrased) a person be either (a) violent or physically resisting or (b) demonstrate by words or action an intention to be violent or to physically resist, and appears to present the potential to harm officers, him/herself or others. When viewed in light most favorable to Officer Wolfer, the suspect was merely not complying with commands when the first application of the Taser occurred.

Officer Wolfer violated GRTPD policy 304.5.2 (d) by using a Taser on a handcuffed person who could otherwise be restrained without meeting threshold of increased risk to himself, the suspect or others.

Officer Wolfer violated GRTPD policy 304.5.2 (f) by tasing an individual who was standing on an asphalt parking lot. However, this would not, in my opinion, be a violation if the use of the Taser was appropriate under policy 304.5.1 (a) or (b) because the use would then meet policy 304.5.2's balancing test.

Officer Wolfer did not violate GRTPD policy 304.5.3 because his application of the Taser was dynamic and did not lend itself to more careful targeting. Further, he summoned appropriate medical care for the suspect.

Officer Wolfer did not violate GRTPD policy 304.5.4 because the decision to use multiple applications of a Taser are left, as a matter of policy, to the opinion of the officer that the need to control the suspect outweighs the potentially increased risk posed by multiple applications. It should be noted I do not believe the second application of the Taser reasonable or lawful but in light most favorable to Officer Wolfer, this narrow section of policy leaves the decision to his discretion.

Officer Wolfer violated policy GRTPD 304.5.5. This policy required Officer Wolfer notify a supervisor of the Taser device discharge. It is an implicit component of advising the supervisor to be honest in the recounting of the event. It is possible, albeit remote, to attribute the telling of the initial tasing of the suspect to a perception error on Officer Wolfer's part that the suspect "squared-up" with him or prepared to fight. This does not validate that perception but accepts it as possibility other than an intentional false statement. However, Officer Wolfer's telling Sgt. McAllister he tased the suspect a second time because the suspect was resisting while he was trying to cuff the suspect is plainly false. The suspect had been secured in cuffs behind his back well before being tased the second time.

MATERIALS RETENTION:

I will secure the copy of GRTPD Policy 304, the body-camera video and a copy of this document into Dallas Police Department evidence as item #001 under case # DAP17001674. The report will contain no personal identification information and the narrative will state, "Assist for another agency internal review. Materials associated with this case number are exempted from public records release under ORS 192.501." The address for the event will be 187 SE Court St. Dallas, Oregon.



Inter-Office Memorandum

Date: August 16, 2017
To: Lieutenant Hernandez (Acting Chief of Police)
CC: Chief Jake McKnight
From: Sgt. Rod McAllister
Subject: **Investigation Report**

On 08-15-2017, I received information from Lieutenant Hernandez regarding an incident involving Officer James Wolfer, [REDACTED] and [REDACTED] while at Spirit Mountain Casino located at 27100 Salmon River Hwy in Grand Ronde, Polk County Oregon.

During Officer Wolfer's contact with [REDACTED] and [REDACTED] Officer Wolfer deployed his Department issued CEW (Conducted Electrical Weapon) twice. After Lieutenant Hernandez reviewed video footage, from Officer Wolfer's Department issued body camera, it was determined that several Department policies were violated by Officer Wolfer.

Lieutenant Hernandez requested that I complete an investigation into this incident, regarding the violations of Department policies.

On the evening of 08-13-2017, while I was off duty and at my residence, I had received a telephone call from Officer James Wolfer.

Officer Wolfer advised me that he was calling to let me know that he had been involved in a use of force situation and that he had deployed his Taser while attempting to take [REDACTED] [REDACTED] into custody on a felony assault in the second degree warrant and for trespassing at the Casino.

Officer Wolfer stated, "Hey, just thought that I'd let you know." "I tased [REDACTED] [REDACTED] I'm calling you for the use of force." "It was right when Lieutenant went end of watch, so he couldn't back me up." "He was already gone."



GRAND RONDE TRIBAL POLICE DEPARTMENT

"He [REDACTED] was trespassed and also had a felony warrant." "Wouldn't stop when I told him to." "His mom (referring to [REDACTED]) kept getting in the middle." "He squared up on me and so I had to tase him." "I actually had to hit him a second time." "He was resisting while I was trying to get the cuffs on him, by myself."

"So, Medics cleared him." "So, I gathered, I took photos of where the doors called, the fibs, whatever." Took photos of those, secured them." "Medics pulled the barbs out after the, whatever they are, the probes after P-020 (Deputy Lacombe, Polk County Sheriff's Office) came as my cover." "He was there because he [REDACTED] was semi-combative." "He's (Deputy Lacombe) actually following me right now."

"Medics cleared him [REDACTED] for transport and, so, we're headed to PCJ. (Polk County Jail)" "So, just giving you a call on the use of force."

Officer Wolfer then began to go into details regarding the incident at Spirit Mountain Casino, involving [REDACTED] [REDACTED] and [REDACTED] [REDACTED]

"Yeah, trespass." "That's what the original call, that he's [REDACTED] been trespassed multiple times." "Yes, he's [REDACTED] also going to have that."

"So, his [REDACTED] mom [REDACTED] almost got those same charges, but she [REDACTED] walked away when I told her that she would be arrested." "Stop interfering and keep your distance."

"So, she [REDACTED] was trying to get between the two of us, multiple times." "Which is part of what escalated." "I put my spare one (Taser cartridge) in there."

After Officer Wolfer provided me with the information regarding the use of force, involving [REDACTED] [REDACTED] I provided him with information regarding the collection of the Taser cartridge, the deployed probes and other evidence that needed to be entered into the evidence room.

After providing Officer Wolfer with direction pertaining to the evidence, I then ended my conversation with Officer Wolfer after he provided me with the information regarding [REDACTED] valid felony warrant, issued out of Yamhill County Circuit Court for the original charge of assault in the second degree and the cautions entered regarding the history of resisting arrest and for assault on an Officer.

While reviewing Officer Wolfer's Department issued body camera footage, I observed Officer Wolfer exit from his marked Grand Ronde Tribal Police Department vehicle and make contact with Spirit Mountain casino Security who advised Officer Wolfer where [REDACTED] was currently located at.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Officer Wolfer then proceeds, across the green lot, towards [REDACTED] and [REDACTED] location. As Officer Wolfer works his way through the parked vehicles, Officer Wolfer yells, "Hey, Stop, Police, Stop, Get on the ground!"

After Officer Wolfer gives his verbal commands, a male and female subject appear in view of Officer Wolfer's body camera, as Officer Wolfer moves towards them. [REDACTED] then asks Officer Wolfer, "What do you want?"

Officer Wolfer then states, "Get on the ground now!" Officer Wolfer has his CEW pointed in the direction of [REDACTED] and [REDACTED] and [REDACTED] are standing in the middle of the lane of travel located between the parking stalls. [REDACTED] is holding a white plastic bag in her left hand and [REDACTED] has nothing in his hands.

[REDACTED] then states, "Me?" Officer Wolfer answers, "No, not you!" "Back up!" "Go to the side!" "You on the ground!" while pointing with his left hand and pointing the CEW with his right hand. [REDACTED] is standing between [REDACTED] and Officer Wolfer. [REDACTED] is a couple of feet behind [REDACTED] and Officer Wolfer is several feet away from both [REDACTED] and [REDACTED]

Officer Wolfer then yells, "Get on the ground now!" "Move aside!" "Get on the ground now or you will be Tased!"

At this point, [REDACTED] is standing there with both hands in the air, next to his head. It's clear that [REDACTED] has nothing in his hands.

[REDACTED] steps towards Officer Wolfer. Officer Wolfer moves towards his left and yells, "Back away!" "Get on the ground now!"

[REDACTED] is observed taking small steps backwards while holding his hands in the air, next to his head. [REDACTED] is standing near [REDACTED] with her hands on her hips.

Officer Wolfer yells, while discharging his CEW, "Get on the ground!" Both CEW probes travel past [REDACTED] and strike [REDACTED]

[REDACTED] leans forward, brings his hands down to the front of his chest, just below his chin and falls forward with his body stiff. [REDACTED] lands face down on the asphalt and rolls onto his back while receiving the electrical current from Officer Wolfer's CEW.

Officer Wolfer then notifies Dispatch that he has Tased [REDACTED] while [REDACTED] steps towards Officer Wolfer while stating, "You mother fucker!"



GRAND RONDE TRIBAL POLICE DEPARTMENT

Officer Wolfer then tells [REDACTED] to "Get on the ground or you will be Tased too!" [REDACTED] then yells, "Fucking do it, Bitch!" Officer Wolfer continues to tell [REDACTED] to "Get on the ground!" while Security Supervisor Mickey Wood steps in front of [REDACTED]

At this point, [REDACTED] is lying on his back with his arms extended out to his sides and slightly towards his head, not moving.

Officer Wolfer continues to yell "Get on the ground!" "Get on the ground and don't move!" [REDACTED] is heard saying, "He didn't do anything!"

Officer Wolfer then requests Dispatch to notify medical personnel to respond to the location. Officer Wolfer then tells Security Supervisor Wood to keep [REDACTED] away.

Officer Wolfer then tells [REDACTED] to roll over onto his side twice, which [REDACTED] complies with Officer Wolfer's commands. At this point, [REDACTED] is lying on the asphalt, face down and not moving around.

Officer Wolfer then tells [REDACTED] that he is under arrest. [REDACTED] asks Officer Wolfer, "For what?" Officer Wolfer then tells [REDACTED] "You have a warrant and you have been trespassed." "You are under arrest!" "Do not move!"

Officer Wolfer then moves towards [REDACTED] and [REDACTED] stays standing in the same spot and does not move. Officer Wolfer points towards [REDACTED] and says, "Stay back!" "Keep your hands where we can see them!"

Officer Wolfer then kneels down beside [REDACTED] places his left hand in the lower area of [REDACTED] back and says, "Place your hands right here!" [REDACTED] is heard saying, "He had this under control and you fucking know it!" Officer Wolfer tells [REDACTED] to "Shut up!"

Officer Wolfer then places [REDACTED] hands in the lower portion of his back and says, "Put your hands right here or you'll get it again!" Officer Wolfer then places handcuffs on Highpine's wrists, while his hands are behind his back. [REDACTED] is not saying anything nor is he displaying any indications that would indicate that [REDACTED] is resisting Officer Wolfer while being handcuffed.

After [REDACTED] is handcuffed, [REDACTED] asks Officer Wolfer, "What did I do?" "What did I do?" Officer Wolfer states, "Do not move!" [REDACTED] asks again, "What did I do?" Officer Wolfer states, "Do not move!" At this point, [REDACTED] is still lying face down, on the asphalt and not displaying any indication or making any movements that would constitute the crime of resisting arrest.



GRAND RONDE TRIBAL POLICE DEPARTMENT

█████ then asks Officer Wolfer, "What does he have a warrant for?" Officer Wolfer replies, "It doesn't matter!" "Shut up!" Highpine begins to move and Officer Wolfer states, "Do not move or I will give it to you again!"

Officer Wolfer then tells █████ to "Shut up!" "It's not about you!" █████ asks Officer Wolfer a second time, "What does he have a warrant for?" Officer Wolfer states to █████ "Shut up!" "It's none of your business!"

█████ then moves towards his left side and yells, "It is my business!" Officer Wolfer tells █████ "Stop moving or I will Tase you again!" █████ then states, "Fuck you!"

Officer Wolfer then discharges his CEW a second time, while █████ is lying face down on the asphalt, with his hands cuffed behind his back. Officer Wolfer allows his CEW to cycle for the entire five seconds. █████ is heard yelling during the entire five second cycle.

Officer Wolfer tells █████ "Don't move or you'll get it again!" "Shut up!" Officer Wolfer then asks █████ "You done?" Officer Wolfer then states, "You pull away from me again, you get it again!" At no point in time did █████ ever pull away from Officer Wolfer nor did he make any attempts at pulling away. █████ appeared to only attempt to roll to his left side to look at Officer Wolfer while he was saying, "Fuck you!"

Highpine then tells Officer Wolfer, "You shot me twice!" Officer Wolfer then answers, "You shouldn't resist." "I told you that you were under arrest and you resisted." █████ asks Officer Wolfer, "How did I resist mother fucker?" Officer Wolfer then states that █████ was moving and pulling away.

After reviewing the video footage from Officer Wolfer's Department issued body camera, I reviewed the content of Officer Wolfer's report that he completed regarding this incident. During my review, I noted multiple inconsistencies regarding the information contained in the report compared to what actually happened on video.

I also learned that the information Officer Wolfer provided to me on the evening of 08-13-2017, regarding the use of force, was untruthful regarding the events that occurred and the conduct █████ displayed, which would justify the use of a CEW.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Findings:

POLICY 319 – STANDARDS OF CONDUCT.

319.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

Officer James Wolfer violated Policy 319.5.8 by intentionally making false statements when reporting the incident to his supervisor, after the deployment of the Department issued CEW. Officer Wolfer made misleading entries into his criminal report, to the Polk County District Attorney's Office, regarding the conduct of [REDACTED] and [REDACTED] to facilitate additional criminal charges consisting of resisting arrest and interfering with a police officer.

319.5.9 CONDUCT

- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.

Officer James Wolfer violated Policy 319.5.9 by intentionally using unreasonable and unwarranted force on [REDACTED] While [REDACTED] was lying face down, on the asphalt, with his hands restrained behind his back with the use of handcuffs, Officer Wolfer intentionally discharged his Department issued CEW after [REDACTED] rolled towards his left side after being told not to move.

Officer Wolfer was untruthful when providing information, to his supervisor, regarding [REDACTED] actions that led to the justification to use a CEW to effectively make an arrest.



GRAND RONDE TRIBAL POLICE DEPARTMENT

POLICY 304 – CONDUCTED ENERGY DEVICE

304.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others. Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

Officer Wolfer violated Policy 304.5.1 by using his Department issued CEW on [REDACTED] who was not actively violent and not physically resisting while restrained by the use of handcuffs.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (d) Individuals who are handcuffed or otherwise restrained.

Officer Wolfer violated Policy 304.5.2 by intentionally discharging his Department issued CEW while [REDACTED] was restrained by the use of handcuffs.



GRAND RONDE TRIBAL POLICE DEPARTMENT

RECOMMENDATION:

After reviewing all of the information provided, Officer Wolfer's footage from his Department issued body camera and the review of his completed police report, I find that Officer Wolfer grossly violated several Department policies, which affect the mission and vision statements of this Department.

I recommend the following;

- o Termination of employment with the Grand Ronde Tribal Police Department.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Inter-Office Memorandum

Date: August 16, 2017

To: Chief Jake McKnight

CC: Rod McAllister

From: Lt. Tim Hernandez (acting Chief of Police)

GRT 17-673 James Wolfer administrative investigation.

On 08/13/17 I was near my residence for my scheduled shift to end at 1700 hours. I heard radio traffic from 911 Dispatch advising of a trespass in progress. I checked the call notes and saw the suspect was [REDACTED] [REDACTED]. I advised Officer Wolfer of Mr. [REDACTED] past contacts and that I believed that he had a warrant for assault out of Yamhill County. I also requested Polk County respond to cover Officer Wolfer.

I then monitored the radio traffic from my residence. I hear Officer Wolfer tell 911 Dispatch that he had activated his taser while taking Mr. [REDACTED] into custody. I later heard that medics had cleared Mr. [REDACTED].

On 8/14/17 I responded to the Police department and I asked Evidence Technician Leno to make me a copy of the use of force. Officer Wolfer's daily shift report advised that he tased Mr. [REDACTED] because

"his mother was coming at me and he seemed to square up his feet." He stated that he tased Mr. [REDACTED] a second time because, "He resisted."

I then reviewed the video and I saw Officer Wolfer give Mr. [REDACTED] commands at taser point to, stop Police, get on the ground. Mr. [REDACTED] mom gets in between Officer Wolfer and Mr. [REDACTED] Mr. [REDACTED] raises his hands in the air above his head and slowly walks backwards while asking, what did I do? Officer Wolfer steps to the side and tases Mr. [REDACTED]

Mr. [REDACTED] immediately falls to the ground and his mother takes a step towards Officer Wolfer while yelling at him. Officer Wolfer gives Mr. [REDACTED] orders and Mr. [REDACTED] complies. Officer Wolfer handcuffs Mr. [REDACTED] behind his back. Mr. [REDACTED] is upset and he and his mom begin to yell asking what he did. Mr. [REDACTED] moves while yelling and Officer Wolfer tells him not to move or he will be tased again. Mr. [REDACTED] yells "Fuck you" and moves while saying this. Officer Wolfer tases him again for a full five seconds.

CTGR policy 304.5.1 Application of taser

The taser device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

The taser application that I witnessed on body camera footage does not fall in line with the policies of the CTGR Police Department.

I immediately made contact with the CTGR General Manager and the CTGR Tribal Police Attorney. I asked them to view the body camera footage and I provided them with a copy of the CTGR Police Conducted Energy Device policy. After they viewed the body camera footage we made the decision to place Officer Wolfer on paid administrative leave until we could further review this incident.

On 08/14/17 at about 1024 hours, I met with Officer Wolfer at the Grand Ronde Police Department. Also present was Human Resources, Patrick Dempsey. I introduced Officer Wolfer to Mr. Dempsey and I advised him that his use of force was not in line with CTGR Police Department policies and that he was being placed on administrative leave.

I provided Officer Wolfer with a copy of the policy. Officer Wolfer asked me if he could ask a question and I told him he could. He asked what part was not in line. I asked him to look at the policy and I told him Mr. [REDACTED] had his hands in the air and was slowly stepping backwards when he was tased.

Officer Wolfer told me, "He squared up at me." He said after he reviewed his body camera footage he saw his hands were in the air but he felt Mr. [REDACTED] feet were pointed towards him.

I then mentioned the second taser deployment and Officer Wolfer told me, "He kept trying to roll." He told me he had not patted Mr. [REDACTED] down and he had not double locked the handcuffs. He told me his taser deployment was done in good faith. Officer Wolfer asked what the level of punishment was for an incident like this. I advised him that it could be anything from days off, more training or possible termination. I told him we would have to have a full review of the incident.

I asked Officer Wolfer to leave his department equipment in his locker. He was allowed to wear his duty shirt and pants. Officer Wolfer asked me about his off duty weapon and badge. I advised him he was only on administrative leave and he could keep his off duty gear and credentials.

Our meeting concluded at 1030 hours. I walked to the locker room with Officer Wolfer and spoke with him briefly as he was placing items in his locker. I asked him if Nicole was at home or if he wanted to call Nicole with me present and he told me I did not need to. Officer Wolfer stated to me, "This seems like Warm Springs all over again."

I later reviewed the entire incident to its conclusion. I heard Officer Wolfer call Sgt. McAllister and explain that he tased Mr. [REDACTED]. Officer Wolfer said he tased Mr. [REDACTED] because he squared up to me. He told Sgt. McAllister that he had to tase Mr. [REDACTED] a second time because he was resisting while Officer Wolfer was trying to handcuff him by himself.

I later reviewed Officer Wolfer's report where he states that he tased Mr. [REDACTED] because his feet pointed towards him in an aggressive manner. He stated he tased Mr. [REDACTED] a second time because he continued to try to roll away from me.

It is my opinion that Mr. [REDACTED] mother, Mrs. [REDACTED] was more aggressive than Mr. [REDACTED]. I did not see anything in my opinion that either Mr. [REDACTED] or Mrs. [REDACTED] ever displayed anything other than verbal and passive resistance. Mr. [REDACTED] was never told he was under arrest until after he had been tased and handcuffed. He was later handcuffed and lying face down with Officer Wolfer standing over him when he was tased a second time.

On 8/15/17, I made phone contact with the City of Dallas Police Chief, Tom Simpson. I asked the Chief if his department would be willing to assist our department with a use of force review. Chief Simpson advised me he would have a supervisor contact me.

I also briefed Sgt. McAllister and I advised him that I wanted him to conduct an investigation into this incident.

I later spoke with Dallas Police, Lt. Mott. I advised Lt. Mott we had a taser deployment that we wanted his department review and advise if it was in line with the CTGR Police Department policies. Lt. Mott advised me that he would be willing to review our policy and the body camera footage and offer a written opinion.

I later responded to the Dallas Police Department and I provided Lt. Mott with a complete copy of the Grand Ronde Police Conducted Energy Device policy. I also provided him with a DVD with the body camera footage of the taser deployment against Mr. [REDACTED]

On 8/16/17 I received a written response from Lt. Mott. Lt. Mott advised me that he believed that Officer Wolfer violated several CTGR Police Department policies. Please refer to Lt. Mott's report for additional information.

End of report.

Crime/Incident Report

Print Date: 08/14/2017 13:39:18

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case Id GRT17000673	Type Description TRESP1 TRESP1	Report Date 08/13/2017 17:04
Location 27100 SALMON RIVER HWY		Occurred From 08/13/2017 17:04
District 01		Occurred To 08/13/2017 19:42
Department Routing ; PCDA		

SYNOPSIS

OFFENSES

OFFENSE	DESCRIPTION	LOCATION TYPE	UCR
164.245(a)	Criminal Trespass II TRESPASSED PERMANENTLY FROM CASINO GROUNDS SINCE 2016	CAS	26
162.247	Interfere with Police Officer [REDACTED] REFUSED TO OBEY ORDERS, [REDACTED] REFUSED TO OBEY ORDERS	CAS	999
162.315(c)	Resisting Arrest - Dis. Conduct [REDACTED] ATTEMPTED TO ROLL AWAY WHILE BEING HANDCUFFED	CAS	24
166.025(b)	Disorderly Conduct 2nd Deg [REDACTED] YELLED DURING ENTIRE ARREST, WAS DISRUPTIVE TO FOOD SERVICE	CAS	24
01207	AOA - Warrant Served YAMHILL COUNTY FELONY WARRANT-ASSAULT II-WNO #17CR53185	CAS	999
162.325(e)	Hinder Prosecution - All Other [REDACTED] ATTEMPTED TO PHYSICALLY STOP ARREST OF [REDACTED]	CAS	999

INVOLVED PARTIES

	DOB	AGE	SEX	RACE	WEIGHT	HEIGHT	HAIR	EYE
ARRESTED [REDACTED] GRAND RONDE OR 97347	[REDACTED]	32	M	NAT	150 lbs	5ft10in	BLK	BRO
Home #: [REDACTED] Bus #: ([REDACTED] Cell #: ([REDACTED]								
SSN: [REDACTED] DLN: [REDACTED]								

CHARGE	DESCRIPTION	CNTS	WARRANT #	COURT
164.245(a)	Criminal Trespass II	1		CIRC
162.247	Interfere with Police Officer	1		CIRC
162.315(c)	Resisting Arrest - Dis. Conduct	1		CIRC
166.025(b)	Disorderly Conduct 2nd Deg	2		CIRC

OTHER [REDACTED] GRAND RONDE OR 97347	37	M	NAT	210 lbs	5ft10in	BLK	BRO
Home #: [REDACTED] Bus #: ([REDACTED] Cell #: ([REDACTED]							
SSN: [REDACTED] DLN: [REDACTED] OR [REDACTED]							

OTHER	[REDACTED], OR	Home #: ([REDACTED])	Bus #: ([REDACTED])	Cell #: ([REDACTED])	SSN: [REDACTED]	DLN: [REDACTED]	
SUSPECT	[REDACTED], GRAND RONDE OR 97347	57	F	WHI	180 lbs	5'02in	BRO
	Home #: [REDACTED]	Bus #: [REDACTED]	Cell #: ([REDACTED])				
	SSN: [REDACTED]	DLN: [REDACTED]	OR				
	Complexion:	Clothing:					
	Suspect Actions:						
VICTIM	SPIRIT MOUNTAIN CASINO 27100 SALMON RIVER HWY, GRAND RONDE OR 97347 Bus #: (503) 879-2350						

PROPERTY					
Item #	Tag	Category	Make	Model	Serial #
001	R1700673G108001	MISCELLANEOUS			
OAN	COLOR	NCIC	UCR		
			K.		
Description TASER PROBES, CARTRIDGE AND DOORS					
Ownership			Property Status		Estimate
Name:			Evidence: Y		1.00
Phone:					
Address:					
Recovered/ Seized From			Seizure		
Name:			Location:		
Address:			Officer:		
Phone:			Recovered Date:		
Item #	Tag	Category	Make	Model	Serial #
003	R1700673G108003	PHOTOS/FILM			
OAN	COLOR	NCIC	UCR		
			K.		
Description BODY CAMERA FOOTAGE					
Ownership			Property Status		Estimate
Name:			Evidence: Y		1.00
Phone:					
Address:					
Recovered/ Seized From			Seizure		
Name:			Location:		
Address:			Officer:		
Phone:			Recovered Date:		
Item #	Tag	Category	Make	Model	Serial #
004	R1700673G108004	DOCUMENTS			
OAN	COLOR	NCIC	UCR		
			K.		

Description

SECURITY INCIDENT REPORTS

Ownership			Property Status		Estimate	
Name:			Evidence: Y		1.00	
Phone:						
Address:						
Recovered/ Seized From			Seizure			
Name:			Location:			
Address:			Officer:			
Phone:			Recovered Date:			
Item #	Tag	Category	Make	Model	Serial #	
005	R1700673G108005	PHOTOS/FILM				
OAN	COLOR	NCIC	UCR			
			K.			

Description

CDR-photos of Taser Deployment area

Ownership			Property Status		Estimate	
Name:			Evidence: Y		1.00	
Phone:						
Address:						
Recovered/ Seized From			Seizure			
Name:			Location:			
Address:			Officer:			
Phone:			Recovered Date:			

MO

NARRATIVE

On 8/13/2017 I was on duty, in full uniform and clearly displaying a badge. At 1703 hours I was dispatched to Spirit Mountain Casino, located at 27100 Salmon River Highway, Grand Ronde, Polk County, Oregon, for report of a male that was trespassing. While en route, dispatch advised that the male was [REDACTED] DOB [REDACTED], and that he had a felony warrant out of Yamhill County. Lt. Hernandez advised he was already out of the county and end of watch, but advised that [REDACTED] brother, [REDACTED] may be around and has assault law enforcement in the past. Dispatch further advised that the warrant was confirmed for Assault in the second degree and that [REDACTED] had caution flags for assault on a public safety officer. Dispatch also advised he was intoxicated. While en route I located [REDACTED] DMV photo and viewed it, as well as the warrant information. I called for a cover unit, and the closest cover unit was Polk County Deputy LaCombe, who was responding from Dallas. I called Spirit Mountain Casino Security, who advised that [REDACTED] was permanently trespassed from the casino and that he was being confrontational with security. I advised dispatch I would be increasing my response and responding without waiting for a cover unit due to casino security being at risk, especially given [REDACTED] cautions for interfering with police and the warrant being for assault II, which I know includes serious physical injury as an element. As I arrived at the casino, Security Supervisor Micky Wood advised that [REDACTED] was headed towards the valet entrance and the green parking lot. I went to that location and security pointed out [REDACTED] walking with a female in about the third row of parking. I recognized [REDACTED] from his DMV photo. I had my body camera activated already. The following happened in substance, to the best of my recollection and perception at the time of the incident.

I drew my Taser and loudly yelled "stop! Police!" and "get on the ground" to [REDACTED]. The female, later identified as [REDACTED] DOB [REDACTED] asked if I meant her or [REDACTED]. I gave verbal commands for Ms. [REDACTED] to move to the side and gave verbal commands to [REDACTED] to "get on the ground!" [REDACTED] refused to get on the ground and was yelling at me. Ms. [REDACTED] was yelling at me. I sidestepped to my left while pointing my Taser at [REDACTED] while I continued to shout verbal commands to "get on the ground, get on the ground NOW!"

[REDACTED] continued to refuse to get on the ground and yelled at me. Ms. [REDACTED] continued to refuse orders to move aside and kept physically putting herself between my Taser and [REDACTED]. I continued to yell verbal commands to "stop!" and "get on the ground or you will be Tased!" while pointing my Taser at [REDACTED] from about 10 feet away. I observed [REDACTED] put his hands up but point his feet towards me in an aggressive stance, and I believed [REDACTED] was getting ready to assault me. At that time, Ms. [REDACTED] was still yelling at me and walking towards me aggressively.

Due to the severity of the crime of Assault II that [REDACTED] was wanted for, the known factors of [REDACTED] having a history of interfering with police and associated cautions, the fact that [REDACTED] was continually refusing orders to get on the ground and his aggressive stance and shouts, the fact that [REDACTED] appeared to be larger than me, my cover unit likely still being 5-10 minutes away, as well as Ms. [REDACTED] walking towards me while yelling and physically attempting to stop me from taking [REDACTED] into custody, I was afraid I would be assaulted and would have to physically fight both Ms. [REDACTED] and [REDACTED]. I quickly sidestepped to my left and pulled the trigger of my Taser while it was pointed at [REDACTED] and it was effective, with the probes and wires hitting [REDACTED] in the upper Torso area.

I observed [REDACTED] fall back to the ground. Ms. [REDACTED] began screaming at me "you motherfucker!" and I had to yell verbal commands at her to "get on the ground or you will be Tased too!" Ms. [REDACTED] stood back about 6 feet from me, but continued to yell at me and approach me. I repeatedly had to yell at Ms. [REDACTED] to "step back!" "get on the ground" and "shut up!" because she was yelling so loudly that I could not effectively give further instruction to [REDACTED]. I let dispatch know I had Tased [REDACTED] and asked for medics to respond.

I told [REDACTED] to turn over onto his stomach or he would be Tased again, and he complied. I told [REDACTED] to put his hands on the small of his back. I told [REDACTED] he was under arrest for a felony warrant and for trespass. I began putting handcuffs on [REDACTED]. [REDACTED] continued to yell at me and tried to roll away from me while tensing his body up. I told [REDACTED] to stop resisting or he would be tased again. As I attempted to double lock the handcuffs, [REDACTED] tensed his body up and tried to roll away from me, and I told him again to stop resisting but he continued to try and roll away from me. I activated my Taser again for a 5 second cycle, and [REDACTED] immediately stopped resisting. I was able to secure [REDACTED] to the ground with my knee on his upper back.

While securing [REDACTED] Ms. [REDACTED] repeatedly screamed at me and approached me. I had to yell commands at her to stay back and Security Supervisor Wood stepped in and kept Ms. [REDACTED] from approaching me. Ms. [REDACTED] began to record me on her cell phone. I told her that was fine because I was recording on my body camera, but that she needed to do it from that distance and not approach me again. I told her I would need her information, and [REDACTED] told me it was his mother.

[REDACTED] a Casino employee, came outside and identified himself as [REDACTED] brother. [REDACTED] kept trying to calm [REDACTED] down as he would alternate between tensing his body up and screaming at me, and then calming down. [REDACTED] did not seem to recognize [REDACTED] at times, and I could smell a moderate odor of an alcoholic beverage coming from [REDACTED] person. I also observed his speech to be extremely slurred.

[REDACTED] asked to sit up. I told him as long as he did not resist any more I would let him sit up, and he

agreed. I sat [REDACTED] up into a seated position, and he continued to alternate between being calm and screaming at me "what did I do." I repeatedly explained the warrant and trespass charges to [REDACTED].

I asked [REDACTED] if he had any injuries, and he told me he had a heart condition but was not having any issues now. When medics arrived, I advised them to wait for Deputy LaCombe, who was about 2 minutes away. When Deputy LaCombe arrived, medics checked on [REDACTED] removed the Taser probes and wires, and cleared him for transport to the jail. I specifically asked them to check [REDACTED] head for any injuries from falling after being Tased, and they advised there were no visible injuries and [REDACTED] insisted he was fine.

At some point, Ms. [REDACTED] left the scene and was not located again.

The medics placed the Taser probes into a locked sharps container and gave that to me. I photographed the area where I had deployed the Taser. I collected the Taser wires and doors but could not find any other pieces of evidence. Deputy Lacombe and I assisted [REDACTED] to his feet. I checked the handcuffs for proper tightness and fit and conducted an officer safety patdown on [REDACTED] for weapons and means of escape and found none. I escorted [REDACTED] to the back of my patrol vehicle and placed him in the backseat, and placed his seatbelt on. I secured the Taser evidence in the back of my patrol vehicle.

I transported [REDACTED] to the Polk County Jail. While en route, [REDACTED] cycled between calm and quiet to loudly screaming at me while banging his head on the cage divider. I told [REDACTED] several times to stop banging his head and he would immediately comply. While driving to the Polk County Jail, [REDACTED] asked my name repeatedly, and after I told him, he told me that he would kill me. I asked him when, and he said "maybe tonight, maybe next time I see you."

I advised dispatch of the threats made and asked that extra deputies be available at the jail in case [REDACTED] was combative there.

At the jail, [REDACTED] was not combative. [REDACTED] refused to have his blood alcohol content tested. The corrections deputies explained that [REDACTED] needed to provide a sample to see if he was medically cleared to be lodged, as they were worried about him having alcohol poisoning. [REDACTED] refused to provide a sample, so I transported him to the West Valley Hospital in Dallas, Oregon. At the hospital, [REDACTED] was cleared by medical staff and I was given a form. I kept a copy of the form which will be attached to this report.

I called Grand Ronde Tribal Police Sergeant Rod McAllister by telephone and advised him of the use of force.

I transported [REDACTED] to the Polk County Jail, where he was lodged for the following charges:

Yamhill County Felony Warrant for Assault II, Warrant # 17CR53185;

ORS 164.245 Criminal Trespass II, due to [REDACTED] being at Spirit Mountain Casino after knowingly being permanently trespassed from the casino property. It should be noted that [REDACTED] was previously arrested in case 16-515 for trespassing at the casino on 9/18/2016;

ORS 162.247 Interfering with a police officer, due to [REDACTED] refusing several orders to stop and get on the ground after I identified myself as a police officer and while warning him to get on the ground or he would be Tased;

ORS 162.315 Resisting arrest, due to [REDACTED] physically tensing his body up and attempting to roll away from me several times while I was handcuffing him, after I had informed him he was under arrest for Trespass and a Felony Warrant;

ORS 166.025 Disorderly conduct II, due to [REDACTED] screaming loudly at me during and after the arrest, causing several patrons to stop walking and stare, as well as being so disruptive while being served food that he was asked to leave by Casino staff.

I returned to the Grand Ronde Police station and secured the Taser probes and cartridge in evidence as Item # 001.

Officer Tehama returned to the scene of the incident and retrieved two AFIDS for me, which were secured as Item # 002. See Officer Tehama's supplemental report for further.

I downloaded my body camera footage into DEMS and saved it as evidence, Item # 003.

I burned the photos I had taken onto a CDR and saved it in evidence as Item # 005.

I later reviewed my body camera footage and observed that directly before I activated my Taser, [REDACTED] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that Ms. [REDACTED] was approaching me and I believed I was about to be assaulted and would have to fight both Ms. [REDACTED] and [REDACTED] without a cover unit.

On 8/14/2017 at 0636 hours I returned to Spirit Mountain Casino and spoke with Security Staff. Security staff gave me the security reports for this incident, which is incident number INC-112829, as well as the incident on 9/18/2016, INC-10541. In security report INC-10541, after [REDACTED] was arrested by Grand Ronde Tribal Police for trespass on 9/18/2016, Security explained to [REDACTED] that he was permanently and indefinitely excluded from the casino and that future incidents would result in the Casino pursuing trespass charges. There is a copy of the written exclusion notice in that report. I secured both reports in evidence as Item #004.

I also requested SMC Surveillance provide me a copy of the surveillance footage. I will attach that to this report once received.

Security also identified Ms. [REDACTED] as the female that was with [REDACTED] I looked up Ms. [REDACTED] DMV photo and noted it was a match for the female that attempted to stop me from arresting [REDACTED].

At this time, I have probable cause to arrest Ms. [REDACTED] for the following crimes:

ORS 162.325 Hindering prosecution, due to Ms. [REDACTED] physically attempting to stop me from taking [REDACTED] into custody on his Felony warrant, when she continually stepped between me and [REDACTED] and refused orders to step aside;

ORS 162.247 Interfering with a police officer, due to Ms. [REDACTED] refusing orders to get on the ground, as well as refusing orders to step aside when I attempted to take [REDACTED] into custody.

CASE CLOSED BY ARREST

Copy of report to the Polk County District Attorney

SUMMARY

REVIEW STATUS: PENDING REVW	REVIEWED BY:	DATE: 8/14/2017 9:45:15AM
INVESTIGATOR ASSIGNED:	ASSIGNED DATE:	
DEPT. CASE DISPOSITION: ARREST	DATE: 8/14/2017 9:44:34AM	
UCR STATUS: NA	DATE: 8/13/2017 5:44:01PM	IBR EXEP CLEAR CLASS: NA
Reporting Officer	Reviewed/Approved by	Date Reviewed/Approved
G108 WOLFER, JAMES		

Incident Supplement

Print Date: 08/14/2017 13:39:22

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case ID GRT17000673	Supplement ID 341696	Occurred Date 08/13/2017 17:04	Event Type TRESPI
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Location
27100 SALMON RIVER HWY

Subject
RECOVERY OF ANTI-FELON IDENTIFICATION TAG (AFID TAG)

Dept Routing
; PCDA

NARRATIVE

On 08/13/2017 at approximately 20:15 hours, Grand Ronde Tribal Officer James Wolfer returned from transporting his custody to Polk County Jail. Officer Wolfer advised me that he had deployed the Taser Probes and asked for help in securing the evidence.

I asked Officer Wolfer if he had recovered any Anti-Felon Identification Tags (AFID Tags), and he advised me that he could not locate any.

I returned to the area where Ofc. Wolfer's Taser was deployed and recovered two AFID Tags with matching serial numbers. I transported the AFID Tags to the Grand Ronde Police Department where I placed them onto clear tape so the numbers were clearly visible. I then placed the tape and tags into an evidence bag and secured it into a locked evidence locker.

This ended my involvement in the case.

CASE STATUS: CLOSED

OFFENSES

INVOLVED PARTIES

PROPERTY

Item # 002	Tag R1700673G107002	Category LAW ENF EQ	Make	Model	Serial # C4103AMCR
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OAN

Description

TWO ANTI-FELON IDENTIFICATION TAGS SECURED ON INVISIBLE TAPE

Drug Type	Drug Weight	Quantity 2	Weapon	Size/Calibre	NCIC	UCR
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Ownership Name: Phone: Address:	Property Status Evidence: Y 1.00	Estimate 1.00	Property Status Evidence: Y 1.00	Estimate 1.00
--	--	-------------------------	--	-------------------------

Recovered/ Seized From Name: Address:	Seizure Location: Officer:
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Officer Id: G107	Officer Name: TEHAMA, TOKATA	Agency: GRT	Date: 8/13/2017 21:44
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Reviewed Status: PENDING REVW	Reviewed by:	Date: 8/13/2017 21:53
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Incident Supplement

Print Date: 08/14/2017 13:39:22

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case ID	Supplement ID	Occurred Date	Event Type
GRT17000673	341696	08/13/2017 17:04	TRESPI
Location			
27100 SALMON RIVER HWY			
Subject			
RECOVERY OF ANTI-FELON IDENTIFICATION TAG (AFID TAG)			
Dept Routing			
; PCDA			
Phone:		Recovered Date:	
VEHICLES			
MO			
Officer Id: G107	Officer Name: TEHAMA, TOKATA	Agency: GRT	Date: 8/13/2017 21:44
Reviewed Status: PENDING REVW	Reviewed by:	Date: 8/13/2017 21:53	



Probable Cause Affidavit

State of Oregon) Arresting Agency: Grand Ronde Tribal PD Venue: ☒ Polk County ☐ Other
County of Polk) Circuit Court: ☒ Dallas Municipal Court: ☐ Monmouth Municipal Court: ☐
Behavioral Health Evaluation: Yes: ☐ No: ☒

I, the undersigned peace officer, after being duly sworn upon oath do hereby swear or affirm that the following information is true to the best of my knowledge and belief.

Arrestee: [REDACTED] Date & Time of Arrest: 8/13/2017 at 1711 hours
Arresting Officer: J. Wolfer Date of Crime(s): 8/13/2017 Venue: ☒ Polk County ☐ Other
Crime(s) Alleged:

ORS 164.245 Criminal Trespass II
ORS 162.247 Interfering with a Police Officer
ORS 162.315 Resisting arrest
ORS 166.025 Disorderly conduct in the second degree
Felony Warrant, Yamhill County Warrant 17CR53185

Facts supporting probable cause:

On 8/13/2017 at 1703 hours I was dispatched to Spirit Mountain Casino, located at 27100 Salmon River Highway, Grand Ronde, Polk County, Oregon for report of a male at the location trespassing. Dispatch advised that the male was [REDACTED] DOB [REDACTED], and advised that he had been trespass from that location in the past and was not allowed to be at the location. While en route, dispatch advised that Mr. [REDACTED] had a felony warrant out of Yamhill County and that he had a history of resisting arrest and cautions for assaulting a police officer.

I asked for a cover unit and went towards the location. The closest cover unit was a Polk County deputy coming from the Dallas area. I called Casino Security, who advised that Mr. [REDACTED] was being confrontational with security staff and they were following him to the valet entrance. I went to the valet entrance and Security pointed out Mr. [REDACTED]. I had previously pulled up Mr. [REDACTED] DMV photo and recognized Mr. [REDACTED]. It should be noted that Mr. [REDACTED] has been arrested on previous occasions for being at Spirit Mountain Casino, and he is aware he is permanently trespassed from that location.

Mr. [REDACTED] was with a female that he later said was his mother. I drew my taser and ordered Mr. [REDACTED] to the ground. Mr. [REDACTED] began yelling at me and refusing to cooperate. I continued to order Mr. [REDACTED] to lay on the ground and he continued to refuse. The female kept stepping in between myself and Mr. [REDACTED] and he started walking away. I told Mr. [REDACTED] to stop while pointing my taser at Mr. [REDACTED] with it turned on, and he turned towards me. I observed Mr. [REDACTED] take an aggressive stance towards me while yelling, "squaring up" his body, and I was afraid that he was going to try and assault me. It should be noted that Mr. [REDACTED] is taller than me and his mother continued to try to confront me as well, and I knew my closest cover unit was around 5-10 minutes away. I pulled the trigger and activated the Taser, hitting Mr. [REDACTED] in the upper Torso area. Mr. [REDACTED] fell to the ground. I told him to turn over and he did. I told Mr. [REDACTED] that he was under arrest for trespass and for a felony warrant.

I placed handcuffs on Mr. [REDACTED]. After placing the handcuffs on Mr. [REDACTED] before I could double lock them,

he began to try and roll away from me and yell at me that he did not do anything. I told Mr. [REDACTED] to stop resisting and I tried to hold Mr. [REDACTED] down but he continued to try and roll away from me while yelling at me. I activated the taser a second time as I felt that Mr. [REDACTED] was attempting to try and get up and push me off of him. During this time, the female continued to yell at me and approach me while I yelled at her to stay back. After the second taser cycle, Mr. [REDACTED] stopped resisting. Security was keeping the female subject away from us.

Mr. [REDACTED] agreed to not try and resist any more, and I had him sit up. I asked Mr. [REDACTED] if he had any injuries and he said no. I observed that Mr. [REDACTED] had a strong odor of an alcoholic beverage coming from his breath and person and observed his speech to be slurred. A family member of Mr. [REDACTED] came outside and tried to talk Mr. [REDACTED] into being more calm, as he was yelling loudly at me at times. Mr. [REDACTED] did not recognize the family member, who identified himself as Mr. [REDACTED] brother. From my training and experience as a police officer, I believed Mr. [REDACTED] was intoxicated.

I asked for medics to come and they arrived. When my cover unit, Deputy LaCombe arrived, medics came in and removed the Taser probes from Mr. [REDACTED] and determined he had no injuries and was okay to be transported to the Polk County Jail.

While en route to the Polk County Jail, Mr. [REDACTED] would alternate between being quiet and banging his head on the window of my patrol vehicle while screaming at me. Mr. [REDACTED] also told me that he would kill me, either tonight or next time he saw me.

At the Polk County Jail, Mr. [REDACTED] refused to cooperate with jail deputies to be medically cleared. I took Mr. [REDACTED] to West Valley Hospital in Dallas, OR where he was evaluated and medically cleared. I took Mr. [REDACTED] back to the Polk County Jail where he was lodged on the following crimes:

ORS 164.245 Criminal Trespass II, for being at Spirit Mountain Casino after previously being arrested for criminal trespass at that location and being told he was permanently trespassed from the location.

Yamhill County Felony warrant # 17CR53185

ORS 162.247 Interfering with a Police Officer, when Mr. [REDACTED] refused to stop and get on the ground when I gave him several loud verbal commands to stop walking and lay down on the ground.

ORS 162.315 Resisting arrest: for attempting to pull away from me after I told him he was under arrest.

ORS 166.026 Disorderly conduct in the second degree: For yelling loudly in the parking lot, causing multiple patrons to stop and stare, as well as being verbally confrontational with casino security.

Additional statement attached ☐

Signature of Arresting Officer: _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 201____.

Release Assistance Officer/Deputy

Defendant released before probable cause determination.

Ball

Recog Deputy Authorizing Release: _____ Date & Time _____

[] I find probable cause exists to believe the arrestee committed the crime(s).

☐ I find insufficient probable cause exists, based on the information provided herein.

Judge: _____ Date _____ Time _____

ARREST REPORT

POLK COUNTY JAIL

CASE # 17-673

NAME OF PERSON ARRESTED [REDACTED]				ALIAS OR NICKNAME(S)				ARREST DATE 8/13/17		
ADDRESS OF ARRESTEE				OCCUPATION				TIME 1711 hours		
SOCIAL SECURITY # [REDACTED]		CITIZENSHIP		BIRTH PLACE		DRIVER'S LICENSE # [REDACTED] OR		MAR. STAT		
BIRTH DATE [REDACTED]		AGE 32		RACE American Indian/Alas		SEX M		EYES Brown		
HAIR Brown		LENGTH Short		HEIGHT 5'10"		WEIGHT 185		BUILD Medium		
WHERE ARRESTED Spirit Mountain Casino				HOW ARREST MADE PC, warrant		COURT Polk County		OFFENSE DATE 8/13/2017		
VICTIM NAME / DOB / RACE Spirit Mountain Casino				<input checked="" type="checkbox"/> Drunk <input checked="" type="checkbox"/> Cursed <input type="checkbox"/> Spit at Officers <input type="checkbox"/> Drinking <input checked="" type="checkbox"/> Resisted <input checked="" type="checkbox"/> Under Influence / Drugs						
VICTIM NAME / DOB / RACE				MENTAL HEALTH CONCERN <input type="checkbox"/> Yes <input type="checkbox"/> No			GANG			
WEAPON IF ARMED				OTHER PERSONS ARRESTED FOR SAME OFFENSE						
PROPERTY PLACED IN PROPERTY ROOM							RECEIPT #			
NAME OF COMPLAINANT			ADDRESS				BEST PHONE		OTHER PHONE	
WITNESS'S NAME 1.			BEST CONTACT ADDRESS				BEST PHONE		OTHER PHONE	
WITNESS'S NAME 2.			BEST CONTACT ADDRESS				BEST PHONE		OTHER PHONE	

STATUTE	CHARGE DESCRIPTION	DOMESTIC?	CRIME CLASS	BAIL
164.245	Criminal Trespass II	No	C misd	
162.247	Interfering with police officer	No	A misd	
162.315	Resisting arrest	No	A misd	
166.025	Disorderly conduct II	No	B misd	
Warrant	Felony Warrant, Yamhill County # 17CR53185	No	Felony	

OFFICER'S NARRATIVE

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I asked for a cover unit and went towards the location. The closest cover unit was a Polk County deputy coming from the Dallas area. I called Casino Security, who advised that Mr. [REDACTED] was being confrontational with security staff and they were following him to the valet entrance. I went to the valet entrance and Security pointed out Mr. [REDACTED]. I had previously pulled up Mr. [REDACTED] DMV photo and recognized Mr. [REDACTED]. It should be noted that Mr. [REDACTED] has been arrested on previous occasions for being at Spirit Mountain Casino, and he is aware he is permanently trespassed from that location.

Mr. [REDACTED] was with a female that he later said was his mother. I drew my taser and ordered Mr. [REDACTED] to the ground. Mr. [REDACTED] began yelling at me and refusing to cooperate. I continued to order Mr. [REDACTED] to lay on the ground and he continued to refuse. The female kept stepping in between myself and Mr. [REDACTED] and he started walking away. I told Mr. [REDACTED] to stop while pointing my taser at Mr. [REDACTED] with it turned on, and he turned towards me. I observed Mr. [REDACTED] take an aggressive stance towards me while yelling, "squaring up" his body, and I was afraid that he was going to try and assault me. It should be noted that Mr. [REDACTED] is taller than me and his mother continued to try to confront me as well, and I knew my closest cover unit was around 5-10 minutes away. I pulled the trigger and activated the Taser, hitting Mr. [REDACTED] in the upper Torso area. Mr. [REDACTED] fell to the ground. I told him to turn over and he did. I told Mr. [REDACTED] that he was under arrest for trespass and for a felony warrant.

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Mr. [REDACTED] agreed to not try and resist any more, and I had him sit up. I asked Mr. [REDACTED] if he had any injuries and he said no. I observed that Mr. [REDACTED] had a strong odor of an alcoholic beverage coming from his breath and person and observed his speech to be slurred. A family member of Mr. [REDACTED] came outside and tried to talk Mr. [REDACTED] into being more calm, as he was yelling loudly at me at times. Mr. [REDACTED] did not recognize the family member, who identified himself as Mr. [REDACTED] brother. From my training and experience as a police officer, I believed Mr. [REDACTED] was intoxicated.

I asked for medics to come and they arrived. When my cover unit, Deputy LaCombe arrived, medics came in and removed the Taser probes from Mr. [REDACTED] and determined he had no injuries and was okay to be transported to the Polk County Jail.

While en route to the Polk County Jail, Mr. [REDACTED] would alternate between being quiet and banging his head on the window of my patrol vehicle while screaming at me. Mr. [REDACTED] also told me that he would kill me, either tonight or next time he saw me.

At the Polk County jail, Mr. [REDACTED] refused to cooperate with jail deputies to be medically cleared. I took Mr. [REDACTED] to West Valley Hospital in Dallas, OR where he was evaluated and medically cleared. I took Mr. [REDACTED] back to the Polk County Jail where he was lodged on the following crimes:

ORS 164.245 Criminal Trespass II, for being at Spirit Mountain Casino after previously being arrested for criminal trespass at that location and being told he was permanently trespassed from the location.

Exhibit A9

Page 13 of 23

ARRESTING OFFICER/AGENCY	REPORT MADE BY	FINAL DISPOSITION
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SALEM HEALTH
An OHSU Partner

525 Se Washington St
Dallas OR 97338
503-623-8301

August 13, 2017

Patient:	████████████████████
Date of Birth:	██████████
Date of Visit:	8/13/2017

To Whom It May Concern

████████████████████ was seen and treated in our emergency department on 8/13/2017. He may be lodged in jail without restrictions .

Additional Information:

If you have any questions or concerns, please don't hesitate to call.

Attending Physician Webb C Wilson, MD



**SALEM HEALTH
WEST VALLEY**
An OHSU Partner

**Dallas Oregon Emergency
Physicians**

Memo

To: Patients of Salem Health West Valley Emergency Department
From: Dallas Oregon Emergency Physicians
Re: Patient Billing

Dallas Oregon Emergency Physicians (the "Physicians" group in the Emergency Department at Salem Health West Valley, Dallas Oregon) is currently contracted as in-network provider with multiple insurance payers.

We will accept the insurance payer's allowable amount as payment in full (the amount may or may not include patient's co-insurance, co-pays and/or deductibles).

You are responsible for any applicable co-insurance, co-pay, and/or deductible under your insurance plan up to the allowed amount.

If you receive an Explanation of Benefits (EOB) statement from your insurance payer and it shows a remaining balance other than the applicable co-insurance, co-pay, and/or deductible, please fax your EOB to the fax number listed below (use this document as the fax cover) to ensure that the bill is adjusted accordingly and shows the applicable co-insurance, co-pay, and/or deductible, and wait for a final statement from the Dallas Oregon Emergency Physicians that will reflect the corrected balance.

1. Should your Insurance company send a check directly to you instead of the Physicians, either
 - A. Sign over and send the insurance check to Dallas Oregon Emergency Physicians along with any co-insurance, co-pay, and/or deductible; or
 - B. Cash the insurance check and send a personal check (to include the insurance payment and applicable co-insurance, co-pay, and/or deductible) to the Dallas Oregon Emergency Physicians at the address listed below. Please include your EOB, and if you choose option B, please also include a copy of the insurance check.

Address:
Dallas Oregon Emergency Physicians
PO Box 98585
Las Vegas, NV. 89193-8585

If you have any questions, our dedicated customer service team can respond immediately. The number is 800-355-2470 (this number is also printed on each statement)

Fax Number: 610-834-2826

Attention: Michelle Lewis, Patient Liaison (WDO Account)

Subject: EOB Copy – Request Insurance Adjustment & Revised Bill

Patient Name: _____

Date of Service (Date of ED Visit): _____

No. of Pages: _____



SALEM HEALTH WEST VALLEY *An OHSU Partner*

525 SE Washington St., Dallas, OR 97338

After Visit Summary

8/13/2017

| MRN: [REDACTED]

Survey

If you were given a patient satisfaction survey during this visit, please complete it and place in the box as you leave. Your opinion does matter to us. If you have been referred to your PCP or a local doctor for follow up, please let the office know you were seen in the West Valley Emergency Department at the time you make your appointment so that your records can be obtained prior to your visit.

Do you have questions? Here are some numbers to help

1. **Imaging (X-ray, Scans) or Lab results:** Please contact your primary provider.
2. **Discharge instructions from the Emergency Department:** Please call 503-623-8301, ask for the Emergency Department or access your instructions following the 'MyChart' instructions on your discharge documents.
3. **Dallas Oregon Emergency Physician bill:** Please call 1-800-355-2470 (M-F 0930-4:00)
4. **West Valley Hospital bill:** Please call 503-581-1747

CHEC

An excellent Salem Health resource for educational information or research on medical conditions is the Salem Health Community Health Education Center (CHEC) at 503-814-2432 or go online to Salemhealth.org and click on the CHEC link.

You were seen by

You were seen by Wilson, Webb C, MD.

Visit Information

Date & Time	Department	Encounter #
8/13/2017 6:27 PM	Emergency Department	55454265

Reason for Visit

MEDICAL CLEARANCE

Reason for Visit History

Clinical Impression

Your diagnosis was MEDICAL CLEARANCE FOR INCARCERATION.

If you were given prescriptions, they are listed below. **PLEASE NOTE: No refills will be given for prescriptions written in the ED. Please contact your Physician or referring physician for refills.**

▼ Notice

You have not been prescribed any medications.

Additional Information

Based on the information you provided to us, as well as any changes during this visit, the following list is your updated medication list. Please do the following: • Update or discard any previous medication lists you may have • Compare this list with your prescription bottles at home and discard any medications that this list indicates should be stopped. • Bring your most up to date medication list to your follow up primary care physician visit. • If you have any questions or concerns, contact your primary care physician's office.

Follow-up Information

Schedule an appointment as soon as possible for a visit with Health, Grand Ronde Tribal.

Why: As needed, If symptoms worsen

Contact information:

9615 Grand Ronde RD
Grand Ronde OR 97367
1-503-879-5211

Appointments for Next 3 Days

None

MyChart Instructions

Activate your MyChart account today!

Thank you for your interest in signing up for MyChart. Please follow the instructions below to securely access your online health information.

Why Should I Sign Up?

- Communicate with your primary care provider's (PCP) office
- Request prescription refills
- View test results
- Schedule appointments with your PCP
- Review information from future and past appointments
- Review your discharge instructions

How Do I Sign Up?

1. In your Internet browser, go to <http://www.salemhealth.org/mychart>
 - Under "New User?" click "Sign Up Now"
2. On the "Please Identify Yourself" screen, enter the following information:
 - Your MyChart Activation Code exactly as it appears:

JB5FP-V7KDJ

Expires: 9/27/2017 6:35 PM

- Your Date of Birth (mm/dd/yyyy)
- Last 4 digits of your Social Security Number
- Click **Next**

3. On the "**Choose a Username & Password**" screen, enter the following information:

- Create and Type in a MyChart Username
- Type in a MyChart password
- Retype your Password
- Select a Security Question from the dropdown list
- Type in your Secret Answer
- Click **Next**

4. On the "E-mail Notifications" screen, enter the following information:

- Click the **Yes** button to Enable E-mail Notifications
- Type in your personal e-mail address
- Retype your e-mail address
- Click **Sign In**

For help with the MyChart web site please refer to the MyChart home page FAQs at
<https://mychart.salemhealth.org/mychart/default.asp?mode=stdfile&option=faq>

For questions about your medical information in MyChart, please contact your doctor or clinic.

SPECIAL ANNOUNCEMENT

Prepare for Eclipse on August 21st, 2017

Local authorities have predicted a significant population increase in our community before, during, and after the eclipse. Please refer to the below suggestions regarding your healthcare needs during this time.

Community impact:

We anticipate that some community services and medical clinics may be closed on August 21st the day of the eclipse. If you anticipate needing non-emergent medical services (lab work, imaging), we encourage you to please call the week prior to determine their availability.

Go to an emergency department or call 911 for problems such as:

- Suddenly not able to speak, see, walk or move
- Dizziness or weakness that does not go away
- Trouble breathing
- Chest pain, pain in jaw or arm
- Coughing or throwing up blood
- Inhaled smoke or poisonous fumes
- Poisoning or overdose of drug/alcohol
- Unusual or bad headache, sudden onset
- Broken bones, deep wounds, heavy bleeding
- Suicidal thoughts
- Throwing up or loose stools that does not stop
- High fever that does not get better with medicine
- High fever with headache and stiff neck
- Severe allergic reaction with trouble breathing, swelling, hives
- Passing out, fainting
- Chemical burns
- Sudden confusion
- Seizures
- Severe pain anywhere on the body

When to go to an Urgent Care:

- Common illnesses, such as colds, the flu, earaches, sore throats, migraines, low-grade fevers, and mild rashes
- Minor injuries, such as sprains, back pain, or minor cuts

GRAND RONDE TRIBAL POLICE DISPATCH REPORT

Case Number: GRT17000673

Response

Location: 27100 SALMON RIVER HW (27100 SALMON RIVER HW, @SPIRIT MOUNTAIN CASINO (MapBook:2792), POLK COUNTY)
 SequenceNumber: GRT201708130027
 Response Type: TRESP1
 Creation Date: 08/13/17 17:04:29
 Priority: 3
 Primary Unit: G108
 Zone: GRT01
 Dispatch Group: GRT01
 AlarmLevel:

Disposition Codes

Code
01- REPORT

TimeStamp
08/13/17 19:37:01

Caller Information

CallerName: ELLIS,TANNER
 Caller Address: SECURITY

Caller Phone: 503-879-3732

Response Statuses

Status Name	Status Date/Time
PENDING	08/13/17 17:04:29
DISPATCH	08/13/17 17:06:52
ENROUTE	08/13/17 17:09:55
AT SCENE	08/13/17 17:10:50
TRANSPORT_	08/13/17 17:37:31
AT_FACILITY	08/13/17 18:03:06
TRANSPORT_	08/13/17 18:17:19
LEAVE SCENE	08/13/17 18:38:22
AT_FACILITY	08/13/17 18:38:24
TRANSPORT_	08/13/17 18:38:26
AT_FACILITY	08/13/17 18:40:52
CLEAR	08/13/17 19:37:02
DISPOSED	08/13/17 19:42:04

Resource Statuses

Resource Name	Resource Agency	Status	Status Date/Time
G108	GRT	DISPATCH	08/13/17 17:06:52
G108	GRT	ENROUTE	08/13/17 17:09:54
G108	GRT	AT SCENE	08/13/17 17:10:50
G108	GRT	TRANSPORT_	08/13/17 17:37:31
G108	GRT	AT_FACILITY	08/13/17 18:03:06
G108	GRT	TRANSPORT_	08/13/17 18:17:19
G108	GRT	LEAVE SCENE	08/13/17 18:38:22
G108	GRT	AT_FACILITY	08/13/17 18:38:24
G108	GRT	TRANSPORT_	08/13/17 18:38:26
G108	GRT	AT_FACILITY	08/13/17 18:40:52
G108	GRT	CLEAR	08/13/17 19:37:02

Response Notes

Note	Date/Time	Agent display Name
(G108) G108 Status has been changed to DISPATCH Agent:ABRANLUND Workstation:CP10	08/13/17 17:06:53	PPSS
(G108) G108 Status has been changed to ENROUTE Agent:ABRANLUND Workstation:CP10	08/13/17 17:09:55	PPSS
(G108) G108 Status has been changed to AT SCENE Agent:ABRANLUND Workstation:CP10	08/13/17 17:10:50	PPSS

Exhibit A9

(G108) ONE TASED	08/13/17 17:13:16	ABRANLUND
Milestone of "GRT201708130027" has been modified to "CODE 4"	08/13/17 17:18:03	ABRANLUND
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 17:37:31	PPSS
Milestone of "GRT201708130027" has been modified to "LOCATE ROUTED"	08/13/17 17:45:16	ABRANLUND
(G108) G108 Status has been changed to AT_FACILITY Agent:ABRANLUND Workstation:CP10	08/13/17 18:03:06	PPSS
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 18:17:19	PPSS
(G108) G108 Status has been changed to LEAVE SCENE Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:22	PPSS
(G108) G108 Status has been changed to AT_FACILITY Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:24	PPSS
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:27	PPSS
(G108) PCJ	08/13/17 18:38:35	ABRANLUND
(G108) G108 Status has been changed to AT_FACILITY Agent:RHAY Workstation:CP10	08/13/17 18:40:52	PPSS
(G108) G108 Status has been changed to CLEAR Agent:RHAY Workstation:CP10	08/13/17 19:37:03	PPSS

Incident Notes

Note	Date/Time	Agent display Name
[503-879-3732] MALE AT LOC WHO IS TRESPASSING.. MALE IS IN THE SUMMIT VIEW LOUNGE	08/13/17 17:08:36	MGWYN
[503-879-3732] WILLING TO PRESS CHARGES	08/13/17 17:08:42	MGWYN
[503-879-3732] MALE [REDACTED] APX 30'S	08/13/17 17:04:16	MGWYN
[503-879-3732] MALE HAS BEEN TRESPASSED BEFORE	08/13/17 17:04:24	MGWYN
DOB/[REDACTED]	08/13/17 17:04:40	MGWYN
MALE/WMA,MED BUILD,DARK HAIR,UNK CLOTHING	08/13/17 17:05:20	MGWYN
UNK WEAPONS/ MALE IS INTOXICATED ON ALCOHOL	08/13/17 17:05:52	MGWYN
SECURITY OFCR'S ARE WATCHING MALE	08/13/17 17:06:02	MGWYN
CONFIRMED OFN/ASSAULT 2 DOW/2017/08/11 CRT/OR036015J - YAMHILL COUNTY CIRCUIT COURT WTP/FEL WNO/17CR63185 BAL/160000-00..FELONY CAUTION	08/13/17 17:09:45	ABRANLUND
STEPPING UP RESPONSE	08/13/17 17:10:10	ABRANLUND
SUBJ IS NOW CONFRONTATIONAL ON SUBJ	08/13/17 17:11:26	ABRANLUND
YAMHILL CO HAS PC THEY HAVE PC	08/13/17 17:11:48	ABRANLUND
ROLL MEDICS	08/13/17 17:13:46	ABRANLUND
CALING YCOM.. FOR MEDICS	08/13/17 17:14:09	ABRANLUND
OUTSIDE VALLET	08/13/17 17:14:44	ABRANLUND
G108 ON GROUND HOLDING HIM UNTIL COVER ARRIVES	08/13/17 17:15:26	ABRANLUND
G108 CODE 4 FOR MEDICS TO ENTER..SUBJS STILL ON THE GROUND BUT BEING COMPLIANT	08/13/17 17:18:52	ABRANLUND
P020>> COMPLETE CODE 4	08/13/17 17:31:35	ABRANLUND
PCJ WILL NEED MULTIPLE DEPS.. THREATS TO OFFICERS	08/13/17 17:48:13	ABRANLUND
ETA 10.. JAIL ADVISED	08/13/17 17:49:02	ABRANLUND

Disposition Notes

Note	Date/Time	Agent display Name
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Person Information

Last Name: [REDACTED] First Name: [REDACTED] Middle Name: [REDACTED] Gender/Race: [REDACTED]
License: [REDACTED] State: [REDACTED] DOB: [REDACTED]

Address: [REDACTED] GRAND RONDE OR City:

Phone Number:

Property Information

Vehicle Information

Conducted Energy Device

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER® devices.

304.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry the TASER device.

TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person.

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.
- (c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the TASER device at the same time.

304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

304.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The TASER device shall not be used to psychologically torment, elicit statements or to punish any individual.

304.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER device probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the TASER device, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with wire, should be submitted into evidence. If under the circumstances, the Patrol Sergeant advises submitting the probes, both probes shall also be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

304.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department TASER devices while off-duty.

Officers shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Officers shall document all TASER device discharges in the related arrest/crime report and the TASER device report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

304.6.1 TASER DEVICE REPORTING

Items that shall be included in the use of force report are:

- (a) The type and brand of TASER device and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the TASER device was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Training Officer should periodically analyze the reports to identify trends, including deterrence and effectiveness.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.6.2 REPORTS

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

304.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, it is preferred that appropriate medical personnel should remove TASER device probes from a person's body. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a supervisor or Rangemaster and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

304.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by a department-approved TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Officer. All training and proficiency for TASER devices will be documented in the officer's training file.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The certified TASER Instructor in the Department is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The certified TASER Instructor in the Department should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

Confederated Tribes of Grand Ronde Police Department
Policy Manual

Conducted Energy Device

- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

Standards of Conduct

319.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Confederated Tribes of Grand Ronde Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

319.2 POLICY

The continued employment or appointment of every member of the Confederated Tribes of Grand Ronde Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

319.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

319.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

319.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

319.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Oregon Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

319.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service.

319.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department, CTGR or CTGR manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, tribal or administrative laws, rules or regulations.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

319.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Confederated Tribes of Grand Ronde Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

319.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

319.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on -duty or through the use of one's official capacity.
- (b) Engaging in on -duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

319.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

319.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Confederated Tribes of Grand Ronde Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

319.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or marital status.

319.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or on department property except as expressly authorized by CTGR policy or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by CTGR policy or the Chief of Police.
- (i) Any act on- or off -duty that brings discredit to this department.

319.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the CTGR.
- (g) Use of obscene, indecent, profane or derogatory language while on--duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on-- or off--duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

319.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

319.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Personnel Complaints

1005.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Confederated Tribes of Grand Ronde Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1005.2 POLICY

The Confederated Tribes of Grand Ronde Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1005.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1005.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Patrol Sergeant is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Sergeant or Chief, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Sergeant or Chief, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1005.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1005.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility. Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1005.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1005.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

1005.5.1 COMPLAINTS ALLEGING PROFILING

Complaints related to profiling should be clearly marked to assist in reporting as required in the Racial or Bias-Based Profiling Policy (ORS 131.920).

1005.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Patrol Sergeant of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Sergeant or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Patrol Sergeant.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Patrol Sergeant and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Department of Human Resources and the Patrol Sergeant for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Patrol Sergeant, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

- (l) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.
- (k) Providing the complainant with periodic updates on the status of the investigation, as appropriate.

1005.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1005.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1005.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Confederated Tribes of Grand Ronde Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action. Forms of discipline include, but are not limited to, training, counseling and punitive action.

1005.10.1 SERGEANT RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Sergeant of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Sergeant may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Sergeant may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Sergeant shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1005.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Sergeant for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1005.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1005.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules.

1005.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.

James Wolfer
DPSST# 51798

[REDACTED]
Newberg, OR 97132
[REDACTED]

To:

Kristen Hibberds, DPSST Professional Standards Coordinator/Investigator
DPSST Police Policy Committee

Ms. Hibberds and members of the Police Policy Committee,

This letter is regarding the Incident that occurred on August 13, 2017 regarding the use of force and associated reports and statements made by me, as well as the allegations of dishonesty being reviewed by the committee.

I would like to begin by stating that I was *never* dishonest in any of my dealing with the Grand Ronde Tribal Police Department in any capacity, neither in my official capacities nor in any unofficial capacity. Specifically, I was not dishonest during the use of force that occurred on August 13, 2017, nor was I dishonest in the phone call to my Sergeant, Sgt. McAllister, nor was I dishonest in any of my written reports or statements.

I was, however, mistaken as to what had occurred, and reported to my supervisors and in my written reports what had occurred according to my perception of the events during a high stress, rapidly evolving and violent situation. During the incident on August 13, 2017, I was alone, with no backup, as the closest backing officer was still about ten minutes away and had told me so via radio. The suspect was reported to be violent, and both dispatch and my Lieutenant had advised me via radio that the suspect had warnings for violent conduct. Additionally, the suspect had a valid and confirmed warrant for Assault II, which I knew meant he was suspected of causing serious physical injury to someone. The suspect was reported to be actively trespassing at the Spirit Mountain Casino as well.

I called casino security via my cell phone, and was advised that the suspect was becoming "confrontational" with casino staff. I believed that meant that the risk to the public was increasing, including non-sworn security staff, and that waiting for backup could mean that a member of the public could be injured by a wanted and known violent individual. I believed it was my duty to intervene at that time in order to protect members of the public. Upon arrival, I was pointed to the suspect by casino security, who was walking away from them in the parking lot and towards a vehicle. There was a female with him, who was later identified as the suspect's mother. Due to the fact that I was alone, without backup, and there were now two subjects, including one known to be violent and wanted for Assault II, I had my taser out.

I gave multiple commands to the suspect, calling him by name, to get on the ground, while I was clearly identified as a police officer. I do not recall if at that time I verbally identified myself as a police officer, but I was in full patrol uniform on a clear, sunny day. The suspect, who I had positively identified, continually ignored my verbal commands to get on the ground. He kept attempting to walk away while the female subject yelled at me and kept getting in between the suspect and myself. I gave commands to the female to back away and to the suspect to get on the ground.

At one point, the suspect stopped and faced me. I kept giving commands to the male suspect to get on the ground or he would be tased, and the female subject suddenly rushed me. At that moment, the male suspect quickly raised his hands about shoulder height into what I believed at the time to be a fighting stance. I had tunnel vision and was afraid I was about to have to fight both subjects alone and without backup. I believed that the male subject, who was a known violent person, was the greater threat, and I tased him and was ready to utilize hands on techniques with the female. The female backed away while continually yelling at me. The taser deployment was effective, and the male suspect had fallen on his back. The suspect turned over on his stomach per my verbal commands. I began to try and handcuff the male suspect while he was facedown, and the female subject continued to yell at me.

I had not double locked the handcuffs yet, and the male subject began to respond to the female subject's yelling. The male suspect began to move around, and what I believed at the time to be attempting to get up. Even though the suspect was in handcuffs, they were not double locked and I had not yet completed a putdown for weapons. Additionally, I was still worried that the female subject would attempt to rush me as I had to yell at her to stay back, and if she did so, even a handcuffed subject with an additional subject's help could attempt to overwhelm me. I gave multiple commands to the suspect to stop resisting or he would be tased again, and he continued to move, while yelling at me "F- you!" With the tenseness of the suspect's body, the highly escalated situation, I believed the suspect was attempted to push me off of him and I activated the taser again. After the cycle, the suspect stopped moving and complied with my verbal commands. The female subject disappeared soon after that. Per policy, I called for medical personnel via radio to evaluated the suspect.

Later, after backup and medical personnel had arrived and cleared the subject for transport, I had him in the back of my vehicle. I called my Sgt., Sgt. McAllister, per policy, to advise him on the use of the force. I told Sgt. McAllister what I believed had happened: that the suspect had "squared up on me," i.e. taken a fighting stance, and that he had resisted on the ground while I was still applying handcuffs. At this time, I had not seen the body camera footage, and I was still flooded with adrenaline.

I took the suspect to the jail. The suspect refused to use the Intoxilyzer, and was extremely intoxicated, so jail staff had me transport the suspect to the hospital to be evaluated. He was eventually medically cleared for lodging at the jail, and was transported back to the jail and lodged by me. I typed a Probable Cause affidavit to lodge the suspect, and again, had not yet seen my body camera footage, so I wrote the affidavit with what I believed happened: that the male subject had "squared up" his body and took an aggressive stance towards me while at the same time the female subject was trying to confront me, so I tased the male suspect. I also wrote that the suspect tried to roll away from me before I could double lock the handcuffs, and that he ignored verbal commands to stop resisting so I activated the taser a second time.

Later, at the police station, per policy, while writing my report I viewed the body camera footage. I was surprised to see that during the initial confrontation with the suspect, when he raised his arms into what I believed to be a fighting stance, I observed that he raised his arms about shoulder high and began walking backwards, and did not appear to actually be taking a fighting stance. I also observed that while I was handcuffing him, the body camera did not pick up all of the factors that I did, such as the suspect's body tensing up, and so it appeared that the suspect was not resisting greatly.

I wrote my report the next morning. During my report, I wrote "the following happened in substance, to the best of my recollection and perception at the time of the incident." I then wrote about what I had experienced and believed *at the time of the incident*, including that I believed the suspect "put his hands up but point his feet towards me in an aggressive stance, and I believed [the suspect] was getting ready to assault me. At that time, [female subject] was still yelling at me and walking towards me aggressively." I then described all the factors I had in making the use of force decision, and described tasing the suspect. I also described how the female subject kept approach me while I was attempting to handcuff the male suspect, and that I continually had to yell commands at her to back up.

I also wrote that the male suspect "continued to yell at me and tried to roll away from me while tensing his body up. I told [suspect] to stop resisting or he would be tased again. As I attempted to double lock the handcuffs, [suspect] tensed his body up and tried to roll away from me, and I told him again to stop resisting but he continued to try and roll away from me. I activated my Taser again for a five second cycle, and [suspect] immediately stopped resisting."

On the last page of my narrative, I also noted the discrepancies between the video footage and my perception at the time of the incident. I wrote "I later reviewed my body camera footage and observe that directly before I activated my Taser, [suspect] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that [female subject] was approaching me and I believed I was about to be assaulted and would have to fight both [female subject] and [male suspect] without a cover unit."

Directly after I completed my report, Lt. Hernandez asked me to come to his office. Lt. Hernandez was there with a representative of HR, and told me that he had not yet read my report, but that he watched the body camera footage and believed I violated policies. He asked me why I tased someone with their hands up, and I told him that at the time, I believed he was not putting his hands up, but trying to actively assault me. I also advised Lt. Hernandez that I had addressed the discrepancy in my report. Lt. Hernandez told me I was being placed on leave, and directed me to be available for an interview and to make a statement with an outside agency, either Oregon State Police or Polk County Sheriff's Office.

During the week, I was called by Sgt. McAllister and advised I needed to come to a meeting on Friday, August 18, 2017 at HR. During that meeting, I was given several pieces of paper (that I was not allowed to keep) that advised that a review had been done of the use of force and that at this time, they were recommending termination. I read a report by Dallas Police Department that indicated that they agreed with Lt. Hernandez that I had violated policy, and in fact, they believed I should have tased the female subject, not the male subject. I do not have a copy of the Dallas Police Report at this time.

I asked Lt. Hernandez why I was not being interviewed and having my statement taken. Lt. Hernandez advised me that he was acting Chief, as the Chief was currently at a training in Virginia. Lt. Hernandez told me they did not require my statement or any interview on my use of force to make the decision to terminate me. Lt. Hernandez advised me that at this time, I was only being recommended for termination based on a violation of the Taser policy, and no other violations. Lt. Hernandez told me I had the right to appeal the termination for five days and give any recorded statement I would like, but that if anything I said would be given to the DA for prosecution. Lt. Hernandez told me that if I resigned immediately, the investigation would stop at that point, only listing the reason for termination as being a violation of the Taser policy, and that

he would advise the DA that they believed I was acting in good faith. I specifically asked Lt. Hernandez if he was terminating me based upon any belief that I was dishonest, and told him that I never lied to him or Sgt. McAllister, and had accurately told them what I believed had happened based upon my perception at the time of the incident, in good faith. Lt. Hernandez told me that he would be reporting to DPSST that I was resigning in lieu of termination for a violation of the Taser policy, because he had not interviewed me and could not say if I had purposely been dishonest or not, and so he was not going to list dishonesty as the reason for termination if I resigned immediately. He did tell me that both the DA and DPSST could do "whatever they want" with an investigation, but that he would let them know he did not believe I should be charged as I was acting in good faith. I then asked why, since I had no citizen complaints and no letters of reprimand in my file, and he believed I was acting in good faith, he did not suspend me instead and do retraining. Lt. Hernandez told me that as acting chief, he could not "live with" the second taser use while the suspect was in handcuffs.

I wrote a letter of resignation and reiterated that I was never dishonest and never meant to mislead anyone.

Later, in February of 2018, I was contacted by OSP Detective Hegney-Bach, who advised she was investigating allegations of excessive force in a criminal investigation and would like my statement. I contacted an attorney and requested the attorney accompany me to give my statement, and told the attorney that I had nothing to hide and wanted to give my statement from the beginning, and that this was my first opportunity to do so. My attorney contacted Detective Hegney-Bach and scheduled a statement in March of 2018.

During the interview in March 2018, Detective Hegney-Bach asked many questions regarding the use of force, my mindset, and what I believed happened. I gave a complete statement, lasting several hours, voluntarily. As a result of Detective Hegney-Bach's statement, where she recommended that no probable cause existed for Assault, the DA advised that I did not exceed the legal justifications for use of force in Oregon.

During Detective Hegney-Bach's report, she viewed the body camera footage and noted that when I first tased the male suspect, he had his hands raised and took steps backward, at the same time the female subject "took a step toward Mr. Wolfer." She also notes during the second taser deployment:

While [suspect] was asking, "What did I do," he started pushing slightly off the ground with his knees; his head stayed on the ground. Mr. Wolfer then told [suspect] he had a warrant. [Suspect] still appeared agitated and flexed his arms and rolled slightly onto his left shoulder and then he rolled back on to his stomach. Mr. Wolfer warned [suspect] to stay on the ground or he would tase him again. [Suspect] said, "Fuck you" and Mr. Wolfer activated a five second taser cycle. [Suspect] was not flexing or rolling or moving his knees at the time Mr. Wolfer activated the taser probes."

While Detective Hegney-Bach notes that the suspect was not flexing or rolling or moving his knees at the time I activated the taser, I believed he was still resisting and was still tense. Looking back, that may have been his body tensing as he yelled to curse at me, which I may have misinterpreted as a continuation of his previously flexing and rolling and pushing off of the ground. Again, I had adrenaline and had a suspect I believed to be resisting who I believed had just tried to assault me.

Detective Hegney-Bach notes during her investigation that I addressed some of the discrepancies in my report as I noted above. She also notes that there was no probable cause to charge me with Assault IV, and that all witnesses believed I had not been excessive. The focus of Detective Hegney-Bach's investigation was not to determine dishonesty, merely to review if the use of force was legal, and she notes that those allegations would not be fully pursued during her investigation. Additionally, multiple witnesses told Detective Hegney-Bach that they observed the suspect to be resisting while on the ground.

Additionally, in October of 2018 I received copies of both Sgt. McAllister's and Lt. Hernandez's reviews of the use of force. After reviewing the reports, both Sgt. McAllister and Lt. Hernandez differ greatly in their perception of the events they viewed on my body camera. Not only do they differ from each other, but they differ from Detective Hegney-Bach's review of the incident. For example, Sgt. McAllister writes about what he observed from my body camera regarding the first use of force:

"Officer Wolfer then yells, 'get on the ground now!' 'Move aside!' 'Get on the ground now or you will be Tased!' At this point, [suspect] is standing there with both hands in the air, next to his head. It's clear that [suspect] has nothing in his hands. [Female subject] steps toward Officer Wolfer. Officer Wolfer moves towards his left and yells 'Back away! Get on the ground now!'

[Male suspect] is observed taking small steps backwards while holding his hands in the air, next to his head..."

Lt. Hernandez, by contrast, writes that in his review, the male suspect "raises his hands in the air above his head and slowly walks backwards while asking what did I do?"

Lt. Hernandez also writes that while the male suspect was on the ground, he moves while yelling and that I told him not to move or he would be tased, and notes: "[Male suspect] yells 'fuck you' and moves while saying this. Officer Wolfer tases him again for a full five seconds." Sgt. McAllister writes of the same incident:

"[Male suspect] then moves towards his left side and yells 'It is my business!' Officer Wolfer tells [male suspect] 'Stop moving or I will tase you again!' [Male suspect] then states 'Fuck you!' Officer Wolfer then discharges his CEW a second time, while [male suspect] is lying face down on the asphalt, with his hands cuffed behind his back...[male suspect] appeared to only attempt to roll to his left side to look at Officer Wolfer while he was saying 'Fuck you!'"

I believe it should be noted that Sgt. McAllister's review of the first incident indicates that the male suspect had his hands raised to about his head, while Lt. Hernandez believed that the male subject had his hands *above* his head. From my recollection, his hands were raised to about shoulder/head height, which is also a fighting stance, and with the adrenaline and tunnel vision I was experiencing at the time while the female subject also aggressively took steps towards me, I interpreted that as a fighting stance. Additionally, both Sgt. McAllister and Lt. Hernandez's review of the footage indicate that the suspect was moving while I was handcuffing him, but they interpreted that as "only attempting to roll to his left side to look at Officer Wolfer."

According to the landmark case, *Graham v. Connor*, "the 'reasonableness' inquiry in an excessive force case is an objective one: the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard

to their underlying intent or motivation...The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." I believe that Sgt. McAllister and Lt. Hernandez were interpreting not only the suspect's motives in his moving around as being passive, while they were not there to feel his level of resistance, while I interpreted it as active resistance from a known and violent offender. The later review by OSP and the DA concluded that "Given the totality of the circumstances, in particular the witness statements and level of threat believed by Mr. Wolfer to be imminent, there is not sufficient evidence to overcome the use of force justification afforded peace officers in ORS 161.235- 161.245."

I fully admit there are discrepancies between the video footage and my perception of what occurred. Lt. Hernandez and Sgt. McAllister both interpreted my actions as dishonesty, rather than a mere mistake of fact due to a "rapidly-evolving" situation, as stated in *Graham v. Connor*. I attempted to address this in my report, as noted above and noted by Detective Hegney-Bach. I want to reiterate that I was never dishonest during my dealings in this case, or any other time, with the Grand Ronde Tribal Police Department, Oregon State Police, the Polk County District Attorney, or any other time. During this use of force incident, I truly believed that the male suspect was attempting to assault me, and that during the second tase, I interpreted his movements as trying to pull away from me.

I do believe that my perception of the events was mistaken. From the beginning, I have been forthright and honest in my perception by immediately calling Sgt. McAllister and telling him what I believed happened, and later, when I learned that my perception was incorrect, I was forthright and honest in addressing that in my official report. My phone call addressing the use of force to Sgt. McAllister was fully recorded on body camera. I had no reason to believe I was not telling Sgt. McAllister the full truth of what happened. I did not know at the time I was mistaken. I never once tried to cover up my mistaken perception, and by writing about both my perception *and* what I later viewed on the body camera footage in my official report, I was taking full responsibility for my perception of the events being different.

I have attached an article from the Force Science Institute regarding body cameras and use of force. Of note in the article is that a camera and the officer's perception can be drastically different, such as an officer's brain suppressing "some incoming visual images that seem unimportant in a life-threatening situation so you can completely focus very narrowly on the threat. You won't be aware of what your brain is screening out...in short, there can be a huge disconnect between your field of view and your visual perception and the camera's. Later, someone reviewing what's caught on camera and judging your actions could have a profoundly different sense of what happened that you had at the time it was occurring."

Additionally, the article talks about how "Some important danger cues can't be recorded," including "resistive tension." Of particular note is this paragraph: "And of course, the camera can't record the history and experience you bring to an encounter...for instance, an assaultive subject who brings his hands up may look to a civilian like he's surrendering, but to you, based on past experience, that can be a very intimidating and combative movement, signaling his preparation for a fighting attack. The camera just captures the action, not your interpretation."

And finally, the articles says that of greater consequence is the body camera's depiction of action and reaction times. "Based on the reactionary curve, an officer can be half a second or more behind the action as it unfolds on the screen." This is what occurred with me when the

male suspect was tensing up and rolling away. While Detective Hegney-Bach notes that the suspect stopped rolling and tensing immediately as I tased him, I was behind the reactionary curve and believed he was still resisting.

I made a mistake of perception in good faith when I interpreted the actions of the male suspect and female subject as an attempt to assault me, and have been upfront about that from the beginning. Additionally, during my termination hearing, I asked Lt. Hernandez for additional training so that I would not make such good faith mistakes in the future. I was absolutely, unequivocally not dishonest. I never had any intent to deceive anyone, neither outright nor by omission. I wished to give a full interview and statement after the event and made myself available, but the first time I was able to give a full statement was in March of 2018 during my interview with Detective Hegney-Bach.

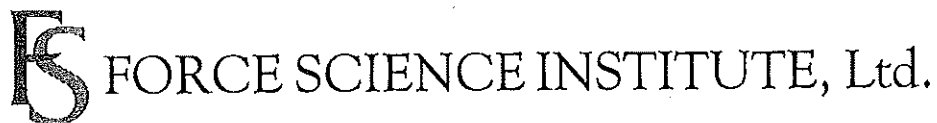
I have been heartbroken that my former employer interpreted my actions as dishonest. Honesty and integrity are both extremely important to me, and I have tried to live my life with those values, especially in all official dealings. I am truly sorry that I was mistaken that day, and saddened that I was not given the opportunity to prove that I was honest. I would have gladly accepted retraining, additional training, and other consequences for my good faith mistakes, but I never lied.

Attached to this are two letters from professionals I have worked with. The first is a letter from Officer Fred Dilworth of Cottage Grove, who worked with me for over a year at our first department, Warm Springs Tribal Police, from 2010-2012. The second is a letter from my immediate supervisor in the Coast Guard Reserve, Petty Officer First Class Jason Armstrong. I have served in the Coast Guard Reserve since 2013, and am a Second Class Petty Officer serving as a Maritime Enforcement Specialist. In this role, I conduct Federal Law Enforcement boardings on the Willamette and Columbia River, and before that, in the Puget Sound area. We conduct civilian law enforcement, under a different set of use of force guidelines, however, we do conduct law enforcement with members of the boating public. I have received several awards in my time in the military, specifically in a law enforcement role, and my supervisors and chain of command have nothing but praise for my conduct and integrity. I hope this letter from PO1 Armstrong can serve to demonstrate that.

I appreciate the time taken to review this matter and this letter. I hope that the Committee is able to see that I acted in full good faith with no intent to deceive or be excessive, and have been forthright and honest from the beginning in this.

Very respectfully submitted,

James K. Wolfer



Headquarters: 124 East Walnut Street - Suite 120 Mankato, MN 56001 USA T: 507-387-1290 F: 507-387-1291

10 limitations of body cams you need to know for your protection

A special report from the *Force Science Institute*

The idea is building that once every cop is equipped with a body camera, the controversy will be taken out of police shootings and other uses of force because “what really happened” will be captured on video for all to see.

Well, to borrow the title from an old Gershwin tune, “It Ain’t Necessarily So.”

There’s no doubt that body cameras—like dash cams, cell phone cams, and surveillance cams—can provide a unique perspective on police encounters and, in most cases, are likely to help officers. But like those other devices, a camera mounted on your uniform or on your head has limitations that need to be understood and considered when evaluating the images they record.

“Rushing to condemn an officer for inappropriate behavior based solely on body-camera evidence can be a dicey proposition,” cautions Dr. Bill Lewinski, executive director of the *Force Science Institute*. “Certainly, a camera can provide *more* information about what happened on the street. But it can’t necessarily provide *all* the information needed to make a fair and impartial final judgment. There still may be influential human factors involved, apart from what the camera sees.”

In a recent conversation with *Force Science News*, Lewinski enumerated 10 limitations that are important to keep in mind regarding body-camera evidence (and, for the most part, recordings from other cameras as well) if you are an investigator, a police attorney, a force reviewer, or an involved officer. This information may also be helpful in efforts to educate your community.

(Some of these points are elaborated on in greater depth during the *Force Science Certification Course*. Visit www.forcescience.org for information on the course. An earlier report on body cam limitations appeared in *Force Science News* #145, sent 3/12/10. You will find online it at: www.forcescience.org/fsnews/145.html)

* 1. A camera doesn’t follow your eyes or see as they see.

At the current level of development, a body camera is not an eye-tracker like *FSI* has used in some of its studies of officer attention. That complex apparatus can follow the movement of your eyes and superimpose on video small red circles that mark precisely where you are looking from one microsecond to the next.

“A body camera photographs a broad scene but it can’t document where within that scene you are looking at any given instant,” Lewinski says. “If you glance away from where the

camera is concentrating, you may not see action within the camera frame that appears to be occurring 'right before your eyes.'

"Likewise, the camera can't acknowledge physiological and psychological phenomena that you may experience under high stress. As a survival mechanism, your brain may suppress some incoming visual images that seem unimportant in a life-threatening situation so you can completely focus very narrowly on the threat. You won't be aware of what your brain is screening out.

"Your brain may also play visual tricks on you that the camera can't match. If a suspect is driving a vehicle toward you, for example, it will seem to be closer, larger, and faster than it really is because of a phenomenon called 'looming.' Camera footage may not convey the same sense of threat that you experienced.

"In short, there can be a huge disconnect between your field of view and your visual perception and the camera's. Later, someone reviewing what's caught on camera and judging your actions could have a profoundly different sense of what happened than you had at the time it was occurring."

* **2. Some important danger cues can't be recorded.**

"Tactile cues that are often important to officers in deciding to use force are difficult for cameras to capture," Lewinski says. "Resistive tension is a prime example.

"You can usually tell when you touch a suspect whether he or she is going to resist. You may quickly apply force as a preemptive measure, but on camera it may look like you made an unprovoked attack, because the sensory cue you felt doesn't record visually."

And, of course, the camera can't record the history and experience you bring to an encounter. "Suspect behavior that may appear innocuous on film to a naïve civilian can convey the risk of mortal danger to you as a streetwise officer," Lewinski says. "For instance, an assaultive subject who brings his hands up may look to a civilian like he's surrendering, but to you, based on past experience, that can be a very intimidating and combative movement, signaling his preparation for a fighting attack. The camera just captures the action, not your interpretation."

* **3. Camera speed differs from the speed of life.**

Because body cameras record at much higher speeds than typical convenience store or correctional facility security cameras, it's less likely that important details will be lost in the millisecond gaps between frames, as sometimes happens with those cruder devices.

"But it's still theoretically possible that something as brief as a muzzle flash or the glint of a knife blade that may become a factor in a use-of-force case could still fail to be recorded," Lewinski says.

Of greater consequence, he believes, is the body camera's depiction of action and reaction times.

"Because of the reactionary curve, an officer can be half a second or more behind the action as it unfolds on the screen," Lewinski explains. "Whether he's shooting or

stopping shooting, his recognition, decision-making, and physical activation all take time—but obviously can't be shown on camera.

"People who don't understand this reactionary process won't factor it in when viewing the footage. They'll think the officer is keeping pace with the speed of the action as the camera records it. So without knowledgeable input, they aren't likely to understand how an officer can unintentionally end up placing rounds in a suspect's back or firing additional shots after a threat has ended."

4. A camera may see better than you do in low light.

"The high-tech imaging of body cameras allows them to record with clarity in many low-light settings," Lewinski says. "When footage is screened later, it may actually be possible to see elements of the scene in sharper detail than you could at the time the camera was activated."

"If you are receiving less visual information than the camera is recording under time-pressured circumstances, you are going to be more dependent on context and movement in assessing and reacting to potential threats. In dim light, a suspect's posturing will likely mean more to you immediately than some object he's holding. When footage is reviewed later, it may be evident that the object in his hand was a cell phone, say, rather than a gun. If you're expected to have seen that as clearly as the camera did, your reaction might seem highly inappropriate."

On the other hand, he notes, cameras do not always deal well with lighting transitions. "Going suddenly from bright to dim light or vice versa, a camera may briefly blank out images altogether," he says.

5. Your body may block the view.

"How much of a scene a camera captures is highly dependent on where it's positioned and where the action takes place," Lewinski notes. "Depending on location and angle, a picture may be blocked by your own body parts, from your nose to your hands."

"If you're firing a gun or a Taser, for example, a camera on your chest may not record much more than your extended arms and hands. Or just blading your stance may obscure the camera's view. Critical moments within a scenario that you can see may be missed entirely by your body cam because of these dynamics, ultimately masking what a reviewer may need to see to make a fair judgment."

6. A camera only records in 2-D.

Because cameras don't record depth of field—the third dimension that's perceived by the human eye—accurately judging distances on their footage can be difficult.

"Depending on the lens involved, cameras may compress distances between objects or make them appear closer than they really are," Lewinski says. "Without a proper sense of distance, a reviewer may misinterpret the level of threat an officer was facing."

In the *Force Science Certification Course*, he critiques several camera images in which distance distortion became problematic. In one, an officer's use of force seemed inappropriate because the suspect appears to be too far away to pose an immediate threat.

In another, an officer appears to strike a suspect's head with a flashlight when, in fact, the blow was directed at a hand and never touched the head.

"There are technical means for determining distances on 2-D recordings," Lewinski says, "but these are not commonly known or accessed by most investigators."

7. The absence of sophisticated time-stamping may prove critical.

The time-stamping that is automatically imposed on camera footage is a gross number, generally measuring the action minute by minute. "In some high-profile, controversial shooting cases that is not sophisticated enough," Lewinski says. "To fully analyze and explain an officer's perceptions, reaction time, judgment, and decision-making it may be critical to break the action down to units of one-hundredths of a second or even less.

"There are post-production computer programs that can electronically encode footage to those specifications, and the *Force Science Institute* strongly recommends that these be employed. When reviewers see precisely how quickly suspects can move and how fast the various elements of a use-of-force event unfold, it can radically change their perception of what happened and the pressure involved officers were under to act."

8. One camera may not be enough.

"The more cameras there are recording a force event, the more opportunities there are likely to be to clarify uncertainties," Lewinski says. "The angle, the ambient lighting, and other elements will almost certainly vary from one officer's perspective to another's, and syncing the footage up will provide broader information for understanding the dynamics of what happened. What looks like an egregious action from one angle may seem perfectly justified from another.

"Think of the analysis of plays in a football game. In resolving close calls, referees want to view the action from as many cameras as possible to fully understand what they're seeing. Ideally, officers deserve the same consideration. The problem is that many times there is only one camera involved, compared to a dozen that may be consulted in a sporting event, and in that case the limitations must be kept even firmer in mind.

9. A camera encourages second-guessing.

"According to the U. S. Supreme Court in *Graham v. Connor*, an officer's decisions in tense, uncertain, and rapidly evolving situations are not to be judged with the '20/20 vision of hindsight,' " Lewinski notes. "But in the real-world aftermath of a shooting, camera footage provides an almost irresistible temptation for reviewers to play the coulda-shoulda game.

"Under calm and comfortable conditions, they can infinitely replay the action, scrutinize it for hard-to-see detail, slow it down, freeze it. The officer had to assess what he was experiencing while it was happening and under the stress of his life potentially being on the line. That disparity can lead to far different conclusions.

"As part of the incident investigation, we recommend that an officer be permitted to see what his body camera and other cameras recorded. He should be cautioned, however, to regard the footage only as informational. He should not allow it to supplant his first-hand

memory of the incident. Justification for a shooting or other use of force will come from what an officer reasonably perceived, not necessarily from what a camera saw.”

[For more details about FSI’s position on whether officers should be allowed to view video of their incidents, see *Force Science News* #114 (1/17/09). You will find online it at: www.forcescience.org/fsnews/114.html]

10. A camera can never replace a thorough investigation.

When officers oppose wearing cameras, civilians sometimes assume they fear “transparency.” But more often, Lewinski believes, they are concerned that camera recordings will be given undue, if not exclusive, weight in judging their actions.

“A camera’s recording should never be regarded solely as *the* Truth about a controversial incident,” Lewinski declares. “It needs to be weighed and tested against witness testimony, forensics, the involved officer’s statement, and other elements of a fair, thorough, and impartial investigation that takes human factors into consideration.

“This is in no way intended to belittle the merits of body cameras. Early testing has shown that they tend to reduce the frequency of force encounters as well as complaints against officers.

“But a well-known police defense attorney is not far wrong when he calls cameras ‘the best evidence and the worst evidence.’ The limitations of body cams and others need to be fully understood and evaluated to maximize their effectiveness and to assure that they are not regarded as infallible ‘magic bullets’ by people who do not fully grasp the realities of force dynamics.”

Our thanks to Parris Ward, director and litigation graphics consultant with Biodynamics Engineering, Inc., for his help in facilitating this report.

For more information on the work of the Force Science Institute, visit www.forcescience.org. To reach the Force Science News editorial staff please e-mail: editor@forcescience.org.

Greetings,

I met James Wolfer in October 2010 while we were both employed by the Warm Springs Police Department, I became employed with the Warm Springs Police Department in September 2010, and James was hired approx one month later.

Due to our different hire dates, he and I were in different phases of our field training, but I observed early on James had what appeared to be an attention for detail with interviews, investigations, and reports. I observed James was well spoken and confident in his job, and appeared to possess a high level of education which was easy to identify while speaking with him and from reading his police reports. To this day James' Warm Springs Police Department police reports are some of the best police reports I have ever read.

I observed James' investigations were methodical, honest, logical, and fair. I never observed James take any short cuts or engage in any questionable practices. I worked with James repeatedly and handled countless calls for service with him. At no time did I ever observe anything dishonest or unethical. James always had a calm, professional, and logical demeanor. I never observed James abuse his police powers in any way, and all use of force incident I was aware of always appeared reasonable and justified.

There were a total five officers hired around the same time James and I hired, and James quickly became my favorite officer to work with. I attended the D.P.S.S.T. police academy with James and during our time there I observed he became liked and respected by the rest of the class, and was always helpful to other new recruits.

James and I have maintained a friendship since we both left the Warm Springs Police Department. I continue to visit with James on a regular basis, and I know he is still working in a career where he is regularly conducting investigations. I also know James is still an active Coast Guard member and conducts law enforcement operations in that capacity.

I am still currently employed in full time law enforcement and I have on multiple occasions contacted James with law enforcement related questions, and I have always trusted and respected his opinions and advice. And if I was given the opportunity to work with James in a law enforcement capacity again I would do so without hesitation.

Fred Dilworth.
[REDACTED]



0754
26 DEC 18

MEMORANDUM

From: J. R. Armstrong, ME1
STA PORTLAND

Reply to
Attn of: Jason R. Armstrong ME1
909-758-6262

To: Whom it May Concern

Subj: ME2 James Wolfer, ---5776

The purpose of this letter is to speak to the character of Petty Officer James Wolfer. I have known Petty Officer Wolfer for over four years while working together at Station Portland as reserve members of the United States Coast Guard. We have performed numerous waterborne law enforcement missions together, and for the last three years I have served as Petty Officer Wolfer's direct supervisor.

Petty Officer Wolfer has proven himself to me to be a man of integrity and someone that I can count on. I have never once questioned his judgement in a law enforcement capacity in the performance of his duty here at the station. Petty Officer Wolfer has demonstrated leadership in volunteering to train other members at the station on a variety of law enforcement skills. He is dependable and often volunteers to assist with additional tasks that need to be accomplished at the station. I have full faith in Petty Officer Wolfer's ability and forthrightness as a law enforcement officer. I can be reached on my cell phone at (909) 758-6262 or by email at Jason.r.armstrong@uscg.mil if you have any further questions.

#



POLK COUNTY

POLK COUNTY COURTHOUSE * DALLAS, OREGON 97338-3177

CRIMINAL DIVISION * (503) 623-9268

SUPPORT ENFORCEMENT * (503) 623-9269

VICTIM ASSISTANCE * (503) 623-9268

FAX * (503) 623-7556

DISTRICT ATTORNEY

AARON FELTON

District Attorney

felton.aaron@co.polk.or.us



September 28, 2018

G. Aron Perez-Selsky
Attorney at Law
Perez-Selsky Law Office
P.O. Box 1656
315 NE Evans St. # 8 & 9
McMinnville, OR 97128

Re: James Wolfer
OSP Case No.: SP18-001897

Dear Mr. Perez-Selsky:

This matter has been referred back to this office by the Marion County District Attorney's Office after completion of an independent investigation into the conduct of your client, James Wolfer, for the actions he is alleged to have been taken on August 13, 2017.

The purposes of my evaluation of Mr. Wolfer's actions are two-fold. First, to determine whether Mr. Wolfer's conduct constituted any sort of criminal act for which a prosecution is appropriate under Oregon law. Second, whether Mr. Wolfer's actions triggered my duty to disclose his conduct in cases in which he may be called as a witness for the state pursuant to *Brady v. Maryland*. Let me be clear, no analysis I conducted or conclusion I reached should be imparted to any civil or administrative proceeding related to these events which is assigned a lower burden of proof by law.

I have reviewed the written materials as well as the audio and video media compiled as part of the investigations conducted by the Oregon State Police, Dallas Police Department, and Grand Ronde Tribal Police Department. It is important to note that only the Oregon State Police had the benefit of a complete, counseled, interview with Mr. Wolfer to rely on during its investigation. Consequently, I, too, had the benefit of that information before me in reaching my decision.

Based on my review of these materials, I find that there is not sufficient evidence to prove a crime beyond a reasonable doubt. Given the totality of the circumstances, in particular the witness statements and level of threat believed by Mr. Wolfer to be imminent, there is not sufficient

G. Aron Perez-Selsky

September 28, 2018

Page 2

evidence to overcome the use of force justification afforded peace officers in ORS 161.235 – 161.245.

However, I reach a different conclusion as regards my duty under *Brady v. Maryland*. As you know, The United States Supreme Court in *Brady v. Maryland*, as well as the Ninth Circuit Court of Appeals in *United States v. Henthorn*, has held that prosecutors bear a personal responsibility to make the court aware of any materials possessed by an investigative agency that are helpful to the defense. Such materials include not only exculpatory information, but also any findings or substantiated allegations that call into question the credibility of a government witness (impeachment information). The investigations conducted by the Grand Ronde Tribal Police, Dallas Police and Oregon State Police each contain material that would be considered exculpatory if Mr. Wolfer were to be called as a witness for the state in any criminal proceeding. Therefore, pursuant to *Brady v. Maryland*, it will now be the practice of this office to disclose these materials to defense counsel in Polk County cases (or other cases that we are aware of) in which Mr. Wolfer may be called as a witness for the state.

If you have additional questions, please do not hesitate to contact me.

Sincerely,



Aaron Felton
District Attorney

cc: Chief Jake McKnight
Grand Ronde Tribal Police

Kristen L. Hibberds
Oregon Department of
Public Safety Standards and Training



Oregon State Police

Incident: SP18001897

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Oregon State Police

Incident Details:

Incident Type: Assault
Incident time: 08/13/2007 17:03 - 08/13/2017 17:51
Reported time: 01/02/2018 15:53
Incident location: 27100 SW SALMON RIVER HWY, GRAND RONDE, POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO) (Beat: GHQ, Region: NWR) 97347
Incident status: Referred to DA for consideration
Summary: On January 2, 2018, I was tasked with investigating a use of force incident from Grand Ronde Tribal Police Department, located in Polk County. Subsequent investigation revealed that there was not probable cause to charge James Wolfer with Assault IV.

Involved Persons:

Name: SCOTT, KAITLYN **Gender:** Female
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE,
POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO)
(Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: WOOD, MICKEY **Gender:** Male
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE,
POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO)
(Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: MALMQUIST, LEN **Gender:** Male
Classification: Witness **DOB:**
DL:
Address: 27100 SW SALMON RIVER HWY, GRAND RONDE,
POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO)
(Beat: GHQ, Region: NWR) 97347
Telephone: (Cell phone) [REDACTED]

Name: NORWEST, ROBIN **Gender:** Male

Classification: Witness**DOB:****DL:****Address:** 27100 SW SALMON RIVER HWY, GRAND RONDE,
POLK OR USA 97347 (SPIRIT MOUNTAIN CASINO)
(Beat: GHQ, Region: NWR) 97347**Telephone:** (Cell phone) [REDACTED]**Name:** [REDACTED] [REDACTED]**Gender:** Female**Classification:** Witness**DOB:** [REDACTED]**DL:****Address:** [REDACTED] KLAMATH FALLS, KLAMATH
OR USA (Beat: SMO, Region: NWR)**Telephone:** (Cell phone) [REDACTED]**Name:** HERNANDEZ, TIM**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:** 26870 SALMON RIVER HWY, GRAND RONDE, POLK
OR USA 97347 (Beat: MNO, Region: NWR) 97347**Telephone:** (Landline) (503) 879-2417**Name:** MCALLISTER, ROD**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:****Telephone:** (Landline) (503) 879-1828**Telephone:** (Landline) (541) 247-3242**Name:** MCKNIGHT, JAKE**Gender:** Male**Classification:** Police Officer - outside agency**DOB:****DL:****Address:****Name:** WOLFER, JAMES**Gender:** Male**Classification:** Other Involved person**DOB:****DL:****Address:****Telephone:** (Landline) (503) 879-5211**Involved Property:**

- P18005066 / Police recording / Evidence / BODY CAM
- P18005067 / Police recording / Evidence / AUDIO RECORDING
- P18005447 / Police recording / Evidence / AUDIO RECORDING
- P18005449 / Police recording / Evidence / AUDIO RECORDING
- P18005451 / Police recording / Evidence / AUDIO RECORDING

- P18010453 / Police recording / Evidence / AUDIO RECORDING
- P18010454 / Police recording / Evidence / AUDIO RECORDING

Involved Officers:

- Supporting officer / BARRIENTOS, CARLOS / #41614 / OSP / Officer / SALEM DETECTIVES
- Supporting officer / MOISAN, THEODORE / #42094 / OSP / Officer / SALEM DETECTIVES
- Reporting Officer/Case Lead / HEGNEY-BACH, CASI / #49678 / OSP / Officer / SALEM PATROL
- Dispatcher/TC2 / CLEMENTS, ARIN / #56444 / OSP / Officer / DISPATCH

Reports:

General report:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 15:26

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 15:26

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

ASSOCIATED CASES:

Grand Ronde Tribal Police GRT17000673

CRIMES UNDER INVESTIGATION:

Assault IV – ORS 163.160

SUBJECT OF THIS REPORT:

Initial Report – Use of Force

SUSPECT:

Mr. Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

[REDACTED] [REDACTED]

Mother of Victim

Security Guard Robin Norwest

Spirit Mountain Casino

Security Guard Len Malmquist

Spirit Mountain Casino

Security Guard Mickey Wood
Spirit Mountain Casino

Security Guard Kaitlyn Scott
Spirit Mountain Casino

MENTIONED POLICE:

Sergeant Matt Lawson
Oregon State Police

Chief Jake McKnight
Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez
Grand Ronde Tribal Police Department

Sergeant Rod McAllister
Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 – DVD with body camera footage from James Wolfer, dated 8/13/17.

CHB-E2 – Interview with [REDACTED]

CHB-E3 – Interview with Robin Norwest

CHB-E4 – Interview with Len Malmquist

CHB-E5 – Interview with Kaitlyn Scott

CHB-E6 – Interview with Mickey Wood

CHB-E7 – Audio interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

Probable Cause Affidavit from James Wolfer

Incident Report from James Wolfer

Incident Supplement from Tokata Tehama

Dispatch Report

Inter-Office Memorandum, James Wolfer Administrative Leave Investigation

Inter-Office Memorandum Investigation Report

Salem Health West Valley Emergency Report for [REDACTED] [REDACTED]

Arrest Report – Polk County Jail

Dallas Police Department Incident Review

Letter of Resignation from James Wolfer

Trespass Notice from Spirit Mountain Casino

Certified Letter that houses Trespass Notice

Grand Ronde Tribal Police Department Conducted Energy Device Policy

Grand Ronde Tribal Police Department Use of Force Policy

Grand Ronde Tribal Police Department Personnel Complaint Policy

Public Records Request from [REDACTED] [REDACTED]

Taser Certification and Test for James Wolfer

Taser Instructor Certification for Rod McAllister

Taser download for James Wolfer

DPSST Training record for James Wolfer

ACTION TAKEN:

On January 2, 2018, I was tasked with investigating a use of force case from Grand Ronde Tribal Police Department, located in Polk County. Sergeant Matt Lawson explained to me that the use of force occurred between former police officer, James Wolfer and a male he arrested, [REDACTED] [REDACTED] on August 13, 2017. Sergeant Matt Lawson told me the case involved Mr. Wolfer and the use of his taser during the arrest of Mr. [REDACTED]

I read through the documents of this case, watched the body camera footage from James Wolfer and interviewed witnesses. According to the Grand Ronde Tribal Police Dispatch Report the following events occurred prior to Mr. Wolfer making contact with Mr. [REDACTED]

- 5:03pm initial call for service came from Spirit Mountain Casino. Casino reported a trespass.
- 5:04pm – 5:05pm, trespasser identified as [REDACTED] [REDACTED] descriptors were given. Male had been trespassed from casino before.
- 5:06pm, security officers were watching Mr. [REDACTED]
- 5:09pm, confirmed warrant for Assault II, felony cautions reported.
- 5:10pm, Mr. Wolfer steps up response to casino and then also arrived on scene.

On January 2, 2018, I reviewed Mr. Wolfer's body camera. Here is a summary of what I saw on Mr. Wolfer's body camera:

On August 13, 2017 at approximately 5:11pm, Mr. Wolfer was on duty and in uniform. At this time Mr. Wolfer activated his body camera at Spirit Mountain Casino. He was on a call for service dealing with a trespassed male named [REDACTED] [REDACTED]

Mr. Wolfer got out of his patrol vehicle and briefly talked to a security officer, who told him where Mr. [REDACTED] was located in the parking lot. Mr. Wolfer ran toward Mr. [REDACTED] in the parking lot while also pulling out his Taser. A female appeared to be with Mr. [REDACTED]

As Mr. Wolfer ran toward Mr. [REDACTED] he yelled, "Hey Stop, Police. Stop, get on the ground." Mr. Wolfer had his Taser pointed toward Mr. [REDACTED] The female, later identified as [REDACTED] [REDACTED] said, "What do you want?"

Mr. Wolfer yelled, "Get on the ground now!" Ms. [REDACTED] asked, "Me?" Ms. [REDACTED] at this time stepped between Mr. Wolfer and Mr. [REDACTED] Mr. Wolfer yelled commands to Mr. [REDACTED] and Ms. [REDACTED] and he used his hands to point at which person he was referring; Mr. Wolfer began yelling commands, "No not you. Back up. Go to the side. You on the ground. Get on the ground now! Move aside. Get on the ground or you will be tased. Back away, get on the ground, now." Get on the grou. . ." While Mr. Wolfer was yelling, Mr. [REDACTED] put his hands up in the air and took steps backwards.

Next Ms. [REDACTED] took a step toward Mr. Wolfer and at the same time Mr. Wolfer pulled the trigger on his Taser deploying a taser cartridge that hit Mr. [REDACTED] in the front of his upper body. Mr. [REDACTED] fell forward to the ground and then he rolled onto his back. Ms. [REDACTED] yelled, "You mother fucker!"

Mr. Wolfer said to Ms. [REDACTED] "Get on the ground or you will be tased too!" Ms. [REDACTED] yelled back "Fucking do it, bitch!" Mr. Wolfer continued to tell Ms. [REDACTED] to get on the ground. Security Supervisor Mickey Wood stepped in front of Ms. [REDACTED] At this time, Mr. [REDACTED] was lying on his back with his arms extended out to his sides and he remained motionless.

Mr. Wolfer requested Dispatch to send medics to his location. Mr. Wolfer told Ms. [REDACTED] to say away. Mr. Wolfer then told Mr. [REDACTED] two times to roll over onto his side and Mr. [REDACTED] complied with the commands and rolled onto his stomach.

Mr. Wolfer told Mr. [REDACTED] he was under arrest for a warrant and trespassing. He knelt down, gave Mr. [REDACTED] commands so he could place him in handcuffs and Mr. [REDACTED] complied.

While Mr. Wolfer was cuffing Mr. [REDACTED] Ms. [REDACTED] continued yelling at Mr. Wolfer and Mr. Wolfer yelled back at her.

Once in handcuffs Mr. [REDACTED] asked several times, "What did I do?" Mr. [REDACTED] appeared to be getting getting agitated during the verbal exchange between Mr. Wolfer and Ms.

While Mr. [REDACTED] was asking, "What did I do," he started pushing slightly off the ground with his knees; his head stayed on the ground. Mr. Wolfer then told Mr. [REDACTED] he had a warrant. Mr. [REDACTED] still appeared agitated and flexed his arms and rolled slightly onto his left shoulder and then he rolled back onto his stomach. Mr. Wolfer warned Mr. [REDACTED] to stay on the ground or he would tase him again. Mr. [REDACTED] said, "Fuck you" and Mr. Wolfer activated a five second taser cycle. Mr. [REDACTED] was not flexing or rolling or moving his knees at the time Mr. Wolfer activated the taser probes.

After the taser cycled, Mr. Wolfer said, "Don't move or you'll get it again." He then said to Mr. [REDACTED] "You done? You pull away from me again you'll get it again. Turn your head the other way, turn your head." Mr. Wolfer put his hand on the back of Mr. [REDACTED] head to turn his head and Mr. [REDACTED] moved his head to face away from Mr. Wolfer.

At approximately 5:22pm Mr. [REDACTED] brother, [REDACTED] Mr. [REDACTED] arrived on scene. Mr. [REDACTED] did not recognize [REDACTED] and said, "Who the fuck are you?" Mr. [REDACTED] was verbally argumentative throughout the rest of the video footage. Mr. [REDACTED] speech was repetitive and slurred. He repeatedly asked what he did wrong and asked why he got tased.

At approximately 5:23pm, medics arrived on scene. At approximately 5:26pm medics checked Mr. [REDACTED] for injuries and found he had an elevated heart rate and no injuries. During this time Mr. Wolfer was talking to a Deputy La Combe and explained the situation including that Mr. [REDACTED] was intoxicated.

At approximately 5:30pm, Mr. Wolfer talked to one of the Spirit Mountain's security personnel and told him that he tased Mr. [REDACTED] because Mr. [REDACTED] squared up on him.

At approximately 5:34pm, Mr. Wolfer helped Mr. [REDACTED] stand and then he double locked the handcuffs. At approximately 5:35pm, Mr. Wolfer and Mr. [REDACTED] walked to Mr. Wolfer's patrol vehicle and Mr. [REDACTED] was placed in the backseat.

At approximately 5:37pm, Mr. Wolfer transported Mr. [REDACTED] to the Polk County Jail. At approximately 5:39pm, Mr. Wolfer called Sergeant McAllister via telephone and told him the following:

"Hey just thought I'd let you know uh I tased [REDACTED] [REDACTED] So calling you for the use of force. It was right when LT went uh end of watch so he couldn't back me up. So he was already gone. So... uh...he [REDACTED] was trespassed and uh also had a felony warrant, wouldn't stop when I told to his mom was getting in the middle and then he squared up on me and so I had to tase him. And then I actually hit him a second time because he was resisting when I put the...when I was trying to get the cuffs on by myself so."

Mr. Wolfer continued telling Sergeant McAllister that Mr. [REDACTED] was medically cleared on scene and that he was on his way to Polk County Jail. During transport there was a banging sound and Mr. Wolfer told McAllister that Mr. [REDACTED] was banging his head against the car. Mr. Wolfer ended his phone call with McAllister and then Mr. [REDACTED] began yelling in the backseat asking what he did. Mr. Wolfer told Mr. [REDACTED] he was trespassing. Mr. [REDACTED] continued yelling for a few minutes including making threats that Mr. Wolfer may end up

getting killed and then he was silent for a while.

At approximately 5:48pm, Mr. Wolfer radioed to dispatch to let the jail know to have multiple deputies ready to help because Mr. [REDACTED] was making threats to harm police. At approximately 5:54pm, there was a banging sound and Mr. Wolfer told Mr. [REDACTED] to stop. Mr. [REDACTED] again asked where he was going. Mr. [REDACTED] began yelling again and was argumentative. Mr. Wolfer initially talked with him and then ignored Mr. [REDACTED] yelling.

At approximately 6:03pm, Mr. Wolfer arrived at Polk County Jail. Mr. [REDACTED] refused to give a breath sample to jail staff to show level of intoxication. Mr. Wolfer transported Mr. [REDACTED] to Salem Health West Valley Emergency room where he was medically cleared; report is attached.

At approximately 6:40pm, Mr. Wolfer returned to the jail and lodged Mr. [REDACTED] on for the following charges (according to the Probable Cause Affidavit):

1. "ORS 162.245 Criminal Trespass II – for being at Spirit Mountain Casino after previously being arrested from criminal trespass at that location and being told he was permanently trespassed from the location."
2. "ORS 162.247 Interfering with a Police Officer, when Mr. [REDACTED] refused to stop and get on the ground when I [Wolfer] gave him several loud verbal commands to stop walking and lay down on the ground."
3. "ORS 162.315 Resisting Arrest: for attempting to pull away from me [Wolfer] after I told him he was under arrest."
4. ORS166.025 Disorderly Conduct in the second degree: For yelling loudly in the parking lot, causing multiple patrons to stop and stare, as well as being verbally confrontational with casino security."
5. "Yamhill Court Felony Warrant 17CR53185."

I reviewed the Probable Cause Affidavit and the Arrest Report for the Polk County Jail, dated August 13, 2017. I found the following actions listed in the report were not seen in the body camera footage (these were addressed during the interview with Mr. Wolfer):

- Mr. [REDACTED] yelling at Mr. Wolfer when confronted in the parking lot at Spirit Mountain Casino.
- Mr. [REDACTED] walking away during the confrontation with Mr. Wolfer.
- Mr. [REDACTED] turning towards Mr. Wolfer and taking an aggressive stance while yelling and "squaring up" his body.
- After first tase, Mr. [REDACTED] rolling away from Mr. Wolfer and continuing this behavior until the taser was activated for a second cycle.

I reviewed the Incident Report written by Mr. Wolfer on 8/14/17. Mr. Wolfer addressed some of the above discrepancies by writing, "I later reviewed my body camera footage and observed that directly before I activated by Taser, [REDACTED] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that Ms. [REDACTED] was approaching me and I believed I was about to be assaulted and

would have to fight both Ms. [REDACTED] and [REDACTED] without a cover unit."

I reviewed the Incident Supplement Report written by Grand Ronde Tribal Police Department Tokata Tehama. In the report he wrote that on 8/13/17 at approximately 2015 hours he went to Spirit Mountain Casino and retrieved the Anti-Felon Identification Tags (AFID Tags) from the Taser deployment and placed them into evidence for Mr. Wolfer.

I reviewed the Inter-Office Memorandum, James Wolfer Administrative Leave Investigation written by Lieutenant Tim Hernandez. According to this memorandum Lieutenant Hernandez reviewed the body camera footage from Mr. Wolfer dated 8/13/17 and concluded the following:

- The Taser application that he witnessed on the body camera footage violates Confederated Tribes Grand Ronde (CTGR) policy 304.5.1 Application of Taser. This policy states that the Taser device may be used when such application is reasonably necessary to control a person that is violent or physically resisting or the subject has demonstrated by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm to others.

According to the Inter-Office Memorandum, James Wolfer Administrative Leave Investigation on 8/14/17 at approximately 10:24am, Lieutenant Hernandez met with Mr. Wolfer and placed him on paid administrative leave. On 8/15/17, Lieutenant Hernandez made phone contact with the City of Dallas Police Chief Tom Simpson and requested a use of force review. On 8/16/17 Dallas Police Lieutenant Mott completed a use of force report.

I reviewed the Dallas Police Department Incident Review. In the Incident review Lieutenant Mott wrote that Mr. Wolfer violated several sections of the Conducted Energy Device Policy (Taser Policy):

- 304.5.1 Application of Taser (already addressed above).
- 304.5.2 (d) by using a Taser on a handcuffed person who could otherwise be restrained without meeting threshold of increased risk to himself, the suspect or others.
- 304.5.2(f) by tasing an individual who was standing on an asphalt parking lot.
- 304.5.5 "This policy required Mr. Wolfer notify a supervisor of the Taser device discharge. It is an implicit component of advising the supervisor to be honest in the recounting of the event.

I reviewed the Inter-Office Memorandum Investigation Report written by Sergeant Rod McAllister. In this report Sergeant McAllister reviewed the body camera and reports written by Mr. Wolfer and recommended Mr. Wolfer's employment be terminated due to the following policy violations:

- Policy 319 Standards of Conduct; 319.5.8 Performance(a)(b)(c) deals with false statements, falsifying documents and failing to report false statements, etc.
- Policy 319 Standards of Conduct; 319.5.9 Conduct (b)(c)(h) deals with unreasonable force, exceeding lawful authority and criminal dishonest or disgraceful conduct.

I interviewed the following people in this case:

1. Chief Jake McKnight – Grand Ronde Tribal Police Department
2. Lieutenant Tim Hernandez – Grand Ronde Tribal Police Department
3. Sergeant Rod McCallister – Grand Ronde Tribal Police Department
4. [REDACTED] [REDACTED] – mother of [REDACTED] [REDACTED]
5. Robin Norwest – Security guard at Spirit Mountain Casino
6. Len Malmquist – Security guard at Spirit Mountain Casino
7. Mickey Wood – Security guard at Spirit Mountain Casino
8. Kaitlyn Scott – Security guard at Spirit Mountain Casino
9. James Wolfer – Suspect and former police officer at Grand Ronde Tribal Police Department

The four security guards I interviewed regarding this case believe Mr. Wolfer acted appropriately and professionally and used the appropriate level of force to control the situation. They all told me Mr. [REDACTED] was trespassing at Spirit Mountain Casino and he had a warrant for Assault II. They also told me Mr. [REDACTED] was intoxicated, confrontational, belligerent and they believed him to be a violent and dangerous individual. See the interview reports, the audio recordings and the transcripts for Robin Norwest, Len Malmquist, Mickey Wood and Kaitlyn Scott for more details.

All of those interviewed, who saw Mr. [REDACTED] inside the Spirit Mountain Casino on August 13, 2017 told me he was intoxicated and confrontational. When I interviewed Mr. [REDACTED] mom, she admitted her son was intoxicated and acting irrationally. However, she believed Mr. Wolfer used excessive force when he tased Mr. [REDACTED]

Ms. [REDACTED] told me Spirit Mountain Casino sent a trespass notice to Mr. [REDACTED] after this incident. She sent me a picture of the certified envelope, dated 8/22/17 and the Notice of Trespass. The letter states [REDACTED] [REDACTED] is indefinitely excluded from the Spirit Mountain Casino; signed by Security Manager Mickey Wood and dated 8/19/17.

I asked Ms. [REDACTED] for contact information for Mr. [REDACTED]. She told me he was living in the Portland area with his girlfriend. She gave me the cell phone number to his girlfriend, [REDACTED]. I gave Ms. [REDACTED] my contact information and she told me she would try to get Mr. [REDACTED] to call me. See the interview report, audio recording and transcript from the interview with Ms. [REDACTED] for more information.

I made several attempts to reach Mr. [REDACTED]. I did get ahold of [REDACTED] [REDACTED] on 1/25/18 and told her I needed to talk with Mr. [REDACTED] and I explained the investigation to her. I gave her my contact information. I stopped attempting to make contact in the beginning of February. I have not heard back from Mr. [REDACTED] as of the day of this report.

On January 8, I met with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McAllister from Grand Ronde Tribal Police Department. Collectively they provided me with the following documents:

- Grand Ronde Tribal Police Department Conducted Energy Device Policy
- Grand Ronde Tribal Police Department Use of Force Policy

- Grand Ronde Tribal Police Department Personnel Complaint Policy
- Public Records Request from [REDACTED] seeking reports and video from the incident that occurred on 8/13/17.
- Taser Certification and Test for James Wolfer
- Taser Instructor Certification for Rod McAllister
- Taser download for James Wolfer

From my interviews with Chief McKnight, Lieutenant Hernandez, Sergeant McAllister and Mr. Wolfer, I found Mr. Wolfer was never interviewed regarding this incident. Mr. Wolfer was placed on paid administrative leave on 8/14/17. Mr. Wolfer had a meeting with Lieutenant Hernandez on 8/18/17 and he was told they were recommending termination due to violating the Standards of Conduct and Taser policies. Mr. Wolfer wrote a letter of resignation that day; attached to this report.

I additionally found from my interviews with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McAllister that they unanimously believe that Mr. Wolfer used excessive force that rose to the level of a criminal assault. However the investigation report completed by Sergeant Rod McAllister did not address excessive force. See the interview reports with Chief Jake McKnight, Lieutenant Hernandez and Sergeant McAllister and the Investigation Report completed by Sergeant McAllister for more information.

On March 2, I interviewed former Police Officer James Wolfer regarding the events that occurred on August 13, 2017. Mr. Wolfer went into detail describing his interaction with Mr. [REDACTED]. Mr. Wolfer told me he was by himself. He told me while he was responding to the scene, his supervisor warned him that Mr. [REDACTED] usually has his brother with him and then his supervisor went off duty. He told me his back up from Polk County was at least ten minutes away. He told me from his experience, most security officers won't get involved in physical confrontations. He told me he was aware that Mr. [REDACTED] was violent, uncooperative, and aggressive prior to his arrival on scene.

Once on scene, the situation became more serious because he was faced with Mr. [REDACTED] and an unknown female who was interfering with him making an arrest. He stated Mr. [REDACTED] was larger than him in size and was not cooperative. He told me he also believed Mr. [REDACTED] brother was somewhere in the area. After being cuffed, Mr. [REDACTED] began resisting again and Mr. Wolfer believed the unknown woman would make an effort to assault him in an effort to free Mr. [REDACTED]. The unknown woman was later identified as [REDACTED] mother. Mr. Wolfer said he used his Taser to control the situation and stop Mr. [REDACTED] from resisting further. Looking at the totality of the circumstances, Mr. Wolfer told me he used the force he felt necessary in order to make an arrest.

Mr. Wolfer was able to articulate himself well and he addressed the differences seen on the video compared to his reports. He talked about having tunnel vision and how the camera did not pick up what he was feeling and seeing. Mr. Wolfer also explained that he was scared during this incident and Lieutenant Hernandez told me during his interview that Mr. Wolfer did not do well with hostile contacts.

In addition, from 2011 through 2017, Mr. Wolfer only attended one, one hour defensive tactics training class. He Wolfer did not meet the maintenance standards set by DPSST for annual required training for use of force. DPSST requires 8 hours every year for use of force or firearms. From June 2016 to August 2017, Mr. Wolfer attended 6 hours of training, five of them for firearms and one hour for defensive training; Counter Assault.

See the interview report, audio recording and transcript from the interview with Mr. Wolfer for more information.

The victim in this case, [REDACTED] [REDACTED] was not cooperative and did not give a statement during this investigation.

DISPOSITION:

Refer to the Marion County District Attorney's Office for consideration.

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 13:52

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 13:52

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview - [REDACTED]

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED]
Mother of [REDACTED]

DOB: [REDACTED]

[REDACTED] - Victim

DOB: [REDACTED]

[REDACTED]

Girlfriend of [REDACTED]

Phone: [REDACTED]

Security Manager Mickey Wood

Spirit Mountain Casino

EVIDENCE:

CHB-E2 - Interview with [REDACTED]

ATTACHED:

Oregon State Police Property Report Form 65

Trespass Notice from Spirit Mountain Casino

Certified Letter Envelope that housed Trespass Notice

ACTION TAKEN:

On January 12, 2018 at approximately 10:23am I interviewed [REDACTED] via telephone. I told Ms. [REDACTED] our conversation was being recorded and I asked her to tell me what she witnessed on August 13, 2017 concerning her son, [REDACTED]

Ms. [REDACTED] told me that on August 12, 2017 she and her son were headed back home from a Pow-Wow in Siletz. She told me they stopped at Spirit Mountain Casino to eat at the buffet. She told me when she went to pay for the buffet she realized she needed her tribal identification in order to get a discount. She told me she went back to her car and grabbed her ID and when she got back her son was gone.

Ms. [REDACTED] told me staff told her [REDACTED] was using the bathroom. She told me she waited for a long time and then knocked on the men's bathroom door and he wasn't in there. She told me she went looking for him. She told me at first she couldn't find him and she ended up ordering food in the deli. She told me she finally found him in the lounge sitting at a bench seat and there were two security guards at each exit. She told me the security guards were staring at [REDACTED]. She told me she walked up to her son and told him they were leaving.

Ms. [REDACTED] told me [REDACTED] seemed drunk and she thought how could he be drunk when they had only been at the casino for around twenty to twenty five minutes. She told me she asked the bartender if she gave him shots. She told me the bartender said she only gave him bread and water. She told me she locked arms with her son at the elbow and said, "Let's go."

Ms. [REDACTED] continued telling me [REDACTED] was being difficult and he didn't want to leave. She told him she ordered food from the deli and they needed to go pick it up and leave. She told me the security guards followed them when they left. She told me they exited the lounge through the high stakes gaming area. She told me [REDACTED] grabbed a chair that was sitting at one of the slot machines and knocked it over. She told me she scolded him and told him he was going to make things worse.

Ms. [REDACTED] told me they went to the deli and got their food and the security guards were still following them from a distance and watching them. She told me the security guards did not talk with her.

I asked Ms. [REDACTED] if she talked with [REDACTED] about why security guards were following them and she told me [REDACTED] seemed drunk and was slurring his words so she didn't feel like she could ask him. She told me she just wanted to get out of there.

Ms. [REDACTED] told me while they were in the parking lot walking towards her car Officer Wolfer came racing towards them with his taser drawn. Below is an excerpt from the interview with Ms. [REDACTED] {page 2, lines 1 – 41}.

[REDACTED] Um, well, I was trying to get my son to leave the casino with me, uh, 'cause we ordered food to go and it was ready, and so we got our food from the deli and we were walking out the, um, entrance near, um, the, uh, Legends **** and, uh, we went out that way and were probably 30 or 40 feet from my car when, um, we heard Officer Wolfer, I didn't know who he was at the time, but, uh, come running up behind us with his taser drawn, yelling at us stop or I'm gonna tase you, and took my son and I both – we were, I do, we were the only people I saw around the parking lot 'cause I looked around like is he talking to us?

Detective Hegney-Bach: Mm hmm.

[REDACTED] And, and, uh, turned around and looked at him and we both stopped and, uh, I wanna say we threw our hands up and said what, what did we do, we didn't do anything.

Detective Hegney-Bach: Yeah.

[REDACTED] And, uh, and he told me, he threatened me saying, um, because my son was walking in front of me, so when we turned around to face Officer Wolfer that made me in between Officer Wolfer and my son, and, and he said if you don't move, if you don't get out of the way I'm gonna tase you and I said what, I didn't do anything, and, and I kept saying we didn't do anything. What, what do you want and, and my son stepped out from behind me and, and he just tased him.

Detective Hegney-Bach: Mm hmm, okay.

██████████ And, um, and he just stiffened up and fell over and, um, it really – that was traumatizing to see your son get tased like that 'cause, I mean it's the helpless situation. I mean he –

Detective Hegney-Bach: Yeah.

██████████ – fell over and I told him like right away like that was totally uncalled for, that was unnecessary, what's this all about?

Detective Hegney-Bach: Yeah.

██████████ And, um, he just started going over to my son and, and putting handcuffs on him and as he was laying there still stiff and I look at the security officers around there who apparently had gone and got, called the tribal police officer, uh, to come and arrest him and he said there's a warrant for his arrest. I said out of where and he said that doesn't concern you, and, um, and I pulled out my phone to, um, video record it, but I didn't have enough memory on my phone to video record anything.

Ms. ██████████ told me one of the security guards asked Officer Wolfer if he wanted him to take her (Ms. ██████████) down. She told me Officer Wolfer said it's okay she can take pictures and record video.

Ms. ██████████ told me she called her other son ██████████, who was working in the casino and he came out to the scene. She told me she felt like she was being bullied by the officer and the security guards, but once ██████████ showed up everyone calmed down. She told me Officer Wolfer was being rough on her son and had his knee in the back of his head like was trying to grind his face into the asphalt. She told me when ██████████ showed up Officer Wolfer loosened up and let up on his knee. Ms. ██████████ told me ██████████ convinced her to leave the scene and she went home to Kiamath Falls.

Ms. ██████████ told me she saw Highpine around a week later at the Polk County Jail and she told me she did not see any obvious injury on ██████████. She told me she saw a little discoloration, like old bruises faded from the left side of his face around his forehead and cheek. She thought the mark was probably where ██████████ fell and hit the concrete. She told me Highpine also complained to her that he was sore where the taser probes hit him.

I asked Ms. ██████████ if she knew how I could get ahold of ██████████. She told me he lives in the Portland area with his girlfriend, ██████████. She told me she doesn't know exactly where they are living but she gave me Ms. ██████████ phone number.

Ms. ██████████ told me Spirit Mountain sent a delayed trespass notice to ██████████. She told me she had the notice and would send it to me. I asked her if ██████████ knew he was trespassed from the casino. She told me she thought ██████████ was aware because she talked with ██████████ and ██████████ told her they went in June 2017 and they told him to leave and that he was going to be trespassed. She told me ██████████ told her ██████████ was drunk at the time.

This concluded our interview. Ms. ██████████ sent me a picture of the certified envelope, dated 8/22/17 and the Notice of Trespass. The letter states ██████████ is indefinitely excluded from the Spirit Mountain Casino; signed by Security Manager Mickey Wood and dated 8/19/17.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:26

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:26

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Robin Norwest

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Robin Norwest

Security Officer at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Moisan

Oregon State Police

EVIDENCE:

CHB-E3 – Interview with Robin Norwest

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Moisan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 3:11pm we interviewed Robin Norwest. I told Mr. Norwest our conversation was being recorded and I asked him to tell me what he witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Mr. Norwest told me on August 13, 2017 he was dispatched to handle an intoxicated person. He told me he recognized [REDACTED] [REDACTED] because he has dealt with him before. He told me Mr. [REDACTED] was intoxicated and he knew this because Mr. [REDACTED] was rambling, the way he smelled, and his lack of focus. He told me Mr. [REDACTED] was happy one moment and sad the next. He told me Mr. [REDACTED] was in the lounge but the lounge did not serve him any alcohol, he showed up intoxicated.

Mr. Norwest told me he asked Mr. [REDACTED] to leave the premises. He told me he told Mr. [REDACTED] he would not be served anymore and he needed to leave because he was excluded from the casino. He told me Mr. [REDACTED] got really mad and started screaming at him; cussing and swearing.

Mr. Norwest continued telling me when Mr. [REDACTED] left the lounge he went through High Stakes area and knocked over chairs because he couldn't walk well, he was stumbling and his mom had to hold him up.

My audio recorder ran out of batteries around this time. I restarted a recording at approximately 3:19pm.

Mr. Norwest continued telling me Mr. [REDACTED] exited the building with his mother out of the valet entrance. He told me they were in the green parking lot. He told me he saw Officer Wolfer walk up and he told Officer Wolfer Mr. [REDACTED] was in the red shirt and pointed to his location. He told me he saw Officer Wolfer approach Mr. [REDACTED]

Below is an excerpt from the interview with Mr. Norwest (page 2, lines 30 – 36).

Robin Norwest: Well, the verbal commands he was giving him to stop, he was ignoring 'em, cussing and swearing. He was still cussing and swearing at me. His mom kept trying to grab him and *** on the ground. He refused, kept doing over and over, I don't know how many times he told them, you know, ****. Finally told him that he needed to get down or he will be tased. [REDACTED] didn't seem to care about that, and he got tased, went down, kept fighting with Wolfer while he was down, got tased the second time, and then became pretty compliant. Got the cuffs on. Wolfer kind up helped him up a little bit, sitting up.

Mr. Norwest told me he was standing approximately five feet away from Officer Wolfer during the confrontation with Mr. [REDACTED]. He told me Mr. [REDACTED] mom kept trying to get involved and they had to ask her multiple times to step away. He told me Mr. [REDACTED] mom was cussing and swearing at them. He told me Mr. [REDACTED] brother who works at the casino came outside and talked with his mother and told her to go home. He told me Mr. [REDACTED]'s mom finally left around this time.

Mr. Norwest told me he thinks Mr. [REDACTED] is dangerous, but Mr. [REDACTED] has never assaulted any of the casino staff and has only verbally combative.

Mr. Norwest continued telling me he thinks Officer Wolfer did the right thing. He told me he does not see any issues with how Officer Wolfer handled the situation.

This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:29

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Len Malmquist

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Len Malmquist

Security Officer at Spirit Mountain Casino

Robin Norwest

Security Officer at Spirit Mountain Casino

Mickey Wood

Security Supervisor at Spirit Mountain Casino

Kaitlyn Scott

Security Officer at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Moisan

Oregon State Police

EVIDENCE:

CHB-E4 – Interview with Len Malmquist

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Moisan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 3:36pm we interviewed Len Malmquist. I told Mr. Malmquist our conversation was being recorded and I asked him to tell me what he witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Mr. Malmquist told me he was an acting supervisor on August 13, 2017 and the security staff got a call from surveillance saying that [REDACTED] [REDACTED] an excluded person was in Summit View Lounge. He told me Mr. [REDACTED] was trespassed due to his violent tendencies and outbursts. He told me they immediately called for law enforcement. He told me he, Robin Norwest, Supervisor Mickey Wood and Kaitlyn Scott were near a door that goes between the Summit View Lounge and the high stakes area.

Mr. Malmquist told me the Summit View Lounge manager was a woman named Kaylee and Kaylee asked that Mr. [REDACTED] be

removed from the lounge because he was getting very loud and causing a scene. He told me Mr. [REDACTED] appeared intoxicated, he had slurred speech and an unsteady gait. He told me he and the other security staff were keeping an eye on Mr. [REDACTED] but did not contact him at that time.

Mr. Malmquist told me Mr. [REDACTED] mother arrived at the lounge and she was trying to get Mr. [REDACTED] to leave, tugging on him and saying "come on, let's go, let's go." He told me they went out the door that connects the lounge to the high stakes area and Mr. [REDACTED] threw a couple of chairs out of his way and continued to make a scene. He told me he and security were following from a distance. He told me Mr. [REDACTED] and his mom went to the dell. He told me while they were at the dell he heard surveillance come across the radio and say that a tribal police officer was on the property. He told me he broke away to talk with the police officer.

Mr. Malmquist told me he went outside and talked with Officer Wolfer. He told me he told Officer Wolfer that Mr. [REDACTED] was heading towards the valet entrance to exit the casino. He told me Officer Wolfer drove to the valet entrance.

Mr. Malmquist told me he walked around the outside of the building to the valet entrance. He told me he could hear on the radio that Mr. [REDACTED] went from the valet entrance through the green lot. He told me as he approached the area where Officer Wolfer was, he saw Mr. [REDACTED] on the ground face down. Officer Wolfer was trying to handcuff Mr. [REDACTED] and Mr. [REDACTED] was very combative and not following directions.

Mr. Malmquist continued telling me Mr. [REDACTED] mother was trying to interfere with the arrest. He told me Mickey Wood was trying to keep her out of Officer Wolfer's way. He told me he was standing around ten feet away during the confrontation between Officer Wolfer and Mr. [REDACTED]

Mr. Malmquist told me there were a few casino guests in the parking lot and he immediately tasked himself to crowd control. He told me he had his back to the confrontation and he glanced back to make sure things were going ok when he heard yelling. He told me he remembered Officer Wolfer yelling at Mr. [REDACTED] to quit fighting. He told me this happened when Officer Wolfer was trying to handcuff Mr. [REDACTED] while Mr. [REDACTED] was lying face down on the ground.

Below is an excerpt from the transcript from the interview with Mr. Malmquist (page 9 lines 16-18).

Len Malmquist: Uh, when I approached him, he had tased him once. Um, got him on the ground. Was trying to handcuff him. And, then I heard him quit fighting me, quit fighting me, you keep fighting me, I'm gonna tase you again. And, I did hear the second tase.

Mr. Malmquist continued telling me that during the second tase, Officer Wolfer had one wrist handcuffed and was trying to get ahold of Mr. [REDACTED] other wrist. He told me Officer Wolfer was also yelling at Mr. [REDACTED] mother to get out of the area. He told me the following people witnessed the incident besides himself: Kaitlyn Scott, Mickey Wood, Robin Norwest, Mary Williams and Tyler White.

Mr. Malmquist told me Mr. [REDACTED] continued to try and fight after Officer Wolfer put him in handcuffs. He told me Mr. [REDACTED] was "trying to do something. Anything."

I asked Mr. Malmquist if he had any concerns about what happened between Officer Wolfer and Mr. [REDACTED]. He told me he spent fifteen years in the military and four of those years as a military police officer. Below is an excerpt from the interview with Mr. Malmquist regarding some of his training and experience and his opinion regarding the interaction between Officer Wolfer and Mr. [REDACTED] (page 14 lines 22 - 55).

Len Malmquist: - I also spent 5 years as a, um, antiterrorist force protection instruction.

Detective Molsan: Okay.

Len Malmquist: So, I taught self-defense -

Detective Molsan: Uh huh.

Len Malmquist: - I taught non-lethal weapons.

Detective Molsan: Uh huh.

Len Malmquist: Nothing would have tripped any triggers with me.

Detective Molsan: Huh. Okay.

Len Malmquist: He's a single officer. He didn't have a cover officer.

Detective Molsan: Right.

Len Malmquist: [REDACTED] is known to sometimes be violent.

Detective Hegney-Bach: When you say he's been known to be violent, has, has he ever been physically violent with you or any of your staff or anyone you know of?

Len Malmquist: Not hands on.

Detective Hegney-Bach: Okay.

Len Malmquist: Uh, he's thrown chairs around and kicked stuff and –

Detective Hegney-Bach: Okay.

Len Malmquist: – um, and of course, ya know, we've seen his, ya know, on arrest.org.

Mr. Malmquist continued telling me Mr. [REDACTED] grabbed Officer Wolfer a couple times before he was handcuffed. He also told me that Mr. [REDACTED] squared off towards him inside the casino. He told me Mr. [REDACTED] is around 5'11", fit and in his mid to late 20's.

This concluded our interview. I ended the recording at 3:59pm.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/26/2018 14:51

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/26/2018 14:51

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Mickey Wood

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Security Supervisor Mickey Wood

Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

EVIDENCE:

CHB-E6 – Interview with Mickey Wood

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 at approximately 3:33pm, I interviewed Mickey Wood via telephone. Mickey Wood is a security supervisor at Spirit Mountain Casino. Mr. Wood was working On August 13, 2017 and witnessed the events that took place between Officer James Wolfer and [REDACTED]. I asked him to tell me about the events he witnessed.

Below is an excerpt from the transcript from the interview with Mr. Wood (page 3 lines 23 – 55, page 4 lines 1-2).

Mickey Wood: Okay, uh, I got a call that, uh, [REDACTED] was in the, uh, Summit View lounge. Uh, I believed him to be

indefinitely excluded from the casino. I contacted dispatch and confirmed that he was still currently excluded from the casino. Dispatch advised me, uh, uh, okay, dispatch advised me the last time we dealt with [REDACTED] uh, law enforcement came out, and he was combative, uh, and they actually took him down. Uh, so, with that I requested law enforcement and went into the, uh, to the area where he was. Uh, once I saw him, and we knew who he was, uh, he was being, um, disruptive and bothering guests, and the, um, supervisor there, Kayley Compton, uh, had requested that he be removed from that venue, because of the issues he was causing. Uh, as he left that area, he went into the high limits area, and, uh, one of the reports said he knocked over a chair. When I got there, uh, they were just picking up the chair, so I actually didn't witness him knock it over, just the picking up of it. Uh, and, um, so anyhow, he was argumentative at the time. Him and the female that he was with, who turned out to be his mother, uh, went out of high limits after being told they were excluded and had to leave. They went into, uh, a little area. It's called, uh, a deli where you get sandwiches. The food and beverage supervisor, Tyler White, had showed up, because we were going to, uh, confirm that he had been cut off from alcohol, and typically we try to get other supervisors from food and beverage involved. Uh, so, I, uh, I had told Tyler that we were, if they were gonna sit there and just not cause any trouble, we were just gonna wait till law enforcement got there, so that we wouldn't stir him up or agitate or make the situation any worse. Uh, then they got up and left, uh, the mother and him, and they headed out toward the green lot. Uh, Officer Wolfer arrived and asked me where he was, and I pointed to [REDACTED] Uh, he was the male in the red shirt. Uh, Officer, uh, Wolfer went out there and immediately, uh, started telling him to get on the ground, uh, which he would not, uh, he wouldn't, he just wouldn't do, and the mother repeatedly tried to step between, uh, Officer Wolfer and [REDACTED] uh, trying to interfere with the arrest. I'm not sure how many times, but it was multiple times that, uh, uh, Officer Wolfer told him to get on the ground, uh, and he just, he would not comply. So, eventually, uh, Officer Wolfer was able to get, uh, between, uh, [REDACTED] without the mother involved, and he tased, tased him and took him down. Uh, after they got him down, he continued and continued to struggle. The mother kept yelling and interfering. Um, I believe he was tased again to try and maintain control. Then, he basically was just left on the ground until cover officers could come. Uh, Wolfer called medics, uh, right after he got him down and somewhat secured, and they came and, uh, medics removed the tongs, and he was placed in the patrol car and taken to jail.

I asked Mr. Wood to tell me about the prior incidents where [REDACTED] was combative. He told me [REDACTED] has never had any physical altercations with security but was verbally combative. He told me [REDACTED] is unreasonable when he gets intoxicated. He told me on one occasion, when talking with Spirit Mountain Security, [REDACTED] said, "either you kill me or I will kill you." He told me the report said they had to take him to the ground and take him into custody.

Mr. Wood continued telling me that considering [REDACTED] had a warrant for assault, a prior track record of being verbally combative to security and police and [REDACTED] mother interfering he believed Officer Wolfer responded appropriately to the situation. He told me he believed if Officer Wolfer had not taken control of the situation it would have escalated.

This concluded my interview with Mr. Wood.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/27/2018 12:36

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/27/2018 12:36

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Witness Interview – Kaitlyn Scott

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Kaitlyn Scott

Security Officer at Spirit Mountain Casino

Mickey Wood

Security Supervisor at Spirit Mountain Casino

[REDACTED] - Victim

DOB: [REDACTED]

MENTIONED POLICE:

Detective Ted Moisan

Oregon State Police

EVIDENCE:

CHB-E5 – Interview with Kaitlyn Scott

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 30, 2018 Detective Ted Moisan and I went to Spirit Mountain Casino to conduct interviews with security staff. At approximately 4:08pm we interviewed Kaitlyn Scott. I told Ms. Scott our conversation was being recorded and I asked her to tell me what she witnessed on August 13, 2017 concerning [REDACTED] [REDACTED]

Ms. Scott told me on August 13, 2017 around 5pm [REDACTED] was "red lighted," meaning he was cut off from alcohol. She told me [REDACTED] was being aggressive with wait staff and yelling. She told me [REDACTED] was there with his mom. She told me [REDACTED] mom was trying to calm him down, but he was "definitely loud, definitely belligerent." She told me she waited outside of the lounge in the high limits area while other security officers were in the lounge.

Ms. Scott told me [REDACTED] knocked over chairs and stormed outside. She told me [REDACTED] and his mom "seemed to be in quite a rush after they found out that security had been notified." She told me they (the security guards) "were hanging back quite a bit" because law enforcement was on their way. She told me she was with Security Supervisor Mickey Wood near the valet entrance. She told me shortly after this Officer Wolfer arrived at their location.

Below is an excerpt from the interview with Ms. Scott (page 6 lines 3-11), regarding what she remembered about Officer Wolfer's initial contact with [REDACTED]

Kaitlyn Scott: Um, he could've been in a hurry because he thought he might have

gotten in his vehicle. I'm not sure what his thought process was, it just struck me as odd. Um, so he hit the first row of cars, had his hand on his taser but hadn't pulled it yet, if I remember correctly, and then went down, made contact, uh, verbal contact with [REDACTED] and said, you know, Officer Wolfer, Tribal Police, um, like, please raise your hands, or you need to put your hands up, or you need to stop walking. I believe he said to stop walking first, and then, you know, I need to see your hands. Um, and [REDACTED] wanted no part of that. He was like I'm just gonna go home. His mom got in the way of everything. Um, she got in Officer Wolfer's face.

Ms. Scott told me she hung back for crowd control. She told me while she was asking people in the parking lot not to gawk she heard a "thud" behind her and when she turned around she saw [REDACTED] on the ground. She told me [REDACTED] fell because Officer Wolfer tased him. She told me [REDACTED] tried to get up and Officer Wolfer gave him warnings like "you need to stay where you are and he still tried to get up" so Officer Wolfer tased him again. She told me when the second tase occurred Officer Wolfer was still standing up and approaching [REDACTED]

Ms. Scott told me she did not think that Officer Wolfer used excessive force during his interaction with [REDACTED]

//End of report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 03/27/2018 12:49

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 03/27/2018 12:49

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview with James Wolfer

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Aaron Perez Selsky

Attorney for James Wolfer

██████████
DOB: ██████████

MENTIONED POLICE:

Detective Carlos Barrientos
Oregon State Police

EVIDENCE:

CHB-E7 – Audio interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On February 12, 2018 I contacted James Wolfer to set up an interview. He told me he needed to contact his lawyer and told me he would call me back on Thursday February 15. On February 15, I was contacted by Aaron Perez-Selsky who told me he was Mr. Wolfer's attorney. We set up an interview for March 2, 2018 at 10:30am at the Salem Patrol Office.

On March 2, 2018 at approximately 10:42 am, I interviewed James Wolfer. Aaron Perez-Selsky and Detective Carlos Barrientos were also present during the interview. I told Mr. Wolfer our conversation was being recorded. I explained to Mr. Wolfer that I was investigating an incident involving him and ██████████ ██████████ that occurred on August 13, 2017. I told him I was assigned to investigate whether excessive force was used during the arrest.

I asked Mr. Wolfer to tell me about his law enforcement experience. He told me the following:

- He worked as a police officer for Warm Springs Police Department from October 2010 – January 2012.
- He attended Basic Police Academy in January 2011.
- He had a gap in law enforcement work from January 2012 – May 2016. During this time he worked in banking and then for SAIF as a State Workers Comp investigator.
- He worked as a police officer for Grand Ronde Tribal Police Department May 2016 – August 2017.
- He went to Career Officer Development (COD) during his employment at Grand Ronde Tribal Police Department due to the gap in law enforcement employment.

I asked him questions about his duties and shift being worked on and around August 13, 2017. He told me the following:

- His scheduled shift was Sunday through Wednesday 6a-6p.
- His job was focused on community policing with a high number of contacts.

I asked Mr. Wolfer questions about his Taser training during his employment with Grand Ronde Tribal Police Department. He told he did not remember how long the initial Taser training

lasted, but said it was "short." He told me the training consisted of a power point presentation and short scenarios where he shot a training cartridge, which does not shoot probes. He told me this was the only training he had with his Taser.

I asked him how his relationship was with the people he worked with at Grand Ronde Tribal Police Department. He told me he and Lieutenant Hernandez "kinda butted heads." He told me he got along well with everyone else.

I asked Mr. Wolfer to tell me about the events that occurred on August 13, 2017 at Grand Ronde Casino. He told me the following occurred leading up to seeing [REDACTED]

- Around 5pm, he received a call from dispatch that [REDACTED] [REDACTED] was actively trespassing at Grand Ronde Casino.
- He asked for back up and was told a Polk County Deputy was in route but was a ways out.
- Dispatch informed him that [REDACTED] had a warrant for Assault II.
- Lt. Hernandez told him via radio to be careful because [REDACTED] has a brother who is usually with him. He got the impression that [REDACTED] brother would help [REDACTED] fight.
- While in-route he called Grand Ronde Casino Security and they told him [REDACTED] was inside at a bar and they told him [REDACTED] was being "confrontational."
- When he arrived at the casino, he activated his body camera and was told [REDACTED] was in the parking lot.
- He felt that he could not wait for backup due to [REDACTED] behavior and he initiated contact.

Mr. Wolfer went into detail describing his interaction with [REDACTED] Review transcript page 27 lines 17-56, page 28 lines 1-42 for more details. Mr. Wolfer told me he drove to the parking lot where security officers told him [REDACTED] was located; he got out of his vehicle and drew his Taser. He said, "If I saw him I was gonna have to arrest him 'cause he had a warrant and was actively trespassing."

Mr. Wolfer told me he was by himself. He told me from his experience most security officers won't get involved in physical confrontations. He told me when he saw [REDACTED] there was a woman with him and he found out later it was [REDACTED] mother. He told me pointed the Taser at [REDACTED] and yelled at [REDACTED] to get on the ground. He told me he kept yelling "Get on the ground, get on the ground." He told me [REDACTED] wouldn't get on the ground and the woman kept trying to get between them so he moved laterally. Mr. Wolfer said, "I perceived her to be a threat, but not as big of a threat as him [REDACTED]"

Mr. Wolfer continued telling me [REDACTED] was walking away and then he thought he yelled stop and [REDACTED] stopped and turned and the woman rushed at him. He told me at the same time [REDACTED] made a sudden movement that he perceived as [REDACTED] about to charge him or squaring up to fight so he tased [REDACTED] He said, "I remember he did something very, very quickly and so right at the same time she was rushing me, so then I tased him, and I got ready to go hands on with her, but she stepped back, and I think I said somethin' like stay back or

you'll get tased too, and so she stepped back but she was yellin' at me, so then I went over to him. Security was there, but they weren't like grabbing her."

Mr. Wolfer told me there were a lot of people in the parking lot and he remembers looking around for this other brother that might be there. He told me he was on the ground with his back exposed to everybody. He told me the woman was still yelling at him as he put handcuffs on [REDACTED]. He said, "I wasn't able to pat him down yet, and I was on top of him but not fully, because I was also still tryin' to be able to spring back up in case I got hit from behind from wherever this other brother was gonna be, and, um, and then I felt him moving, which I interpreted as him tryin' to get back up, and I didn't know if he had weapons or anything yet."

Below is an excerpt from the transcript from the interview with Mr. Wolfer describing what led to the second cycle of taser activation (page 28 lines 21-42).

James Wolfer: When I worked in Warm Springs, I have had people try to fight. Like I had someone in handcuffs once like, like sho, run his shoulder into me and knock me over and like fight and then run, you know, so I, I don't know what, what he's tryin' to do. Just 'cause he was in handcuffs, I, I don't even think I had double locked 'em yet, and I kept tellin' him to stop resisting, um, and I felt like when he would turn and look at me, and I remember tellin' him to look away, when he'd turn and look at me, like I felt like he was tryin' to get up off the ground 'cause I would, I mean he, I felt, I felt like he was bigger than me, so he was, like it was like lifting me up. At the same time the mom was yelling at him or something, and I remember telling her to shut up 'cause I felt like she was also amping him up and I just wanted the situation to, to calm down and resolve, and I, I warned him. I told him he was under arrest. I told him why, and, and I don't remember if this happened before or after the tase but, a second tase, but I remember to, giving him several warnings that if he didn't stop resisting I was gonna tase him again, and he, I felt like he kept resisting. I kept feeling the movement and I felt like he was gonna push me off of him, so I gave him a second tase, let it run through the cycle, and then he, it stopped, and he stopped resisting, and so I said, "Are you done?" I think he said yes or something or I got the impression he was done. I detached it, holstered it, re ho, like was able to finish my pat down and everything else, sat him up. Um at some point during that I remember the female, I believe she started takin' a step towards me, and also so did the security supervisor, and I remember yelling like stay back, and I meant her, but I remember the security supervisor's face thought I was talkin' to him, so then he stepped back and kinda put his arm near the, the female.

Mr. Wolfer told me at some point after things started to calm down the woman disappeared. He told me paramedics arrived on scene and he waited for a Polk County Deputy to arrive before letting paramedics check on [REDACTED]. He told me he didn't want to risk any of the paramedics being attacked by [REDACTED]. He told me [REDACTED] was "completely intoxicated" and in his experience intoxicated people often "want to fight and don't make good decisions." He told me once a deputy arrived, paramedics checked [REDACTED] out and then he was able to put

██████ in his patrol vehicle.

Mr. Wolfer continued telling me he called Sergeant McAllister to notify him of the use of force. He told me he drove ██████ to the jail and at the jail ██████ refused to provide a breath test for the intoxylizer. He told me he had to take ██████ to the hospital to get cleared due to his level of intoxication. He told me once ██████ was cleared he took him sback to the jail. He told me he wrote a probable cause affidavit to lodge ██████ in jail and then cleared the call.

Mr. Wolfer continued telling me he went back to the patrol office and talked with Officer Dana and watched the video footage for the first time. He told me he was "actually surprised to see that he ██████ hadn't squared up" with him. He told me he realized when he saw the video that ██████ actually took a step back and raised his hands. He explained that he thought the female was running at him and he had tunnel vision focused on this and when he saw movement from ██████ he interpreted the movement as a threat and he tased ██████ He told me he felt the body camera saw more than he did, meaning a wider angle without tunnel vision.

Mr. Wolfer then addressed the second taser cycle. He said, "You couldn't see on the footage what I felt which was, I felt like I was getting picked up from it, so, um, I remember being physically moved from it or feeling like I was, so, and then accurately, I, I didn't feel like the, I felt like the camera for the first tase showed more than I saw and I felt like for the second, it showed less than I saw because it was on the center of the chest and I'm on top of him."

Mr. Wolfer told me the next morning he returned to work to finish his report in regards to ██████ He told me when he finished the report Lieutenant Hernandez and a human resources representative approached him. He told me Lieutenant Hernandez told him that he reviewed the video footage with their tribal attorney and he (Hernandez) believed Wolfer violated the Taser Policy. He told me Lieutenant Hernandez asked him a few brief questions about why he tased ██████ and then Lieutenant Hernandez told him he was being placed on administrative leave. He told me Lieutenant Hernandez hadn't even read his report when this happened. He told me Sergeant McAllister called him on Wednesday and told him to come to the office on Friday.

Mr. Wolfer told me he came into the office on Friday and he was told by Lieutenant Hernandez that he violated the Taser Policy and they had a write up recommending termination. He told me Lt. Hernandez told him he could appeal within five days. He told me he asked Lt. Hernandez if he violated anything else and Hernandez said no. Lt. Hernandez told him they did not review this for use-of-force violation or anything else. He told me Lt. Hernandez told him Dallas Police Department conducted a review of the case and found the video didn't match up to what he was saying. He told me Lt. Hernandez said, "If you resign today, we're not gonna review it for anything else. We don't, we're not saying you violated the use-of-force policy, just the Taser policy." He told me he resigned in lieu of termination.

I asked Mr. Wolfer a series of questions related to his thoughts and decisions when he gave commands to ██████ and how he felt when ██████ did not cooperate. Review the

transcript from the interview with Mr. Wolfer page 37 lines 9-55 and page 38 lines 1-46.

I asked Mr. Wolfer to define passive resistance versus active resistance. He told me passive resistance would be like refusing to listen to commands and active resistance is like pulling away or fighting. I asked him if [REDACTED] was passively resisting or actively resisting. He said, "My perception was that he was actively resisting. After watching the video later, I see that, without knowing what his intention was, it does appear he was passive resisting when he raised his hands. I interpreted that as an act of resisting as he, as a pre assault"

Mr. Wolfer told me he did not complete any defensive tactics training while working at Grand Ronde Tribal Police Department. Below is an excerpt of the transcript from the interview with Mr. Wolfer (page 43 lines 41-56, page 44 lines 1-10)

Detective Hegney-Bach: Okay. Um, how did the actions of the suspect during the encounter make you feel?

James Wolfer: Scared, thought I was gonna be assaulted.

Detective Hegney-Bach: Okay.

James Wolfer: So –

Detective Hegney-Bach: What about, um, when he was on the ground and you had him in handcuffs?

James Wolfer: Uh, I think I –

Detective Hegney-Bach: Much of the same?

James Wolfer: Yeah, I was still afraid he was gonna push me off of him, and I had, at the time, still believed he had just tried to assault me with this other person that I didn't know who they were yet, um, so I was afraid of that, you know, if I got knocked off balance, then she might come run at me, and then now I'm on the ground, there's two of 'em, and even though he's in handcuffs, you know, who knows, or if he's got a weapon. I, I don't know yet. I, I don't believe I'd even done a pat-down yet or finished it –

Detective Hegney-Bach: Okay.

James Wolfer: – before I tased him again, um, so I was, I was still in the same frame of mind. Uh, I thought if I don't control this now, um, this may still, I may still get assaulted at any point here, so –

At this time during the interview we took a break. When we re-convened I asked a few clarifying questions and I verified his contact information. This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI**Report time:** 03/27/2018 14:38**Entered by:** #49678 HEGNEY-BACH, CASI**Entered time:** 03/27/2018 14:38**Narrative:****Case #SP18001897****DISTRIBUTION:**

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview – Chief Jake McKnight

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

[REDACTED] [REDACTED]

Mother of Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 – DVD with body camera footage from James Wolfer, dated 8/13/17.

ATTACHED:

Oregon State Police Property Report Form 65
Grand Ronde Tribal Police Department Conducted Energy Device Policy
Grand Ronde Tribal Police Department Use of Force Policy
Grand Ronde Tribal Police Department Personnel Complaint Policy

Public Records Request from [REDACTED] [REDACTED]

ACTION TAKEN:

On January 2, 2018, I contacted Chief Jake McKnight with Grande Ronde Tribal Police Department via telephone and set up a meeting for January 8. I sent him a follow up email asking for the following documents:

1. Taser Policy
2. Use of Force Policy
3. Internal Memos and documents relating to Case #GRT17000673
4. Copies of internal documents relating to disciplinary action for James Wolfer.

On January 8, 2018, Detective Carlos Barrientos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim Hernandez and Sergeant Rod McAllister.

At approximately 10:27 am, I interviewed Chief Jake McKnight. He provided me with copies of Grand Ronde PD's Taser Policy, Use of Force Policy and Personnel Complaint Policy.

I asked him to tell me what he knew about the events that occurred on August 13, 2017. He told me he was at the FBI Academy at that time, but was informed on August 14 around 7 am, by Lieutenant Tim Hernandez of the events that occurred on August 13. He told me Lieutenant Hernandez called him and told him there was an issue with James Wolfer. He told me Lieutenant Hernandez told him Wolfer tased [REDACTED] [REDACTED] after he applied handcuffs.

Chief McKnight told me [REDACTED] was someone they have dealt with before. He told me [REDACTED] is not verbally compliant but hasn't ever gotten physical with them. He told me Officer Wolfer was more adrenalized than he should have been. He told me Officer Wolfer was not clear in his commands. He told me there were issues with the tasings but there were also issues with the way he told the events to Sergeant McAllister. He told me Officer Wolfer was immediately placed on administrative leave.

Chief McKnight told Lieutenant Hernandez met with Wolfer and gave him the option to resign after being put on administrative leave and Officer Wolfer chose to resign. He told me Officer Wolfer worked for Grand Ronde Tribal Police Department for a little over a year. He told me Officer Wolfer was not interviewed regarding the events that occurred on August 13, 2017 because he resigned.

Chief McKnight told me he that [REDACTED] [REDACTED] mother of [REDACTED] [REDACTED] filed a Public

Records Request requesting copies of the police reports and the body camera footage regarding the 8/13/17 interaction between Wolfer and [REDACTED] case #17-673.

This concluded our interview.

I reviewed the Conducted Energy Device Policy, Personnel Complaints Policy and Use of Force Policy. I found all of the policies to be fairly standard and are attached to this report.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 14:22

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 14:22

Narrative:

Case #SP18001897

DISTRIBUTION:

Marlon County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview with James Wolfer

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

Aaron Perez Selsky

Attorney for James Wolfer

[REDACTED]
Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Officer Dana

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E7 -- Audio Interview with James Wolfer

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On February 12, 2018 I contacted James Wolfer to set up an interview. He told me he needed to contact his lawyer and told me he would call me back on Thursday February 15. On February 15, I was contacted by Aaron Perez-Selsky who told me he was Mr. Wolfer's attorney. We set up an interview for March 2, 2018 at 10:30am at the Salem Patrol Office.

On March 2, 2018 at approximately 10:42 am, I interviewed James Wolfer. Aaron Perez-Selsky and Detective Carlos Barrientos were also present during the interview. I told Mr. Wolfer our conversation was being recorded. I explained to Mr. Wolfer that I was investigating an incident involving him and [REDACTED] that occurred on August 13, 2017. I told him I was assigned to investigate whether excessive force was used during the arrest.

I asked Mr. Wolfer to tell me about his law enforcement experience. He told me the following:

- He worked as a police officer for Warm Springs Police Department from October 2010 – January 2012.
- He attended Basic Police Academy in January 2011.
- He had a gap in law enforcement work from January 2012 – May 2016. During this time he worked in banking and then for SAIF as a State Workers Comp Investigator.
- He worked as a police officer for Grand Ronde Tribal Police Department May 2016 – August 2017.
- He went to Career Officer Development (COD) during his employment at Grand Ronde Tribal Police Department due to the gap in law enforcement employment.

I asked him questions about his shift and duties on and around August 13, 2017. He told me the following:

- His scheduled shift was Sunday through Wednesday 6a-6p.
- His job was focused on community policing with a high number of contacts.

I asked Mr. Wolfer questions about his Taser training during his employment with Grand Ronde Tribal Police Department. He told he did not remember how long the initial Taser training lasted, but said it was "short." He told me the training consisted of a power point presentation and short scenarios where he shot a training cartridge, which does not shoot probes. He told me this was the only training he had with his Taser.

I asked him how his relationship was with the people he worked with at Grand Ronde Tribal Police Department. He told me he and Lieutenant Hernandez "kinda butted heads." He told me he got along well with everyone else.

I asked Mr. Wolfer to tell me about the events that occurred on August 13, 2017 at Grand Ronde Casino. He told me the following occurred leading up to seeing [REDACTED]

- Around 5pm, he received a call from dispatch that [REDACTED] was actively trespassing at Grand Ronde Casino.
- He asked for back up and was told a Polk County Deputy was in route but was a ways out.
- Dispatch informed him that [REDACTED] had a warrant for Assault II.
- Lt. Hernandez told him via radio to be careful because [REDACTED] has a brother who is usually with him. He got the impression that [REDACTED] brother would help [REDACTED] fight.
- While in-route he called Grand Ronde Casino Security and they told him [REDACTED] was inside at a bar and they told him [REDACTED] was being "confrontational."
- When he arrived at the casino, he activated his body camera and was told [REDACTED] was in the parking lot.
- He felt that he could not wait for backup due to [REDACTED] behavior and he initiated contact.

Mr. Wolfer went into detail describing his interaction with [REDACTED] (see transcript page 27 lines 17-56, page 28 lines 1-42 for more details). Mr. Wolfer told me he drove to the parking lot and security officers told him where [REDACTED] was located; he got out of his vehicle and drew his Taser. He said, "If I saw him I was gonna have to arrest him 'cause he had a warrant and was actively trespassing."

Mr. Wolfer told me he was by himself. He told me from his experience, most security officers won't get involved in physical confrontations. He told me when he saw [REDACTED] there was a woman with him and he found out later she was [REDACTED] mother. He told me he pointed the Taser at [REDACTED] and yelled at [REDACTED] to get on the ground. He told me he kept yelling "Get on the ground, get on the ground." He told me [REDACTED] wouldn't get on the ground and the woman kept trying to get between them so he moved laterally. Mr. Wolfer said, "I perceived her to be a threat, but not as big of a threat as him [REDACTED]"

Mr. Wolfer continued telling me that [REDACTED] was walking away and he thought he yelled stop. He told me [REDACTED] stopped and turned and the woman rushed at him. He told me when she rushed at him [REDACTED] made a sudden movement that he perceived as [REDACTED] about to charge him or squaring up to fight so he tased [REDACTED]. He said, "I remember he did something very, very quickly and so right at the same time she was rushing me, so then I tased him, and I got ready to go hands on with her, but she stepped back, and I think I said somethin' like stay back or you'll get tased too, and so she stepped back but she was yellin' at me, so then I went over to him. Security was there, but they weren't like grabbing her."

Mr. Wolfer told me there were a lot of people in the parking lot and he remembers looking around for this other brother that might be there. He told me he was on the ground with his back exposed to everybody. He told me the woman was still yelling

at him as he put handcuffs on [REDACTED]. He said, "I wasn't able to pat him [REDACTED] down yet, and I was on top of him but not fully, because I was also still tryin' to be able to spring back up in case I got hit from behind from wherever this other brother was gonna be, and, um, and then I felt him moving, which I interpreted as him tryin' to get back up, and I didn't know if he had weapons or anything yet."

Mr. Wolfer told me when he worked at Warm Springs someone in handcuffs tried to fight him. He told me he had not double locked [REDACTED] handcuffs yet. He told me he kept telling [REDACTED] to stop resisting and [REDACTED] kept looking at him and he felt like [REDACTED] was trying to get up off the ground. He told me [REDACTED] kept lifting him up off the ground and at the same time the woman kept yelling and it caused [REDACTED] to amp up.

Mr. Wolfer continued telling me he wanted the situation to calm down and he warned [REDACTED] to stop resisting or he would tase him again. He told me he felt like [REDACTED] continued resisting so he gave him a second tase and then [REDACTED] stopped resisting.

Mr. Wolfer told me at some point after things started to calm down the woman disappeared. He told me paramedics arrived on scene and he waited for a Polk County Deputy to arrive before letting paramedics check on [REDACTED]. He told me he didn't want to risk any of the paramedics being attacked by [REDACTED]. He told me [REDACTED] was "completely intoxicated" and in his experience intoxicated people often "want to fight and don't make good decisions." He told me once a deputy arrived, paramedics checked [REDACTED] out and then he was able to put [REDACTED] in his patrol vehicle.

Mr. Wolfer continued telling me he called Sergeant McAllister to notify him of the use of force. He told me he drove [REDACTED] to the jail and at the jail [REDACTED] refused to provide a breath test for the intoxylizer. He told me he had to take [REDACTED] to the hospital to get cleared due to his level of intoxication. He told me once [REDACTED] was cleared he took him back to the jail. He told me he wrote a probable cause affidavit to lodge [REDACTED] in jail and then cleared the call.

Mr. Wolfer continued telling me he went back to the patrol office and talked with Officer Dana and watched the video footage for the first time. He told me he was "actually surprised to see that he [REDACTED] hadn't squared up" with him. He told me he realized when he saw the video that [REDACTED] actually took a step back and raised his hands. He explained that he thought the female was running at him and he had tunnel vision focused on this and when he saw movement from [REDACTED] he interpreted the movement as a threat and he tased [REDACTED]. He told me he felt the body camera saw more than he did, meaning a wider angle without tunnel vision.

Mr. Wolfer then addressed the second taser cycle. He said, "You couldn't see on the footage what I felt which was, I felt like I was getting picked up from it, so, um, I remember being physically moved from it or feeling like I was, so, and then accurately, I, I didn't feel like the, I felt like the camera for the first tase showed more than I saw and I felt like for the second, it showed less than I saw because it was on the center of the chest and I'm on top of him."

Mr. Wolfer told me the next morning he returned to work to finish his report in regards to [REDACTED]. He told me when he finished the report Lieutenant Hernandez and a human resources representative approached him. He told me Lieutenant Hernandez told him that he reviewed the video footage with their tribal attorney and he believed Wolfer violated the Taser Policy. He told me Lieutenant Hernandez asked him a few brief questions about why he tased [REDACTED] and then Lieutenant Hernandez told him he was being placed on administrative leave. He told me Lieutenant Hernandez hadn't even read his report when this happened. He told me Sergeant McAllister called him on Wednesday and told him to come to the office on Friday.

Mr. Wolfer told me he came into the office on Friday and he was told by Lieutenant Hernandez that he violated the Taser Policy and they had a write up recommending termination. He told me Lt. Hernandez told him he could appeal within five days. He told me he asked Lt. Hernandez if he violated anything else and Hernandez said no. Lt. Hernandez told him they did not review this for use-of-force violation or anything else. He told me Lt. Hernandez told him Dallas Police Department conducted a review of the case and found the video didn't match up to what he [Wolfer] was saying. He told me Lt. Hernandez said, "If you resign today, we're not gonna review it for anything else. We don't, we're not saying you violated the use-of-force policy, just the Taser policy." He told me he resigned in lieu of termination.

I asked Mr. Wolfer a series of questions related to his thoughts and decisions when he gave commands to [REDACTED] and how he felt when [REDACTED] did not cooperate (see transcript from the interview with Mr. Wolfer page 37 lines 9-55 and page 38 lines 1-46 for additional details). He told me he gave commands for [REDACTED] to get on the ground because he thought it would be easier to handcuff [REDACTED]. He told me he thought [REDACTED] would be less likely to be violent if he was lying on the ground. He told me he did not feel proficient in hand to hand fighting because he had had no defensive tactics training since he graduated the academy in 2011.

I asked Mr. Wolfer to define passive resistance versus active resistance. He told me passive resistance would be like refusing to

listen to commands and active resistance is like pulling away or fighting. I asked him if [REDACTED] was passively resisting or actively resisting. He said, "My perception was that he was actively resisting. After watching the video later, I see that, without knowing what his intention was, it does appear he was passive resisting when he raised his hands. I interpreted that as an act of resisting as he, as a pre assault"

Below is an excerpt of the transcript from the interview with Mr. Wolfer (page 43 lines 41-56, page 44 lines 1-10)

Detective Hegney-Bach: Okay. Um, how did the actions of the suspect during the encounter make you feel?

James Wolfer: Scared, thought I was gonna be assaulted.

Detective Hegney-Bach: Okay.

James Wolfer: So --

Detective Hegney-Bach: What about, um, when he was on the ground and you had him in handcuffs?

James Wolfer: Uh, I think I --

Detective Hegney-Bach: Much of the same?

James Wolfer: Yeah, I was still afraid he was gonna push me off of him, and I had, at the time, still believed he had just tried to assault me with this other person that I didn't know who they were yet, um, so I was afraid of that, you know, if I got knocked off balance, then she might come run at me, and then now I'm on the ground, there's two of 'em, and even though he's in handcuffs, you know, who knows, or if he's got a weapon. I, I don't know yet. I, I don't believe I'd even done a pat-down yet or finished it --

Detective Hegney-Bach: Okay.

James Wolfer: -- before I tased him again, um, so I was, I was still in the same frame of mind. Uh, I thought if I don't control this now, um, this may still, I may still get assaulted at any point here, so --

At this time during the interview we took a break. When we re-convened I asked a few clarifying questions and I verified his contact information. This concluded our interview.

//End Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 15:29

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 15:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview – Lieutenant Tim Hernandez

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

ACTION TAKEN:

On January 8, 2018, Detective Carlos Barrientos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim Hernandez and Sergeant Rod McAllister.

At approximately 11:00am, I interviewed Lieutenant Tim Hernandez. I asked him to talk with me about the events that occurred on and after August 13, 2017 as it related to Officer Wolfer. Lieutenant Hernandez told me he was driving home from work on August 13, 2017 around 5:00pm when he heard Officer Wolfer go out on a call for service at Spirit Mountain Casino. He told me he listened to the radio and heard that Officer Wolfer tased [REDACTED] [REDACTED]

Lieutenant Hernandez told me he came into work the morning of 8/14/17 and reviewed the video footage. He told me the use of force for the second tase was unjustified. He told me the video revealed Officer Wolfer calling McAllister via telephone and saying [REDACTED] squared off on him so Officer Wolfer tased him. He told me the video also shows Officer Wolfer saying that he was handcuffing by himself and [REDACTED] resisted so he tased him again. He told me after reviewing the video he initiated a complaint with Sergeant McAllister. He told me Sergeant McAllister is their agency's primary training officer and handles investigations.

Lieutenant Hernandez told me Wolfer edited his report the next day and it reads differently than his probable cause statement. I later reviewed both reports and found that the Probable Cause Affidavit has a lot less detail than the incident summary, which is normal for police reports. There are also differences in some of the justifications for the initial tase and reasons

for charges he cited [REDACTED]. However none of these are the cause for this investigation so they were not addressed during this investigation.

Lieutenant Hernandez told me on 8/14/17 he placed Officer Wolfer on paid administrative leave. He told me Officer Wolfer told him he meant [REDACTED] pointed his feet at him in an aggressive manner, not squared off. He told me Officer Wolfer was upset when placed on administrative leave. He told me this was the second investigation Officer Wolfer has gone through while working for Grand Ronde Tribal Police Department.

Lieutenant Hernandez told me he was shocked when he watched Wolfer's body camera. He told me he was more surprised by the lie than the tasing. He told me Wolfer did well with community policing but not with hostile contacts. I asked Lieutenant Hernandez to elaborate and he told me that while on a traffic stop, Officer Wolfer dealt with a rowdy family and he cowered. He told me Sergeant McCallister had to have a talk with him about officer safety.

Lieutenant Hernandez told me on August 18, 2017, Officer Wolfer was given a preparation letter and told he had a right to review all documents before being interviewed. He told me Officer Wolfer decided to resign.

I asked Lieutenant Hernandez about Wolfer's police background and he told me Wolfer worked for Warm Springs Tribal Police for around a year. He told me Wolfer was let go during his probationary period with Warm Springs. He told me there was an evidence issue where Officer Wolfer left marijuana out and other officers hid it as a joke. He told me Wolfer thought he put it away. He told me Wolfer was investigated regarding this incident and Wolfer passed a polygraph. There was also a DUI investigation where Wolfer's report did not match the events that occurred. He told me he could not remember the exact reason, but knew it had to do with the HGN test.

Lieutenant Hernandez continued telling me that Wolfer did not get along with his Sergeant in Warm Springs and that sergeant was later fired for dealing marijuana. He told me Wolfer applied with Vancouver Police Department around the same time he applied with Grand Ronde, but was not hired by Vancouver because he didn't pass the psychological test. He told me Wolfer did pass the psychological test for Grand Ronde Tribal Police Department.

Lieutenant Hernandez told me there have been no other complaints involving Wolfer and his use of force. Other officers complained about Wolfer's attitude. He told me Wolfer did not get along well with management. He told me Wolfer tried to start conflict between the officers and management on more than one occasion.

I asked Lieutenant Hernandez if after reviewing the case if he believed the use of force by Wolfer against [REDACTED] rose to the level of assault and he told me yes.

//End of Report//

Supplemental:

Author: #49678 HEGNEY-BACH, CASI

Report time: 04/02/2018 15:29

Entered by: #49678 HEGNEY-BACH, CASI

Entered time: 04/02/2018 15:29

Narrative:

Case #SP18001897

DISTRIBUTION:

Marion County District Attorney's Office

SUBJECT OF THIS REPORT:

Interview – Sergeant Rod McAllister

SUSPECT:

Wolfer, James

DOB: [REDACTED]

MENTIONED:

[REDACTED] [REDACTED]

Victim

[REDACTED] [REDACTED]

Mother of Victim

MENTIONED POLICE:

Detective Carlos Barrientos

Oregon State Police

Chief Jake McKnight

Grand Ronde Tribal Police Department

Lieutenant Tim Hernandez

Grand Ronde Tribal Police Department

Sergeant Rod McAllister

Grand Ronde Tribal Police Department

EVIDENCE:

CHB-E1 – DVD with body camera footage from James Wolfer, dated 8/13/17.

ATTACHED:

Oregon State Police Property Report Form 65

ACTION TAKEN:

On January 8, 2018, Detective Carlos Barrientos and I went to Grand Ronde Tribal Police Department and interviewed the following police officers; Chief Jake McKnight, Lieutenant Tim

Hernandez and Sergeant Rod McAllister.

At approximately 11:39 am, I interviewed Sergeant McAllister. I asked him to talk with me about the events that occurred on and after August 13, 2017 as it related to James Wolfer. He told me August 13, 2017 was a Sunday and it was his day off. He told me he received a phone call from Wolfer that evening reporting that Wolfer used his taser two times on Highpine [REDACTED]. He told me Wolfer told him first tase was because [REDACTED] squared off on him and would not listen to commands to get on the ground and the second cycle occurred when Wolfer was trying to get [REDACTED] into handcuffs and [REDACTED] was not compliant and struggled so he tased him again.

Sergeant McAllister told me he told Wolfer to make sure his use of force report was done by the end of his shift. He told me that the next morning Lieutenant Hernandez reported to him that Wolfer was still working on his report. He told me Lieutenant Hernandez also reported the use of force by Wolfer was bad. He told me Lieutenant Hernandez told him the video was inconsistent with the notification to him [McAllister].

Sergeant McAllister told me he viewed Wolfer's body camera on either Tuesday or Wednesday and then began a personnel investigation into Wolfer. He told me he did not interview [REDACTED] or any of the witnesses. He told me the focus of the investigation was that Wolfer was untruthful and violated the taser policy.

I asked Sergeant McAllister if Wolfer had ever been disciplined prior to this incident and he told me yes. He told me Wolfer was given a letter of reprimand for violating Grand Ronde Police Department policies during an incident that occurred on September 10, 2016. He told me the discipline was not related to use of force. He told me it dealt with inconsistencies between Wolfer's report and video footage and also the lack of use of his body camera.

Sergeant McAllister told me he is their agency's primary training officer. I asked what kind of reoccurring training they require from their officers and he told me they have the following training:

1. Monthly training modules through Police One.
2. Firearms training three times per year.
3. Taser training once per year,
 - a. Includes written, practical, demo, commands, control and discharge (no shooting live cartridges).

Sergeant McAllister told me he is the Taser Instructor. He told me he received his certification in 2016 through Newburg Police Department with Taser International, now called Axon. He told me the class included an online training module and sixteen hours of classroom training.

Sergeant McAllister provided me with the Taser download paperwork from the Taser used by Wolfer. A copy of the Taser download is attached to this report. The Taser's life began May 2015. He told me the Taser belonged to a different officer before Wolfer. He told me Wolfer was given the Taser in May 2016. He explained what the codes on the Taser download meant and below is a list of the codes and their meanings in regards to Wolfer's Taser on August 13, 2017.

06:38:18 Armed – Turned on
06:38:18 Safe – Holstered
06:38:24 Armed – Un-holstered
06:38:25 Trigger – Trigger pulled
06:38:30 Safe – Holstered
17:15:20 Armed – Turned on
17:15:27 Trigger – Trigger pulled
17:16:51 Trigger – Trigger pulled
17:20:40 Safe – Holstered

Sergeant McAllister provided me with copies of his Taser Instructor Certification, dated May 19, 2016. He also provided me with Wolfer's Taser Certification and Taser Tests dated June 16, 2016.

I asked Sergeant McAllister if after reviewing the case, if he believed the use of force by Wolfer against [REDACTED] rose to the level of assault and he told me yes.

This concluded our interview.

//End Report//

August 18, 2017

Officer James Wolfer
Grand Ronde Tribal Police Department

hand delivered

Re: Administrative Investigation Findings regarding officer actions in connection with
Case Number GRT17000673

Dear James:

As you are aware, the actions you took in connection with Case Number GRT17000673 came under review due to your use of your Conducted Energy Device (Taser). This incident was reviewed, as required by Policy 304.8 of the Confederated Tribes of Grand Ronde Police Department Policy Manual.

As a result of that review, we have conducted an administrative investigation into the above-referenced case pursuant to Policy 1005.6. The resulting Investigation Report details the circumstances, identifies the policies violated, and recommends appropriate discipline. The findings conclude that you violated a number of department policies – specifically 319.5.8, 319.5.9, and various provisions of 304. The disciplinary recommendation in the report is termination of your employment with the Grand Ronde Tribal Police Department.

After reviewing the Investigation Report and supporting materials, I am accepting the disciplinary recommendation to terminate your employment.

I reviewed the following materials in reaching this decision:

- Body camera footage from the incident identified above.
- GRTPD Crime Incident Report for Case ID GRT17000673 prepared by James Wolfer.
- GRTPD Incident Supplement report Supplement ID 341696 prepared by Tokata Tehama
- Probable Cause Affidavit re: arrestee [REDACTED] prepared by James Wolfer
- Arrest Report for Case 17-673
- Materials from Salem Health West Valley re: patient [REDACTED]
- LEDS report re: [REDACTED]
- GRTPD Dispatch Report for Case GRT 17000673
- Dallas Police Department incident review report prepared by Lt. Jerry Mott 08/16/17
- Investigation Report prepared by Sgt. Rod McAllister 08/16/17
- Memo re: administrative investigation prepared by Acting Chief Hernandez 08/16/17
- Policy 304 – Conducted Energy Device
- Policy 319 – Standards of Conduct
- Policy 1005 – Personnel Complaints

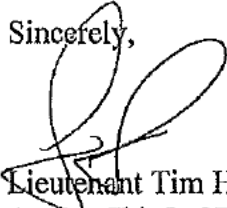
Pursuant to Policy 1005.10.2, you will be provided access to all the referenced materials as well as an opportunity to respond to me orally or in writing within five days of receiving this notice. If you would like further access to the materials during these five days, please call me at 503-

Officer James Wolfer
August 18, 2017
Page 2

879-1824 to schedule an appointment. You may wish to review Policy 1005.11 regarding any response you choose to provide. Your response must be received no later than 5:00 p.m. on Friday, August 25, 2017. If you choose to respond orally, the policy requires us to record your response. You may also elect to waive any such response.

I will issue a timely written decision following my review of any response you provide. Please note that if you choose to resign prior to my decision being issued, Policy 1005.12 provides that these disciplinary proceedings will cease.

Sincerely,

A handwritten signature in black ink, appearing to be 'Tim Hernandez', written over the printed name.

Lieutenant Tim Hernandez
Acting Chief of Police

Dallas Police Department

To: Lt. Tim Hernandez

From: Lt. Jerry Mott

Date: August 16, 2017

Incident Review

On August 15, 2017, Grand Ronde Tribal Police Department (GRTPD) Lieutenant Tim Hernandez requested assistance with the review of a use of force by one of GRTPD's police officers. Lt. Hernandez asked the review be completed with their policy as metric for the appropriate force decision. Lt. Hernandez provided me with GRTPD Policy 304 "Conducted Energy Device." Lt. Hernandez explained their answer of force policies are tied to the implement and method used. GRTPD's policy 304 governs force decisions where "Conducted Energy Device" tools are used. Taser use is the specific authorized tool governed by GRTPD policy 304.

Lt. Hernandez provided me with Officer Wolfer's body-camera video.

Briefing of incident:

Lt. Hernandez provided me with the facts necessary for me to complete the level of evaluation requested. Lt. Hernandez told me the GRTPD officer, James Wolfer, responded to a call of a trespass at the Casino. Lt. Hernandez told me the suspect was known to GRTPD officers from numerous previous contacts and is often intoxicated. Lt. Hernandez told me he relayed to Officer Wolfer that the suspect was also wanted for an Assault II by the Yamhill County Sheriff's Office and may have a warrant for that crime. I asked if the suspect had a history of assaulting officers. Lt. Hernandez told me he was not aware of any history of the suspect assaulting officers.

Involved Officer's Experience (Graham v. Connor):

The standard of objective reasonableness established by Graham v. Connor requires examination through the perspective of the officer on scene rather than applying 20/20 hindsight. For application of this standard in making this evaluation, I acknowledge the training and experience differences between Officer Wolfer and myself. For those reasons, I will detail observations but opinion indicated as being in "light most favorable to the officer" stands as my judgement.

Officer Training and Authorization to Carry Taser:

Lt. Hernandez told me Officer Wolfer was current on Taser training as required by GRTPD policy (304.3). Officer Wolfer's authorization to carry and use the Taser in accordance with policy is not questioned by this review.

Review of Incident:

I read the GRTPD's policy 304. I found it generally consistent with other police department policies governing the use of Tasers. I did not observe anything in the policy that was extraordinary.

I watched the provided body-camera video. The video has a digital tag on the screen indicating "IWolfer, GRT PD" and date/time stamped "2017/08/13 5:11:42 PM." The video opens with Officer Wolfer making comment to someone to keep eyes on a person and Officer Wolfer getting into a patrol vehicle.

Officer Wolfer drives to a parking lot. I can see in the video that Officer Wolfer is wearing black gloves. They are not latex gloves. It is my experience officers wear this type of glove when they anticipate the need to use force or are going to search a person.

At about 5:12:33 PM, Officer Wolfer arrives in another parking lot. As he exits his vehicle, I hear him get location description from a male telling him where the suspect is located. Officer Wolfer goes in the direction apparently indicated. At 5:12:44 PM, I see the suspect come into the video. I can see his head over the top of a car. It should be noted the camera view will vary from Officer Wolfer's view. Officer Wolfer gives clear command, "Stop. Police." Officer Wolfer rounds a parked car and shouts, "Stop. Get on the Ground." A female asks what he wants.

Officer Wolfer commands the suspect to "Get on the ground now." He points a Taser at the suspect. The woman asks if it is her who Officer Wolfer wants to get onto the ground. Officer Wolfer tells her no and directs her to back up. She does not back up and instead places herself between Officer Wolfer and the suspect. She begins to argue.

Officer Wolfer elevates his voice and shouts for the suspect to get on the ground. Officer Wolfer shouts a warning to the suspect to get on the ground or he will be tased. Officer Wolfer shouted "back away!" I believe, based on the proximity of the female, he was shouting at the female but the male suspect complied with the command and backed away. Officer Wolfer gave command for the suspect to get on the ground. Officer Wolfer tased the suspect. The suspect locked up and fell onto the asphalt parking lot. The time was 5:23:04 PM.

I could see the suspect's hands at his waist and visible when Officer Wolfer rounded the car in the parking lot. I could see the suspect put his hands in the air from where they were at his waist and kept them in the air until he was tased. The suspect did not make any threats. The suspect did not make any physical movement indicating he would assault Officer Wolfer. The suspect did not run from Officer Wolfer. The suspect did not comply with Officer Wolfer's clear and repeat commands to get onto the ground.

Officer Wolfer told the female, who continued to argue and interfere, to get on the ground or she would be tased. She replied for him to "fucking do it then Bitch." I will note it is my opinion that tasing the female would have been objectively reasonable at or before this point. She was reaching into a small purse, her hands were not always visible, she was actively interfering with the arrest and had been given clear and repeated warnings to get back. As this review does not address an answer of force to the female, I will cease description of her actions as I am of the opinion they do not have appropriate bearing on continued use of force on the suspect from this point on and a person I recognize as casino security deescalates her behavior.

Officer Wolfer handcuffs the suspect who complies with commands and is cuffed behind the back. The suspect is face-down, on the asphalt with the Taser probes still attached. While being cuffed, Officer Wolfer directs the suspect where to put his hands and warns he will be tased again if he does not comply.

The suspect repeatedly asks what he did and rolls from side to side. Officer Wolfer tells the suspect he has a warrant and warns him to stop moving or Officer Wolfer would tase him again. Officer Wolfer tells the suspect not to move or he would tase him again. The suspect shouts, "Fuck you!" The suspect's body jars as an apparent component of his shouting and the associated use of chest muscles and diaphragm. Officer Wolfer immediately initiates another cycle of his Taser. The time stamp was about 5:14:27 PM. Officer Wolfer again warns the suspect if he pulls away, "He will get it again."

Officer Wolfer and casino staff begin effectively deescalating the suspect and female. Officer Wolfer summons medics to evaluate the suspect. I will not further detail the period of time between this and when Deputy La Combe (Polk County Sheriff's Office) arrives to cover Officer Wolfer and is briefed by Officer Wolfer.

At about 5:27 PM, Deputy La Combe is being briefed on what happened by Officer Wolfer. Of note, during this briefing, Officer Wolfer tells Deputy La Combe the suspect started to "square-off" with him. This terminology describes a person assuming a fighting posture. I observed this suspect did not assume a fighting posture at any time before being tased. He also stated the female was "jacking the suspect up" and that he was trying to pull away from him on the ground.

At about 5:38:45 PM, Officer Wolfer uses a cellular phone to call Sgt. Rod McAllister. I know that is who he calls because I can see the name and part of the phone number (541)***-7895 displayed on the phone screen. Officer Wolfer briefs Sgt. McAllister. During the briefing, he tells Sgt. McAllister that the suspect "squared-up on me." Officer Wolfer told Sgt. McAllister he tased the suspect a second time because the suspect was resisting while he was trying to get the cuffs on by himself.

I also note that in the briefing to Sgt. McAllister, Officer Wolfer indicates the warrant for the suspect had flags for assaulting and resisting a police officer. I am unable to validate the accuracy of this statement with the resources provided so will accept it as accurate for the purposes of this review.

Opinion:

Officer Wolfer was authorized by GRTPD to carry and use a Taser.

Officer Wolfer gave warning before using the Taser as required in GRTPD policy 304.4.

Officer Wolfer violated GRTPD policy 304.5.1. This section of policy dictates (paraphrased) a person be either (a) violent or physically resisting or (b) demonstrate by words or action an intention to be violent or to physically resist, and appears to present the potential to harm officers, him/herself or others.

When viewed in light most favorable to Officer Wolfer, the suspect was merely not complying with commands when the first application of the Taser occurred.

Officer Wolfer violated GRTPD policy 304.5.2 (d) by using a Taser on a handcuffed person who could otherwise be restrained without meeting threshold of increased risk to himself, the suspect or others.

Officer Wolfer violated GRTPD policy 304.5.2 (f) by tasing an individual who was standing on an asphalt parking lot. However, this would not, in my opinion, be a violation if the use of the Taser was appropriate under policy 304.5.1 (a) or (b) because the use would then meet policy 304.5.2's balancing test.

Officer Wolfer did not violate GRTPD policy 304.5.3 because his application of the Taser was dynamic and did not lend itself to more careful targeting. Further, he summoned appropriate medical care for the suspect.

Officer Wolfer did not violate GRTPD policy 304.5.4 because the decision to use multiple applications of a Taser are left, as a matter of policy, to the opinion of the officer that the need to control the suspect outweighs the potentially increased risk posed by multiple applications. It should be noted I do not believe the second application of the Taser reasonable or lawful but in light most favorable to Officer Wolfer, this narrow section of policy leaves the decision to his discretion.

Officer Wolfer violated policy GRTPD 304.5.5. This policy required Officer Wolfer notify a supervisor of the Taser device discharge. It is an implicit component of advising the supervisor to be honest in the recounting of the event. It is possible, albeit remote, to attribute the telling of the initial tasing of the suspect to a perception error on Officer Wolfer's part that the suspect "squared-up" with him or prepared to fight. This does not validate that perception but accepts it as possibility other than an intentional false statement. However, Officer Wolfer's telling Sgt. McAllister he tased the suspect a second time because the suspect was resisting while he was trying to cuff the suspect is plainly false. The suspect had been secured in cuffs behind his back well before being tased the second time.

MATERIALS RETENTION:

I will secure the copy of GRTPD Policy 304, the body-camera video and a copy of this document into Dallas Police Department evidence as item #001 under case # DAP17001674. The report will contain no personal identification information and the narrative will state, "Assist for another agency internal review. Materials associated with this case number are exempted from public records release under ORS 192.501." The address for the event will be 187 SE Court St. Dallas, Oregon.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Inter-Office Memorandum

Date: August 16, 2017
To: Lieutenant Hernandez (Acting Chief of Police)
CC: Chief Jake McKnight
From: Sgt. Rod McAllister
Subject: **Investigation Report**

On 08-15-2017, I received information from Lieutenant Hernandez regarding an incident involving Officer James Wolfer, [REDACTED] [REDACTED] and [REDACTED] while at Spirit Mountain Casino located at 27100 Salmon River Hwy in Grand Ronde, Polk County Oregon.

During Officer Wolfer's contact with [REDACTED] and [REDACTED] Officer Wolfer deployed his Department issued CEW (Conducted Electrical Weapon) twice. After Lieutenant Hernandez reviewed video footage, from Officer Wolfer's Department issued body camera, it was determined that several Department policies were violated by Officer Wolfer.

Lieutenant Hernandez requested that I complete an investigation into this incident, regarding the violations of Department policies.

On the evening of 08-13-2017, while I was off duty and at my residence, I had received a telephone call from Officer James Wolfer.

Officer Wolfer advised me that he was calling to let me know that he had been involved in a use of force situation and that he had deployed his Taser while attempting to take [REDACTED] [REDACTED] into custody on a felony assault in the second degree warrant and for trespassing at the Casino.

Officer Wolfer stated, "Hey, just thought that I'd let you know." "I tased [REDACTED] [REDACTED] I'm calling you for the use of force." "It was right when Lieutenant went end of watch, so he couldn't back me up." "He was already gone."



GRAND RONDE TRIBAL POLICE DEPARTMENT

"He () was trespassed and also had a felony warrant." "Wouldn't stop when I told him to." "His mom (referring to) kept getting in the middle." "He squared up on me and so I had to tase him." "I actually had to hit him a second time." "He was resisting while I was trying to get the cuffs on him, by myself."

"So, Medics cleared him." "So, I gathered, I took photos of where the doors called, the fibs, whatever." Took photos of those, secured them." "Medics pulled the barbs out after the, whatever they are, the probes after P-020 (Deputy Lacombe, Polk County Sheriff's Office) came as my cover." "He was there because he () was semi-combative." "He's (Deputy Lacombe) actually following me right now."

"Medics cleared him () for transport and, so, we're headed to PCJ. (Polk County Jail)" "So, just giving you a call on the use of force."

Officer Wolfer then began to go into details regarding the incident at Spirit Mountain Casino, involving () and ()

"Yeah, trespass." "That's what the original call, that he's () been trespassed multiple times." "Yes, he's () also going to have that."

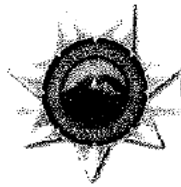
"So, his () mom () almost got those same charges, but she () walked away when I told her that she would be arrested." "Stop interfering and keep your distance."

"So, she () was trying to get between the two of us, multiple times." "Which is part of what escalated." "I put my spare one (Taser cartridge) in there."

After Officer Wolfer provided me with the information regarding the use of force, involving () () I provided him with information regarding the collection of the Taser cartridge, the deployed probes and other evidence that needed to be entered into the evidence room.

After providing Officer Wolfer with direction pertaining to the evidence, I then ended my conversation with Officer Wolfer after he provided me with the information regarding () valid felony warrant, issued out of Yamhill County Circuit Court for the original charge of assault in the second degree and the cautions entered regarding the history of resisting arrest and for assault on an Officer.

While reviewing Officer Wolfer's Department issued body camera footage, I observed Officer Wolfer exit from his marked Grand Ronde Tribal Police Department vehicle and make contact with Spirit Mountain casino Security who advised Officer Wolfer where () was currently located at.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Officer Wolfer then proceeds, across the green lot, towards [REDACTED] and [REDACTED] location. As Officer Wolfer works his way through the parked vehicles, Officer Wolfer yells, "Hey, Stop, Police, Stop, Get on the ground!"

After Officer Wolfer gives his verbal commands, a male and female subject appear in view of Officer Wolfer's body camera, as Officer Wolfer moves towards them. [REDACTED] then asks Officer Wolfer, "What do you want?"

Officer Wolfer then states, "Get on the ground now!" Officer Wolfer has his CEW pointed in the direction of [REDACTED] and [REDACTED] and [REDACTED] are standing in the middle of the lane of travel located between the parking stalls. [REDACTED] is holding a white plastic bag in her left hand and [REDACTED] has nothing in his hands.

[REDACTED] then states, "Me?" Officer Wolfer answers, "No, not you!" "Back up!" "Go to the side!" "You on the ground!" while pointing with his left hand and pointing the CEW with his right hand. [REDACTED] is standing between [REDACTED] and Officer Wolfer. [REDACTED] is a couple of feet behind [REDACTED] and Officer Wolfer is several feet away from both [REDACTED] and [REDACTED]

Officer Wolfer then yells, "Get on the ground now!" "Move aside!" "Get on the ground now or you will be Tased!"

At this point, [REDACTED] is standing there with both hands in the air, next to his head. It's clear that [REDACTED] has nothing in his hands.

[REDACTED] steps towards Officer Wolfer. Officer Wolfer moves towards his left and yells, "Back away!" "Get on the ground now!"

[REDACTED] is observed taking small steps backwards while holding his hands in the air, next to his head. [REDACTED] is standing near [REDACTED] with her hands on her hips.

Officer Wolfer yells, while discharging his CEW, "Get on the ground!" Both CEW probes travel past [REDACTED] and strike [REDACTED]

[REDACTED] leans forward, brings his hands down to the front of his chest, just below his chin and falls forward with his body stiff. [REDACTED] lands face down on the asphalt and rolls onto his back while receiving the electrical current from Officer Wolfer's CEW.

Officer Wolfer then notifies Dispatch that he has Tased [REDACTED] while [REDACTED] steps towards Officer Wolfer while stating, "You mother fucker!"



GRAND RONDE TRIBAL POLICE DEPARTMENT

Officer Wolfer then tells [REDACTED] to "Get on the ground or you will be Tased too!" [REDACTED] then yells, "Fucking do it, Bitch!" Officer Wolfer continues to tell [REDACTED] to "Get on the ground!" while Security Supervisor Mickey Wood steps in front of [REDACTED]

At this point, [REDACTED] is lying on his back with his arms extended out to his sides and slightly towards his head, not moving.

Officer Wolfer continues to yell "Get on the ground!" "Get on the ground and don't move!" [REDACTED] is heard saying, "He didn't do anything!"

Officer Wolfer then requests Dispatch to notify medical personnel to respond to the location. Officer Wolfer then tells Security Supervisor Wood to keep [REDACTED] away.

Officer Wolfer then tells [REDACTED] to roll over onto his side twice, which [REDACTED] complies with Officer Wolfer's commands. At this point, [REDACTED] is lying on the asphalt, face down and not moving around.

Officer Wolfer then tells [REDACTED] that he is under arrest. [REDACTED] asks Officer Wolfer, "For what?" Officer Wolfer then tells [REDACTED] "You have a warrant and you have been trespassed." "You are under arrest!" "Do not move!"

Officer Wolfer then moves towards [REDACTED] and [REDACTED] stays standing in the same spot and does not move. Officer Wolfer points towards [REDACTED] and says, "Stay back!" "Keep your hands where we can see them!"

Officer Wolfer then kneels down beside [REDACTED] places his left hand in the lower area of [REDACTED] back and says, "Place your hands right here!" [REDACTED] is heard saying, "He had this under control and you fucking know it!" Officer Wolfer tells [REDACTED] to "Shut up!"

Officer Wolfer then places [REDACTED] hands in the lower portion of his back and says, "Put your hands right here or you'll get it again!" Officer Wolfer then places handcuffs on [REDACTED] wrists, while his hands are behind his back. [REDACTED] is not saying anything nor is he displaying any indications that would indicate that [REDACTED] is resisting Officer Wolfer while being handcuffed.

After [REDACTED] is handcuffed, [REDACTED] asks Officer Wolfer, "What did I do?" "What did I do?" Officer Wolfer states, "Do not move!" [REDACTED] asks again, "What did I do?" Officer Wolfer states, "Do not move!" At this point, [REDACTED] is still lying face down, on the asphalt and not displaying any indication or making any movements that would constitute the crime of resisting arrest.



GRAND RONDE TRIBAL POLICE DEPARTMENT

█████ then asks Officer Wolfer, "What does he have a warrant for?" Officer Wolfer replies, "It doesn't matter!" "Shut up!" █████ begins to move and Officer Wolfer states, "Do not move or I will give it to you again!"

Officer Wolfer then tells █████ to "Shut up!" "It's not about you!" █████ asks Officer Wolfer a second time, "What does he have a warrant for?" Officer Wolfer states to █████ "Shut up!" "It's none of your business!"

█████ then moves towards his left side and yells, "It is my business!" Officer Wolfer tells "Stop moving or I will Tase you again!" █████ then states, "Fuck you!"

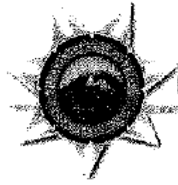
Officer Wolfer then discharges his CEW a second time, while █████ is lying face down on the asphalt, with his hands cuffed behind his back. Officer Wolfer allows his CEW to cycle for the entire five seconds. █████ is heard yelling during the entire five second cycle.

Officer Wolfer tells █████ "Don't move or you'll get it again!" "Shut up!" Officer Wolfer then asks █████ "You done?" Officer Wolfer then states, "You pull away from me again, you get it again!" At no point in time did █████ ever pull away from Officer Wolfer nor did he make any attempts at pulling away. █████ appeared to only attempt to roll to his left side to look at Officer Wolfer while he was saying, "Fuck you!"

█████ then tells Officer Wolfer, "You shot me twice!" Officer Wolfer then answers, "You shouldn't resist." "I told you that you were under arrest and you resisted." █████ asks Officer Wolfer, "How did I resist mother fucker?" Officer Wolfer then states that █████ was moving and pulling away.

After reviewing the video footage from Officer Wolfer's Department issued body camera, I reviewed the content of Officer Wolfer's report that he completed regarding this incident. During my review, I noted multiple inconsistencies regarding the information contained in the report compared to what actually happened on video.

I also learned that the information Officer Wolfer provided to me on the evening of 08-13-2017, regarding the use of force, was untruthful regarding the events that occurred and the conduct █████ displayed, which would justify the use of a CEW.



GRAND RONDE TRIBAL POLICE DEPARTMENT

Findings:

POLICY 319 – STANDARDS OF CONDUCT.

319.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

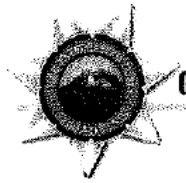
Officer James Wolfer violated Policy 319.5.8 by intentionally making false statements when reporting the incident to his supervisor, after the deployment of the Department issued CEW. Officer Wolfer made misleading entries into his criminal report, to the Polk County District Attorney's Office, regarding the conduct of [REDACTED] and [REDACTED] to facilitate additional criminal charges consisting of resisting arrest and interfering with a police officer.

319.5.9 CONDUCT

- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.

Officer James Wolfer violated Policy 319.5.9 by intentionally using unreasonable and unwarranted force on [REDACTED] While [REDACTED] was lying face down, on the asphalt, with his hands restrained behind his back with the use of handcuffs, Officer Wolfer intentionally discharged his Department issued CEW after [REDACTED] rolled towards his left side after being told not to move.

Officer Wolfer was untruthful when providing information, to his supervisor, regarding [REDACTED] actions that led to the justification to use a CEW to effectively make an arrest.



GRAND RONDE TRIBAL POLICE DEPARTMENT

POLICY 304 – CONDUCTED ENERGY DEVICE

304.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others. Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

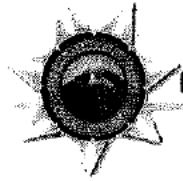
Officer Wolfer violated Policy 304.5.1 by using his Department issued CEW on [REDACTED] who was not actively violent and not physically resisting while restrained by the use of handcuffs.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (d) Individuals who are handcuffed or otherwise restrained.

Officer Wolfer violated Policy 304.5.2 by intentionally discharging his Department issued CEW while [REDACTED] was restrained by the use of handcuffs.



GRAND RONDE TRIBAL POLICE DEPARTMENT

RECOMMENDATION:

After reviewing all of the information provided, Officer Wolfer's footage from his Department issued body camera and the review of his completed police report, I find that Officer Wolfer grossly violated several Department policies, which affect the mission and vision statements of this Department.

I recommend the following;

- **Termination of employment with the Grand Ronde Tribal Police Department.**



GRAND RONDE TRIBAL POLICE DEPARTMENT

Inter-Office Memorandum

Date: August 16, 2017

To: Chief Jake McKnight

CC: Rod McAllister

From: Lt. Tim Hernandez (acting Chief of Police)

GRT 17-673 James Wolfer administrative investigation.

On 08/13/17 I was near my residence for my scheduled shift to end at 1700 hours. I heard radio traffic from 911 Dispatch advising of a trespass in progress. I checked the call notes and saw the suspect was [REDACTED] [REDACTED]. I advised Officer Wolfer of Mr. [REDACTED] past contacts and that I believed that he had a warrant for assault out of Yamhill County. I also requested Polk County respond to cover Officer Wolfer.

I then monitored the radio traffic from my residence. I hear Officer Wolfer tell 911 Dispatch that he had activated his taser while taking Mr. [REDACTED] into custody. I later heard that medics had cleared Mr. [REDACTED]

On 8/14/17 I responded to the Police department and I asked Evidence Technician Leno to make me a copy of the use of force. Officer Wolfer's daily shift report advised that he tased Mr. [REDACTED] because

"his mother was coming at me and he seemed to square up his feet." He stated that he tased Mr. [REDACTED] a second time because, "He resisted."

I then reviewed the video and I saw Officer Wolfer give Mr. [REDACTED] commands at taser point to, stop Police, get on the ground. Mr. [REDACTED] mom gets in between Officer Wolfer and Mr. [REDACTED] Mr. [REDACTED] raises his hands in the air above his head and slowly walks backwards while asking, what did I do? Officer Wolfer steps to the side and tases Mr. [REDACTED]

Mr. [REDACTED] immediately falls to the ground and his mother takes a step towards Officer Wolfer while yelling at him. Officer Wolfer gives Mr. [REDACTED] orders and Mr. [REDACTED] complies. Officer Wolfer handcuffs Mr. [REDACTED] behind his back. Mr. [REDACTED] is upset and he and his mom begin to yell asking what he did. Mr. [REDACTED] moves while yelling and Officer Wolfer tells him not to move or he will be tased again. Mr. [REDACTED] yells "Fuck you" and moves while saying this. Officer Wolfer tases him again for a full five seconds.

CTGR policy 304.5.1 Application of taser

The taser device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

The taser application that I witnessed on body camera footage does not fall in line with the policies of the CTGR Police Department.

I immediately made contact with the CTGR General Manager and the CTGR Tribal Police Attorney. I asked them to view the body camera footage and I provided them with a copy of the CTGR Police Conducted Energy Device policy. After they viewed the body camera footage we made the decision to place Officer Wolfer on paid administrative leave until we could further review this incident.

On 08/14/17 at about 1024 hours, I met with Officer Wolfer at the Grand Ronde Police Department. Also present was Human Resources, Patrick Dempsey. I introduced Officer Wolfer to Mr. Dempsey and I advised him that his use of force was not in line with CTGR Police Department policies and that he was being placed on administrative leave.

I provided Officer Wolfer with a copy of the policy. Officer Wolfer asked me if he could ask a question and I told him he could. He asked what part was not in line. I asked him to look at the policy and I told him Mr. [REDACTED] had his hands in the air and was slowly stepping backwards when he was tased.

Officer Wolfer told me, "He squared up at me." He said after he reviewed his body camera footage he saw his hands were in the air but he felt Mr. [REDACTED] feet were pointed towards him.

I then mentioned the second taser deployment and Officer Wolfer told me, "He kept trying to roll." He told me he had not patted Mr. [REDACTED] down and he had not double locked the handcuffs. He told me his taser deployment was done in good faith. Officer Wolfer asked what the level of punishment was for an incident like this. I advised him that it could be anything from days off, more training or possible termination. I told him we would have to have a full review of the incident.

I asked Officer Wolfer to leave his department equipment in his locker. He was allowed to wear his duty shirt and pants. Officer Wolfer asked me about his off duty weapon and badge. I advised him he was only on administrative leave and he could keep his off duty gear and credentials.

Our meeting concluded at 1030 hours. I walked to the locker room with Officer Wolfer and spoke with him briefly as he was placing items in his locker. I asked him if Nicole was at home or if he wanted to call Nicole with me present and he told me I did not need to. Officer Wolfer stated to me, "This seems like Warm Springs all over again."

I later reviewed the entire incident to its conclusion. I heard Officer Wolfer call Sgt. McAllister and explain that he tased Mr. [REDACTED]. Officer Wolfer said he tased Mr. [REDACTED] because he squared up to me. He told Sgt. McAllister that he had to tase Mr. [REDACTED] a second time because he was resisting while Officer Wolfer was trying to handcuff him by himself.

I later reviewed Officer Wolfer's report where he states that he tased Mr. [REDACTED] because his feet pointed towards him in an aggressive manner. He stated he tased Mr. [REDACTED] a second time because he continued to try to roll away from me.

It is my opinion that Mr. [REDACTED] mother, Mrs. [REDACTED] was more aggressive than Mr. [REDACTED]. I did not see anything in my opinion that either Mr. [REDACTED] or Mrs. [REDACTED] ever displayed anything other than verbal and passive resistance. Mr. [REDACTED] was never told he was under arrest until after he had been tased and handcuffed. He was later handcuffed and lying face down with Officer Wolfer standing over him when he was tased a second time.

On 8/15/17, I made phone contact with the City of Dallas Police Chief, Tom Simpson. I asked the Chief if his department would be willing to assist our department with a use of force review. Chief Simpson advised me he would have a supervisor contact me.

I also briefed Sgt. McAllister and I advised him that I wanted him to conduct an investigation into this incident.

I later spoke with Dallas Police, Lt. Mott. I advised Lt. Mott we had a taser deployment that we wanted his department review and advise if it was in line with the CTGR Police Department policies. Lt. Mott advised me that he would be willing to review our policy and the body camera footage and offer a written opinion.

I later responded to the Dallas Police Department and I provided Lt. Mott with a complete copy of the Grand Ronde Police Conducted Energy Device policy. I also provided him with a DVD with the body camera footage of the taser deployment against Mr. [REDACTED]

On 8/16/17 I received a written response from Lt. Mott. Lt. Mott advised me that he believed that Officer Wolfer violated several CTGR Police Department policies. Please refer to Lt. Mott's report for additional information.

End of report.

Crime/Incident Report

Print Date: 08/14/2017 13:39:18

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case Id GRT17000673	Type Description TRESP1 TRESP1	Report Date 08/13/2017 17:04
Location 27100 SALMON RIVER HWY	Occurred From 08/13/2017 17:04	Occurred To 08/13/2017 19:42
District 01	Linked Incident	
Department Routing ; PCDA		

SYNOPSIS

OFFENSES

OFFENSE	DESCRIPTION	LOCATION TYPE	UCR
164.245(a)	Criminal Trespass II TRESPASSED PERMANENTLY FROM CASINO GROUNDS SINCE 2016	CAS	26
162.247	Interfere with Police Officer REFUSED TO OBEY ORDERS, REFUSED TO OBEY ORDERS	CAS	999
162.315(c)	Resisting Arrest - Dis. Conduct ATTEMPTED TO ROLL AWAY WHILE BEING HANDCUFFED	CAS	24
166.025(b)	Disorderly Conduct 2nd Deg YELLED DURING ENTIRE ARREST, WAS DISRUPTIVE TO FOOD SERVICE	CAS	24
01207	AOA - Warrant Served YAMHILL COUNTY FELONY WARRANT-ASSAULT II-WNO #17CR53185	CAS	999
162.325(e)	Hinder Prosecution - All Other ATTEMPTED TO PHYSICALLY STOP ARREST OF	CAS	999

INVOLVED PARTIES

	DOB	AGE	SEX	RACE	WEIGHT	HEIGHT	HAIR	EYE
ARRESTED		32	M	NAT	150 lbs	5ft10in	BLK	BRO

Home #: Bus #: (Cell #: (
 SSN: DLN:

CHARGE	DESCRIPTION	CNTS	WARRANT #	COURT
164.245(a)	Criminal Trespass II	1		CIRC
162.247	Interfere with Police Officer	1		CIRC
162.315(c)	Resisting Arrest - Dis. Conduct	1		CIRC
166.025(b)	Disorderly Conduct 2nd Deg	2		CIRC

OTHER	37	M	NAT	210 lbs	5ft10in	BLK	BRO
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Home #: Bus #: (Cell #: (
 SSN: DLN: OR

OTHER

, OR

Home #: (

Bus #: (

Cell #: (

SSN:

DLN:

SUSPECT

57

F

WHI

180 lbs

5R02in

BRO

GRAND RONDE OR 97347

Home #:

Bus #:

Cell #: (

SSN:

DLN: OR

Complexion:

Clothing:

Suspect Actions:

VICTIM

SPIRIT MOUNTAIN CASINO

27100 SALMON RIVER HWY ,GRAND RONDE OR 97347

Bus #: (503) 879-2350

PROPERTY

Item #	Tag	Category	Make	Model	Serial #
001	R1700673G108001	MISCELLANEOUS			
OAN	COLOR	NCIC	UCR K.		

Description

TASER PROBES, CARTRIDGE AND DOORS

Ownership	Property Status	Estimate	Property Status	Estimate
Name:	Evidence: Y 1.00			
Phone:				
Address:				
Recovered/ Seized From	Seizure			
Name:	Location:			
Address:	Officer:			
Phone:	Recovered Date:			

Item #	Tag	Category	Make	Model	Serial #
003	R1700673G108003	PHOTOS/FILM			
OAN	COLOR	NCIC	UCR K.		

Description

BODY CAMERA FOOTAGE

Ownership	Property Status	Estimate	Property Status	Estimate
Name:	Evidence: Y 1.00			
Phone:				
Address:				
Recovered/ Seized From	Seizure			
Name:	Location:			
Address:	Officer:			
Phone:	Recovered Date:			

Item #	Tag	Category	Make	Model	Serial #
004	R1700673G108004	DOCUMENTS			
OAN	COLOR	NCIC	UCR K.		

Description

SECURITY INCIDENT REPORTS

Ownership

Name:
Phone:
Address:

Property Status Estimate

Property Status Estimate

Evidence: Y 1.00

Recovered/ Seized From

Name:
Address:
Phone:

Seizure

Location:

Officer:

Recovered Date:

Item #

Tag

Category

Make

Model

Serial #

005

R1700673G108005

PHOTOS/FILM

OAN

COLOR

NCIC

UCR

K.

Description

CDR-photos of Taser Deployment area

Ownership

Name:
Phone:
Address:

Property Status Estimate

Property Status Estimate

Evidence: Y 1.00

Recovered/ Seized From

Name:
Address:
Phone:

Seizure

Location:

Officer:

Recovered Date:

MO**NARRATIVE**

On 8/13/2017 I was on duty, in full uniform and clearly displaying a badge. At 1703 hours I was dispatched to Spirit Mountain Casino, located at 27100 Salmon River Highway, Grand Ronde, Polk County, Oregon, for report of a male that was trespassing. While en route, dispatch advised that the male was [REDACTED] DOB [REDACTED], and that he had a felony warrant out of Yamhill County. Lt. Hernandez advised he was already out of the county and end of watch, but advised that [REDACTED] brother, [REDACTED] may be around and has assault law enforcement in the past. Dispatch further advised that the warrant was confirmed for Assault in the second degree and that [REDACTED] had caution flags for assault on a public safety officer. Dispatch also advised he was intoxicated. While en route I located [REDACTED] DMV photo and viewed it, as well as the warrant information. I called for a cover unit, and the closest cover unit was Polk County Deputy LaCombe, who was responding from Dallas. I called Spirit Mountain Casino Security, who advised that [REDACTED] was permanently trespassed from the casino and that he was being confrontational with security. I advised dispatch I would be increasing my response and responding without waiting for a cover unit due to casino security being at risk, especially given [REDACTED] cautions for interfering with police and the warrant being for assault II, which I know includes serious physical injury as an element. As I arrived at the casino, Security Supervisor Micky Wood advised that [REDACTED] was headed towards the valet entrance and the green parking lot. I went to that location and security pointed out [REDACTED] walking with a female in about the third row of parking. I recognized [REDACTED] from his DMV photo. I had my body camera activated already. The following happened in substance, to the best of my recollection and perception at the time of the incident.

I drew my Taser and loudly yelled "stop! Police!" and "get on the ground" to [REDACTED]. The female, later identified as [REDACTED] DOB [REDACTED], asked if I meant her or [REDACTED]. I gave verbal commands for Ms. [REDACTED] to move to the side and gave verbal commands to [REDACTED] to "get on the ground!" [REDACTED] refused to get on the ground and was yelling at me. Ms. [REDACTED] was yelling at me. I sidestepped to my left while pointing my Taser at [REDACTED] while I continued to shout verbal commands to "get on the ground, get on the ground NOW!"

[REDACTED] continued to refuse to get on the ground and yelled at me. Ms. [REDACTED] continued to refuse orders to move aside and kept physically putting herself between my Taser and [REDACTED]. I continued to yell verbal commands to "stop!" and "get on the ground or you will be Tased!" while pointing my Taser at [REDACTED] from about 10 feet away. I observed [REDACTED] put his hands up but point his feet towards me in an aggressive stance, and I believed [REDACTED] was getting ready to assault me. At that time, Ms. [REDACTED] was still yelling at me and walking towards me aggressively.

Due to the severity of the crime of Assault II that [REDACTED] was wanted for, the known factors of [REDACTED] having a history of interfering with police and associated cautions, the fact that [REDACTED] was continually refusing orders to get on the ground and his aggressive stance and shouts, the fact that [REDACTED] appeared to be larger than me, my cover unit likely still being 5-10 minutes away, as well as Ms. [REDACTED] walking towards me while yelling and physically attempting to stop me from taking [REDACTED] into custody, I was afraid I would be assaulted and would have to physically fight both Ms. [REDACTED] and [REDACTED]. I quickly sidestepped to my left and pulled the trigger of my Taser while it was pointed at [REDACTED] and it was effective, with the probes and wires hitting [REDACTED] in the upper Torso area.

I observed [REDACTED] fall back to the ground. Ms. [REDACTED] began screaming at me "you motherfucker!" and I had to yell verbal commands at her to "get on the ground or you will be Tased too!" Ms. [REDACTED] stood back about 6 feet from me, but continued to yell at me and approach me. I repeatedly had to yell at Ms. [REDACTED] to "step back!" "get on the ground" and "shut up!" because she was yelling so loudly that I could not effectively give further instruction to [REDACTED]. I let dispatch know I had Tased [REDACTED] and asked for medics to respond.

I told [REDACTED] to turn over onto his stomach or he would be Tased again, and he complied. I told [REDACTED] to put his hands on the small of his back. I told [REDACTED] he was under arrest for a felony warrant and for trespass. I began putting handcuffs on [REDACTED] continued to yell at me and tried to roll away from me while tensing his body up. I told [REDACTED] to stop resisting or he would be tased again. As I attempted to double lock the handcuffs, [REDACTED] tensed his body up and tried to roll away from me, and I told him again to stop resisting but he continued to try and roll away from me. I activated my Taser again for a 5 second cycle, and [REDACTED] immediately stopped resisting. I was able to secure [REDACTED] to the ground with my knee on his upper back.

While securing [REDACTED] Ms. [REDACTED] repeatedly screamed at me and approached me. I had to yell commands at her to stay back and Security Supervisor Wood stepped in and kept Ms. [REDACTED] from approaching me. Ms. [REDACTED] began to record me on her cell phone. I told her that was fine because I was recording on my body camera, but that she needed to do it from that distance and not approach me again. I told her I would need her information, and [REDACTED] told me it was his mother.

[REDACTED] a Casino employee, came outside and identified himself as [REDACTED] brother. [REDACTED] kept trying to calm [REDACTED] down as he would alternate between tensing his body up and screaming at me, and then calming down. [REDACTED] did not seem to recognize [REDACTED] at times, and I could smell a moderate odor of an alcoholic beverage coming from [REDACTED] person. I also observed his speech to be extremely slurred.

[REDACTED] asked to sit up. I told him as long as he did not resist any more I would let him sit up, and he

agreed. I sat [REDACTED] up into a seated position, and he continued to alternate between being calm and screaming at me "what did I do." I repeatedly explained the warrant and trespass charges to [REDACTED]

I asked [REDACTED] if he had any injuries, and he told me he had a heart condition but was not having any issues now. When medics arrived, I advised them to wait for Deputy LaCombe, who was about 2 minutes away. When Deputy LaCombe arrived, medics checked on [REDACTED] removed the Taser probes and wires, and cleared him for transport to the jail. I specifically asked them to check [REDACTED] head for any injuries from falling after being Tased, and they advised there were no visible injuries and [REDACTED] insisted he was fine.

At some point, Ms. [REDACTED] left the scene and was not located again.

The medics placed the Taser probes into a locked sharps container and gave that to me. I photographed the area where I had deployed the Taser. I collected the Taser wires and doors but could not find any other pieces of evidence. Deputy Lacombe and I assisted [REDACTED] to his feet. I checked the handcuffs for proper tightness and fit and conducted an officer safety patdown on [REDACTED] for weapons and means of escape and found none. I escorted [REDACTED] to the back of my patrol vehicle and placed him in the backseat, and placed his seatbelt on. I secured the Taser evidence in the back of my patrol vehicle.

I transported [REDACTED] to the Polk County Jail. While en route, [REDACTED] cycled between calm and quiet to loudly screaming at me while banging his head on the cage divider. I told [REDACTED] several times to stop banging his head and he would immediately comply. While driving to the Polk County Jail, [REDACTED] asked my name repeatedly, and after I told him, he told me that he would kill me. I asked him when, and he said "maybe tonight, maybe next time I see you."

I advised dispatch of the threats made and asked that extra deputies be available at the jail in case [REDACTED] was combative there.

At the jail, [REDACTED] was not combative. [REDACTED] refused to have his blood alcohol content tested. The corrections deputies explained that [REDACTED] needed to provide a sample to see if he was medically cleared to be lodged, as they were worried about him having alcohol poisoning. [REDACTED] refused to provide a sample, so I transported him to the West Valley Hospital in Dallas, Oregon. At the hospital, [REDACTED] was cleared by medical staff and I was given a form. I kept a copy of the form which will be attached to this report.

I called Grand Ronde Tribal Police Sergeant Rod McAllister by telephone and advised him of the use of force.

I transported [REDACTED] to the Polk County Jail, where he was lodged for the following charges:

Yamhill County Felony Warrant for Assault II, Warrant # 17CR53185;

ORS 164.245 Criminal Trespass II, due to [REDACTED] being at Spirit Mountain Casino after knowingly being permanently trespassed from the casino property. It should be noted that [REDACTED] was previously arrested in case 16-515 for trespassing at the casino on 9/18/2016;

ORS 162.247 Interfering with a police officer, due to [REDACTED] refusing several orders to stop and get on the ground after I identified myself as a police officer and while warning him to get on the ground or he would be Tased;

ORS 162.315 Resisting arrest, due to [REDACTED] physically tensing his body up and attempting to roll away from my several times while I was handcuffing him, after I had informed him he was under arrest for Trespass and a Felony Warrant;

ORS 166.025 Disorderly conduct II, due to [REDACTED] screaming loudly at me during and after the arrest, causing several patrons to stop walking and stare, as well as being so disruptive while being served food that he was asked to leave by Casino staff.

I returned to the Grand Ronde Police station and secured the Taser probes and cartridge in evidence as Item # 001.

Officer Tehama returned to the scene of the incident and retrieved two AFIDS for me, which were secured as Item # 002. See Officer Tehama's supplemental report for further.

I downloaded my body camera footage into DEMS and saved it as evidence, Item # 003.

I burned the photos I had taken onto a CDR and saved it in evidence as Item # 005.

I later reviewed my body camera footage and observed that directly before I activated my Taser, [REDACTED] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that Ms. [REDACTED] was approaching me and I believed I was about to be assaulted and would have to fight both Ms. [REDACTED] and [REDACTED] without a cover unit.

On 8/14/2017 at 0636 hours I returned to Spirit Mountain Casino and spoke with Security Staff. Security staff gave me the security reports for this incident, which is incident number INC-112829, as well as the incident on 9/18/2016, INC-10541. In security report INC-10541, after [REDACTED] was arrested by Grand Ronde Tribal Police for trespass on 9/18/2016, Security explained to [REDACTED] that he was permanently and indefinitely excluded from the casino and that future incidents would result in the Casino pursuing trespass charges. There is a copy of the written exclusion notice in that report. I secured both reports in evidence as Item #004.

I also requested SMC Surveillance provide me a copy of the surveillance footage. I will attach that to this report once received.

Security also identified Ms. [REDACTED] as the female that was with [REDACTED] I looked up Ms. [REDACTED] DMV photo and noted it was a match for the female that attempted to stop me from arresting [REDACTED]

At this time, I have probable cause to arrest Ms. [REDACTED] for the following crimes:

ORS 162.325 Hindering prosecution, due to Ms. [REDACTED] physically attempting to stop me from taking [REDACTED] into custody on his Felony warrant, when she continually stepped between me and [REDACTED] and refused orders to step aside;

ORS 162.247 Interfering with a police officer, due to Ms. [REDACTED] refusing orders to get on the ground, as well as refusing orders to step aside when I attempted to take [REDACTED] into custody.

CASE CLOSED BY ARREST

Copy of report to the Polk County District Attorney

SUMMARY

REVIEW STATUS: PENDING REVW
INVESTIGATOR ASSIGNED:

REVIEWED BY:
ASSIGNED DATE:

DATE: 8/14/2017 9:45:15AM

DEPT. CASE DISPOSITION: ARREST
UGR STATUS: NA

DATE: 8/14/2017 9:44:34AM

DATE: 8/13/2017 5:44:01PM

IBR EXEP CLEAR CLASS: NA

Reporting Officer

Reviewed/Approved by

Date Reviewed/Approved

G108 WOLFER,JAMES

Incident Supplement

Print Date: 08/14/2017 13:39:22

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case ID GRT17000673	Supplement ID 341696	Occurred Date 08/13/2017 17:04	Event Type TRESP1
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Location
27100 SALMON RIVER HWY

Subject
RECOVERY OF ANTI-FELON IDENTIFICATION TAG (AFID TAG)

Dept Routing
; PCDA

NARRATIVE

On 08/13/2017 at approximately 20:15 hours, Grand Ronde Tribal Officer James Wolfer returned from transporting his custody to Polk County Jail. Officer Wolfer advised me that he had deployed the Taser Probes and asked for help in securing the evidence.

I asked Officer Wolfer if he had recovered any Anti-Felon Identification Tags (AFID Tags), and he advised me that he could not locate any.

I returned to the area where Ofc. Wolfer's Taser was deployed and recovered two AFID Tags with matching serial numbers. I transported the AFID Tags to the Grand Ronde Police Department where I placed them onto clear tape so the numbers were clearly visible. I then placed the tape and tags into an evidence bag and secured it into a locked evidence locker.

This ended my involvement in the case.

CASE STATUS: CLOSED

OFFENSES

INVOLVED PARTIES

PROPERTY

Item # 002	Tag R1700673G107002	Category LAW ENF EQ	Make	Model	Serial # C4103AMCR
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OAN

Description
TWO ANTI-FELON IDENTIFICATION TAGS SECURED ON INVISIBLE TAPE

Drug Type	Drug Weight	Quantity 2	Weapon	Size/Calibre	NCIC	UCR
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Ownership Name: Phone: Address:	Property Status Estimate Evidence: Y 1.00
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Recovered/ Seized From Name: Address:	Seizure Location: Officer:
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Officer Id: G107	Officer Name: TEHAMA, TOKATA	Agency: GRT	Date: 8/13/2017 21:44
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Reviewed Status: PENDING REVW	Reviewed by:	Date: 8/13/2017 21:53
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Incident Supplement

Print Date: 08/14/2017 13:39:22

GRAND RONDE TRIBAL POLICE DEPARTMENT

Case ID GRT17000673	Supplement ID 341696	Occurred Date 08/13/2017 17:04	Event Type TRESP1
Location 27100 SALMON RIVER HWY			
Subject RECOVERY OF ANTI-FELON IDENTIFICATION TAG (AFID TAG)			
Dept Routing ; PCDA			
Phone:		Recovered Date:	
VEHICLES			
MO			
Officer Id: G107	Officer Name: TEHAMA, TOKATA	Agency: GRT	Date: 8/13/2017 21:44
Reviewed Status: PENDING REVW		Reviewed by:	Date: 8/13/2017 21:53



Probable Cause Affidavit

State of Oregon) Arresting Agency: Grand Ronde Tribal PD Venue: ☒ Polk County ☐ Other
County of Polk) Circuit Court: ☒ Dallas Municipal Court: ☐ Monmouth Municipal Court: ☐

Behavioral Health Evaluation: Yes: ☐ No: ☒

I, the undersigned peace officer, after being duly sworn upon oath do hereby swear or affirm that the following information is true to the best of my knowledge and belief.

Arrestee: [REDACTED]

Date & Time of Arrest: 8/13/2017 at 1711 hours

Arresting Officer: J. Wolfer

Date of Crime(s): 8/13/2017 Venue: ☒ Polk County ☐ Other

Crime(s) Alleged:

ORS 164.245 Criminal Trespass II
ORS 162.247 Interfering with a Police Officer
ORS 162.315 Resisting arrest
ORS 166.025 Disorderly conduct in the second degree
Felony Warrant, Yamhill County Warrant 17CR53185

Facts supporting probable cause:

On 8/13/2017 at 1703 hours I was dispatched to Spirit Mountain Casino, located at 27100 Salmon River Highway, Grand Ronde, Polk County, Oregon for report of a male at the location trespassing. Dispatch advised that the male was [REDACTED] DOB [REDACTED] and advised that he had been trespass from that location in the past and was not allowed to be at the location. While en route, dispatch advised that Mr. [REDACTED] had a felony warrant out of Yamhill County and that he had a history of resisting arrest and cautions for assaulting a police officer.

I asked for a cover unit and went towards the location. The closest cover unit was a Polk County deputy coming from the Dallas area. I called Casino Security, who advised that Mr. [REDACTED] was being confrontational with security staff and they were following him to the valet entrance. I went to the valet entrance and Security pointed out Mr. [REDACTED]. I had previously pulled up Mr. [REDACTED] DMV photo and recognized Mr. [REDACTED]. It should be noted that Mr. [REDACTED] has been arrested on previous occasions for being at Spirit Mountain Casino, and he is aware he is permanently trespassed from that location.

Mr. [REDACTED] was with a female that he later said was his mother. I drew my taser and ordered Mr. [REDACTED] to the ground. Mr. [REDACTED] began yelling at me and refusing to cooperate. I continued to order Mr. [REDACTED] to lay on the ground and he continued to refuse. The female kept stepping in between myself and Mr. [REDACTED] and he started walking away. I told Mr. [REDACTED] to stop while pointing my taser at Mr. [REDACTED] with it turned on, and he turned towards me. I observed Mr. [REDACTED] take an aggressive stance towards me while yelling, "squaring up" his body, and I was afraid that he was going to try and assault me. It should be noted that Mr. [REDACTED] is taller than me and his mother continued to try to confront me as well, and I knew my closest cover unit was around 5-10 minutes away. I pulled the trigger and activated the Taser, hitting Mr. [REDACTED] in the upper Torso area. Mr. [REDACTED] fell to the ground. I told him to turn over and he did. I told Mr. [REDACTED] that he was under arrest for trespass and for a felony warrant.

I placed handcuffs on Mr. [REDACTED]. After placing the handcuffs on Mr. [REDACTED] before I could double lock them,

he began to try and roll away from me and yell at me that he did not do anything. I told Mr. [REDACTED] to stop resisting and I tried to hold Mr. [REDACTED] down but he continued to try and roll away from me while yelling at me. I activated the taser a second time as I felt that Mr. [REDACTED] was attempting to try and get up and push me off of him. During this time, the female continued to yell at me and approach me while I yelled at her to stay back. After the second taser cycle, Mr. [REDACTED] stopped resisting. Security was keeping the female subject away from us.

Mr. [REDACTED] agreed to not try and resist any more, and I had him sit up. I asked Mr. [REDACTED] if he had any injuries and he said no. I observed that Mr. [REDACTED] had a strong odor of an alcoholic beverage coming from his breath and person and observed his speech to be slurred. A family member of Mr. [REDACTED] came outside and tried to talk Mr. [REDACTED] into being more calm, as he was yelling loudly at me at times. Mr. [REDACTED] did not recognize the family member, who identified himself as Mr. [REDACTED] brother. From my training and experience as a police officer, I believed Mr. [REDACTED] was intoxicated.

I asked for medics to come and they arrived. When my cover unit, Deputy LaCombe arrived, medics came in and removed the Taser probes from Mr. [REDACTED] and determined he had no injuries and was okay to be transported to the Polk County Jail.

While en route to the Polk County Jail, Mr. [REDACTED] would alternate between being quiet and banging his head on the window of my patrol vehicle while screaming at me. Mr. [REDACTED] also told me that he would kill me, either tonight or next time he saw me.

At the Polk County jail, Mr. [REDACTED] refused to cooperate with jail deputies to be medically cleared. I took Mr. [REDACTED] to West Valley Hospital in Dallas, OR where he was evaluated and medically cleared. I took Mr. [REDACTED] back to the Polk County Jail where he was lodged on the following crimes:

ORS 164.245 Criminal Trespass II , for being at Spirit Mountain Casino after previously being arrested for criminal trespass at that location and being told he was permanently trespassed from the location.

Yamhill County Felony warrant # 17CR53185

ORS 162.247 Interfering with a Police Officer, when Mr. [REDACTED] refused to stop and get on the ground when I gave him several loud verbal commands to stop walking and lay down on the ground.

ORS 162.315 Resisting arrest: for attempting to pull away from me after I told him he was under arrest.

ORS 166.025 Disorderly conduct in the second degree: For yelling loudly in the parking lot, causing multiple patrons to stop and stare, as well as being verbally confrontational with casino security.

Additional statement attached ☐

Signature of Arresting Officer: _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 201____.

Release Assistance Officer/Deputy

Defendant released before probable cause determination.

Bail

Recog Deputy Authorizing Release: _____ Date & Time _____.

[] I find probable cause exists to believe the arrestee committed the crime(s).

☐ I find insufficient probable cause exists, based on the information provided herein.

Judge: _____ *Date* _____ *Time* _____

ARREST REPORT

POLK COUNTY JAIL

CASE # 17-673

NAME OF PERSON ARRESTED [REDACTED]				ALIAS OR NICKNAME(S)				ARREST DATE 8/13/17	
ADDRESS OF ARRESTEE				OCCUPATION				TIME 1711 hours	
SOCIAL SECURITY # [REDACTED]		CITIZENSHIP		BIRTH PLACE		DRIVER'S LICENSE # STATE [REDACTED] OR		MAR. STAT [REDACTED]	
AGE 32	RACE American Indian/Alas	SEX M	EYES Brown	HAIR Brown	LENGTH Short	HEIGHT 5'10"	WEIGHT 185	BUILD Medium	
WHERE ARRESTED Spirit Mountain Casino			HOW ARREST MADE PC, warrant		COURT Polk County			OFFENSE DATE 8/13/2017	
VICTIM NAME / DOB/ RACE Spirit Mountain Casino						<input checked="" type="checkbox"/> Drunk <input checked="" type="checkbox"/> Cursed <input type="checkbox"/> Spit at Officers <input type="checkbox"/> Drinking <input checked="" type="checkbox"/> Resisted <input checked="" type="checkbox"/> Under Influence / Drugs			
VICTIM NAME / DOB/ RACE						MENTAL HEALTH CONCERN <input type="checkbox"/> Yes <input type="checkbox"/> No		GANG	
WEAPON IF ARMED						OTHER PERSONS ARRESTED FOR SAME OFFENSE			
PROPERTY PLACED IN PROPERTY ROOM								RECEIPT #	
NAME OF COMPLAINANT			ADDRESS			BEST PHONE		OTHER PHONE	
WITNESS'S NAME 1.			BEST CONTACT ADDRESS			BEST PHONE		OTHER PHONE	
WITNESS'S NAME 2.			BEST CONTACT ADDRESS			BEST PHONE		OTHER PHONE	

STATUTE	CHARGE DESCRIPTION	DOMESTIC?	CRIME CLASS	BAIL
164.245	Criminal Trespass II	No	C misd	
162.247	Interfering with police officer	No	A misd	
162.315	Resisting arrest	No	A misd	
166.025	Disorderly conduct II	No	B misd	
Warrant	Felony Warrant, Yamhill County # 17CR53185	No	Felony	

OFFICER'S NARRATIVE

On 8/13/2017 at 1703 hours I was dispatched to Spirit Mountain Casino, located at 27100 Salmon River Highway, Grand Ronde, Polk County, Oregon for report of a male at the location trespassing. Dispatch advised that the male was [REDACTED] DOB 2/7/1985, and advised that he had been trespass from that location in the past and was not allowed to be at the location. While en route, dispatch advised that Mr. [REDACTED] had a felony warrant out of Yamhill County and that he had a history of resisting arrest and cautions for assaulting a police officer.

I asked for a cover unit and went towards the location. The closest cover unit was a Polk County deputy coming from the Dallas area. I called Casino Security, who advised that Mr. [REDACTED] was being confrontational with security staff and they were following him to the valet entrance. I went to the valet entrance and Security pointed out Mr. [REDACTED]. I had previously pulled up Mr. [REDACTED] DMV photo and recognized Mr. [REDACTED]. It should be noted that Mr. [REDACTED] has been arrested on previous occasions for being at Spirit Mountain Casino, and he is aware he is permanently trespassed from that location.

Mr. [REDACTED] was with a female that he later said was his mother. I drew my taser and ordered Mr. [REDACTED] to the ground. Mr. [REDACTED] began yelling at me and refusing to cooperate. I continued to order Mr. [REDACTED] to lay on the ground and he continued to refuse. The female kept stepping in between myself and Mr. [REDACTED] and he started walking away. I told Mr. [REDACTED] to stop while pointing my taser at Mr. [REDACTED] with it turned on, and he turned towards me. I observed Mr. [REDACTED] take an aggressive stance towards me while yelling, "squaring up" his body, and I was afraid that he was going to try and assault me. It should be noted that Mr. [REDACTED] is taller than me and his mother continued to try to confront me as well, and I knew my closest cover unit was around 5-10 minutes away. I pulled the trigger and activated the Taser, hitting Mr. [REDACTED] in the upper Torso area. Mr. [REDACTED] fell to the ground. I told him to turn over and he did. I told Mr. [REDACTED] that he was under arrest for trespass and for a felony warrant.

I placed handcuffs on Mr. [REDACTED]. After placing the handcuffs on Mr. [REDACTED] before I could double lock them, he began to try and roll away from me and yell at me that he did not do anything. I told Mr. [REDACTED] to stop resisting and I tried to hold Mr. [REDACTED] down but he continued to try and roll away from me while yelling at me. I activated the taser a second time as I felt that Mr. [REDACTED] was attempting to try and get up and push me off of him. During this time, the female continued to yell at me and approach me while I yelled at her to stay back. After the second taser cycle, Mr. [REDACTED] stopped resisting. Security was keeping the female subject away from us.

Mr. [REDACTED] agreed to not try and resist any more, and I had him sit up. I asked Mr. [REDACTED] if he had any injuries and he said no. I observed that Mr. [REDACTED] had a strong odor of an alcoholic beverage coming from his breath and person and observed his speech to be slurred. A family member of Mr. [REDACTED] came outside and tried to talk Mr. [REDACTED] into being more calm, as he was yelling loudly at me at times. Mr. [REDACTED] did not recognize the family member, who identified himself as Mr. [REDACTED] brother. From my training and experience as a police officer, I believed Mr. [REDACTED] was intoxicated.

I asked for medics to come and they arrived. When my cover unit, Deputy LaCombe arrived, medics came in and removed the Taser probes from Mr. [REDACTED] and determined he had no injuries and was okay to be transported to the Polk County Jail.

While en route to the Polk County Jail, Mr. [REDACTED] would alternate between being quiet and banging his head on the window of my patrol vehicle while screaming at me. Mr. [REDACTED] also told me that he would kill me, either tonight or next time he saw me.

At the Polk County jail, Mr. [REDACTED] refused to cooperate with jail deputies to be medically cleared. I took Mr. [REDACTED] to West Valley Hospital in Dallas, OR where he was evaluated and medically cleared. I took Mr. [REDACTED] back to the Polk County Jail where he was lodged on the following crimes:

ORS 164.245 Criminal Trespass II, for being at Spirit Mountain Casino after previously being arrested for criminal trespass at that location and being told he was permanently trespassed from the location.

ARRESTING OFFICER/AGENCY	REPORT MADE BY	FINAL DISPOSITION
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SALEM HEALTH
An OHSU Partner

525 Se Washington St
Dallas OR 97338
503-623-8301

August 13, 2017

Patient:	██████████
Date of Birth:	██████████
Date of Visit:	8/13/2017

To Whom It May Concern

██████████ was seen and treated in our emergency department on 8/13/2017. He may be lodged in jail without restrictions .

Additional information:

If you have any questions or concerns, please don't hesitate to call.

Attending Physician Webb C Wilson, MD



**SALEM HEALTH
WEST VALLEY**
An OHSU Partner

**Dallas Oregon Emergency
Physicians**

Memo

To: Patients of Salem Health West Valley Emergency Department
From: Dallas Oregon Emergency Physicians
Re: Patient Billing

Dallas Oregon Emergency Physicians (the "Physicians" group in the Emergency Department at Salem Health West Valley, Dallas Oregon) is currently contracted as in-network provider with multiple insurance payers.

We will accept the insurance payer's allowable amount as payment in full (the amount may or may not include patient's co-insurance, co-pays and/or deductibles).

You are responsible for any applicable co-insurance, co-pay, and/or deductible under your insurance plan up to the allowed amount.

If you receive an Explanation of Benefits (EOB) statement from your insurance payer and it shows a remaining balance other than the applicable co-insurance, co-pay, and/or deductible, please fax your EOB to the fax number listed below (use this document as the fax cover) to ensure that the bill is adjusted accordingly and shows the applicable co-insurance, co-pay, and/or deductible, and wait for a final statement from the Dallas Oregon Emergency Physicians that will reflect the corrected balance.

1. Should your insurance company send a check directly to you instead of the Physicians, either
 - A. Sign over and send the insurance check to Dallas Oregon Emergency Physicians along with any co-insurance, co-pay, and/or deductible; or
 - B. Cash the insurance check and send a personal check (to include the insurance payment and applicable co-insurance, co-pay, and/or deductible) to the Dallas Oregon Emergency Physicians at the address listed below. Please include your EOB, and if you choose option B, please also include a copy of the insurance check.

Address:
Dallas Oregon Emergency Physicians
PO Box 98585
Las Vegas, NV. 89193-8585

If you have any questions, our dedicated customer service team can respond immediately. The number is 800-355-2470 (this number is also printed on each statement)

Fax Number: 610-834-2826

Attention: Michelle Lewis, Patient Liaison (WDO Account)

Subject: EOB Copy – Request Insurance Adjustment & Revised Bill

Patient Name: _____

Date of Service (Date of ED Visit): _____

No. of Pages: _____



SALEM HEALTH
WEST VALLEY
An OHSU Partner

525 SE Washington St., Dallas, OR 97338

After Visit Summary

8/13/2017

| MRN: [REDACTED]

Survey

If you were given a patient satisfaction survey during this visit, please complete it and place in the box as you leave. Your opinion does matter to us. If you have been referred to your PCP or a local doctor for follow up, please let the office know you were seen in the West Valley Emergency Department at the time you make your appointment so that your records can be obtained prior to your visit.

Do you have questions? Here are some numbers to help

- 1. Imaging (X-ray, Scans) or Lab results:** Please contact your primary provider.
- 2. Discharge instructions from the Emergency Department:** Please call 503-623-8301, ask for the Emergency Department or access your instructions following the 'MyChart' instructions on your discharge documents.
- 3. Dallas Oregon Emergency Physician bill:** Please call 1-800-355-2470 (M-F 0930-4:00)
- 4. West Valley Hospital bill:** Please call 503-581-1747

CHEC

An excellent Salem Health resource for educational information or research on medical conditions is the Salem Health Community Health Education Center (CHEC) at 503-814-2432 or go online to Salemhealth.org and click on the CHEC link.

You were seen by

You were seen by Wilson, Webb C, MD.

Visit Information

Date & Time	Department	Encounter #
8/13/2017 6:27 PM	Emergency Department	55454265

Reason for Visit

MEDICAL CLEARANCE
Reason for Visit History

Clinical Impression

Your diagnosis was MEDICAL CLEARANCE FOR INCARCERATION.

If you were given prescriptions, they are listed below. **PLEASE NOTE: No refills will be given for prescriptions written in the ED. Please contact your Physician or referring physician for refills.**

▼ Notice

You have not been prescribed any medications.

Additional Information

Based on the information you provided to us, as well as any changes during this visit, the following list is your updated medication list. Please do the following: • Update or discard any previous medication lists you may have • Compare this list with your prescription bottles at home and discard any medications that this list indicates should be stopped. • Bring your most up to date medication list to your follow up primary care physician visit. • If you have any questions or concerns., contact your primary care physician's office.

Follow-up Information

Schedule an appointment as soon as possible for a visit with Health, Grand Ronde Tribal.

Why: As needed, If symptoms worsen

Contact information:

9615 Grand Ronde RD
Grand Ronde OR 97367
1-503-879-5211

Appointments for Next 3 Days

None

MyChart Instructions

Activate your MyChart account today!

Thank you for your interest in signing up for MyChart. Please follow the instructions below to securely access your online health information.

Why Should I Sign Up?

- Communicate with your primary care provider's (PCP) office
- Request prescription refills
- View test results
- Schedule appointments with your PCP
- Review information from future and past appointments
- Review your discharge instructions

How Do I Sign Up?

1. In your Internet browser, go to <http://www.salemhealth.org/mychart>
 - Under "New User?" click "Sign Up Now"
2. On the "Please Identify Yourself" screen, enter the following information:
 - Your MyChart Activation Code exactly as it appears:
JB5FP-V7KDJ

Expires: 9/27/2017 6:35 PM

- Your Date of Birth (mm/dd/yyyy)
- Last 4 digits of your Social Security Number
- Click **Next**

3. On the "**Choose a Username & Password**" screen, enter the following information:

- Create and Type in a MyChart Username
- Type in a MyChart password
- Retype your Password
- Select a Security Question from the dropdown list
- Type in your Secret Answer
- Click **Next**

4. On the "E-mail Notifications" screen, enter the following information:

- Click the **Yes** button to Enable E-mail Notifications
- Type in your personal e-mail address
- Retype your e-mail address
- Click **Sign In**

For help with the MyChart web site please refer to the MyChart home page FAQs at
<https://mychart.salemhealth.org/mychart/default.asp?mode=stdfile&option=faq>

For questions about your medical information in MyChart, please contact your doctor or clinic.

SPECIAL ANNOUNCEMENT

Prepare for Eclipse on August 21st, 2017

Local authorities have predicted a significant population increase in our community before, during, and after the eclipse. Please refer to the below suggestions regarding your healthcare needs during this time.

Community impact:

We anticipate that some community services and medical clinics may be closed on August 21st the day of the eclipse. If you anticipate needing non-emergent medical services (lab work, imaging), we encourage you to please call the week prior to determine their availability.

Go to an emergency department or call 911 for problems such as:

- Suddenly not able to speak, see, walk or move
- Dizziness or weakness that does not go away
- Trouble breathing
- Chest pain, pain in jaw or arm
- Coughing or throwing up blood
- Inhaled smoke or poisonous fumes
- Poisoning or overdose of drug/alcohol
- Unusual or bad headache, sudden onset
- Broken bones, deep wounds, heavy bleeding
- Suicidal thoughts
- Throwing up or loose stools that does not stop
- High fever that does not get better with medicine
- High fever with headache and stiff neck
- Severe allergic reaction with trouble breathing, swelling, hives
- Passing out, fainting
- Chemical burns
- Sudden confusion
- Seizures
- Severe pain anywhere on the body

When to go to an Urgent Care:

- Common illnesses, such as colds, the flu, earaches, sore throats, migraines, low-grade fevers, and mild rashes
- Minor injuries, such as sprains, back pain, or minor cuts

GRAND RONDE TRIBAL POLICE DISPATCH REPORT

Case Number: GRT17000673

Response

Location: 27100 SALMON RIVER HW (27100 SALMON RIVER HW, @SPIRIT MOUNTAIN CASINO (MapBook:2792), POLK COUNTY)
 SequenceNumber: GRT201708130027
 Response Type: TRESP1
 Creation Date: 08/13/17 17:04:29
 Priority: 3
 Primary Unit: G108

Zone: GRT01
 Dispatch Group: GRT01
 AlarmLevel:

Disposition Codes

Code
 01- REPORT

TimeStamp
 08/13/17 19:37:01

Caller Information

CallerName: ELLIS,TANNER
 Caller Address: SECURITY

Caller Phone: 503-879-3732

Response Statuses

Status Name	Status Date/Time
PENDING	08/13/17 17:04:29
DISPATCH	08/13/17 17:06:52
ENROUTE	08/13/17 17:09:55
AT SCENE	08/13/17 17:10:50
TRANSPORT_	08/13/17 17:37:31
AT_FACILITY	08/13/17 18:03:06
TRANSPORT_	08/13/17 18:17:19
LEAVE SCENE	08/13/17 18:38:22
AT_FACILITY	08/13/17 18:38:24
TRANSPORT_	08/13/17 18:38:26
AT_FACILITY	08/13/17 18:40:52
CLEAR	08/13/17 19:37:02
DISPOSED	08/13/17 19:42:04

Resource Statuses

Resource Name	Resource Agency	Status	Status Date/Time
G108	GRT	DISPATCH	08/13/17 17:06:52
G108	GRT	ENROUTE	08/13/17 17:09:54
G108	GRT	AT SCENE	08/13/17 17:10:50
G108	GRT	TRANSPORT_	08/13/17 17:37:31
G108	GRT	AT_FACILITY	08/13/17 18:03:06
G108	GRT	TRANSPORT_	08/13/17 18:17:19
G108	GRT	LEAVE SCENE	08/13/17 18:38:22
G108	GRT	AT_FACILITY	08/13/17 18:38:24
G108	GRT	TRANSPORT_	08/13/17 18:38:26
G108	GRT	AT_FACILITY	08/13/17 18:40:52
G108	GRT	CLEAR	08/13/17 19:37:02

Response Notes

Note	Date/Time	Agent display Name
(G108) G108 Status has been changed to DISPATCH Agent:ABRANLUND Workstation:CP10	08/13/17 17:06:53	PPSS
(G108) G108 Status has been changed to ENROUTE Agent:ABRANLUND Workstation:CP10	08/13/17 17:09:55	PPSS
(G108) G108 Status has been changed to AT SCENE Agent:ABRANLUND Workstation:CP10	08/13/17 17:10:50	PPSS

(G108) ONE TASED	08/13/17 17:13:16	ABRANLUND
Milestone of "GRT201708130027" has been modified to "CODE 4"	08/13/17 17:18:03	ABRANLUND
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 17:37:31	PPSS
Milestone of "GRT201708130027" has been modified to "LOCATE ROUTED"	08/13/17 17:45:16	ABRANLUND
(G108) G108 Status has been changed to AT_FACILITY Agent:ABRANLUND Workstation:CP10	08/13/17 18:03:06	PPSS
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 18:17:19	PPSS
(G108) G108 Status has been changed to LEAVE SCENE Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:22	PPSS
(G108) G108 Status has been changed to AT_FACILITY Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:24	PPSS
(G108) G108 Status has been changed to TRANSPORT_ Agent:ABRANLUND Workstation:CP10	08/13/17 18:38:27	PPSS
(G108) PCJ	08/13/17 18:38:35	ABRANLUND
(G108) G108 Status has been changed to AT_FACILITY Agent:RHAY Workstation:CP10	08/13/17 18:40:52	PPSS
(G108) G108 Status has been changed to CLEAR Agent:RHAY Workstation:CP10	08/13/17 19:37:03	PPSS

Incident Notes

Note	Date/Time	Agent display Name
[503-879-3732] MALE AT LOC WHO IS TRESPASSING.. MALE IS IN THE SUMMIT VIEW LOUNGE	08/13/17 17:03:36	MGWYN
[503-879-3732] WILLING TO PRESS CHARGES	08/13/17 17:03:42	MGWYN
[503-879-3732] MALE [REDACTED] APX 30'S	08/13/17 17:04:16	MGWYN
[503-879-3732] MALE HAS BEEN TRESPASSED BEFORE	08/13/17 17:04:24	MGWYN
DOB [REDACTED]	08/13/17 17:04:40	MGWYN
MALE/WMA,MED BUILD,DARK HAIR,UNK CLOTHING	08/13/17 17:05:20	MGWYN
UNK WEAPONS/ MALE IS INTOXICATED ON ALCOHOL	08/13/17 17:05:52	MGWYN
SECURITY OFCR'S ARE WATCHING MALE	08/13/17 17:06:02	MGWYN
CONFIRMED OFN/ASSAULT 2 DOW/2017/08/11 CRT/OR036015J - YAMHILL COUNTY CIRCUIT COURT WTP/FEL WNO/17OR53185 BAL/150000-00..FELONY CAUTION	08/13/17 17:09:45	ABRANLUND
STEPPING UP RESPONSE	08/13/17 17:10:10	ABRANLUND
SUBJ IS NOW CONFRONTATIONAL ON SUBJ	08/13/17 17:11:26	ABRANLUND
YAMHILL CO HAS PC THEY HAVE PC	08/13/17 17:11:48	ABRANLUND
ROLL MEDICS	08/13/17 17:13:46	ABRANLUND
CALING YCOM.. FOR MEDICS	08/13/17 17:14:09	ABRANLUND
OUTSIDE VALLET	08/13/17 17:14:44	ABRANLUND
G108 ON GROUND HOLDING HIM UNTIL COVER ARRIVES	08/13/17 17:15:26	ABRANLUND
G108 CODE 4 FOR MEDICS TO ENTER..SUBJS STILL ON THE GROUND BUT BEING COMPLIANT	08/13/17 17:18:52	ABRANLUND
P020>> COMPLETE CODE 4	08/13/17 17:31:35	ABRANLUND
PCJ WILL NEED MULTIPLE DEPS.. THREATS TO OFFICERS	08/13/17 17:48:13	ABRANLUND
ETA 10.. JAIL ADVISED	08/13/17 17:49:02	ABRANLUND

Disposition Notes

Note	Date/Time	Agent display Name
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Person Information

Last Name: [REDACTED]

License:

First
Name:
HIGH
State:

Middle Name: PINE Gender/Race:

DOB: 02/07/85

Address: 28475 MCPHERSON RD SPC 4 GRAND RONDE OR 97347 City:

Phone Number:

Property Information

Vehicle Information

Conducted Energy Device

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER® devices.

304.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry the TASER device.

TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person.

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.
- (c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the TASER device at the same time.

304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

304.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The TASER device shall not be used to psychologically torment, elicit statements or to punish any individual.

304.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER device probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the TASER device, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with wire, should be submitted into evidence. If under the circumstances, the Patrol Sergeant advises submitting the probes, both probes shall also be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

304.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department TASER devices while off-duty.

Officers shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Officers shall document all TASER device discharges in the related arrest/crime report and the TASER device report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

304.6.1 TASER DEVICE REPORTING

Items that shall be included in the use of force report are:

- (a) The type and brand of TASER device and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the TASER device was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Training Officer should periodically analyze the reports to identify trends, including deterrence and effectiveness.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.6.2 REPORTS

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

304.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, it is preferred that appropriate medical personnel should remove TASER device probes from a person's body. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a supervisor or Rangemaster and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

304.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by a department-approved TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Officer. All training and proficiency for TASER devices will be documented in the officer's training file.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The certified TASER Instructor in the Department is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The certified TASER Instructor in the Department should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Conducted Energy Device

- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

Standards of Conduct

319.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Confederated Tribes of Grand Ronde Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

319.2 POLICY

The continued employment or appointment of every member of the Confederated Tribes of Grand Ronde Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

319.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

319.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

319.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

319.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Oregon Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

319.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service.

319.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department, CTGR or CTGR manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, tribal or administrative laws, rules or regulations.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

319.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Confederated Tribes of Grand Ronde Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

319.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

319.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on -duty or through the use of one's official capacity.
- (b) Engaging in on -duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

319.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

319.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Confederated Tribes of Grand Ronde Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

319.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or marital status.

319.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or on department property except as expressly authorized by CTGR policy or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by CTGR policy or the Chief of Police.
- (i) Any act on- or off -duty that brings discredit to this department.

319.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the CTGR.
- (g) Use of obscene, indecent, profane or derogatory language while on--duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on-- or off--duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

319.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

319.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Standards of Conduct

- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Personnel Complaints

1005.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Confederated Tribes of Grand Ronde Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1005.2 POLICY

The Confederated Tribes of Grand Ronde Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1005.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1005.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Patrol Sergeant is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Sergeant or Chief, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Sergeant or Chief, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1005.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1005.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility. Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1005.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1005.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

1005.5.1 COMPLAINTS ALLEGING PROFILING

Complaints related to profiling should be clearly marked to assist in reporting as required in the Racial or Bias-Based Profiling Policy (ORS 131.920).

1005.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Patrol Sergeant of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Sergeant or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Patrol Sergeant.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Patrol Sergeant and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Department of Human Resources and the Patrol Sergeant for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Patrol Sergeant, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.
- (k) Providing the complainant with periodic updates on the status of the investigation, as appropriate.

1005.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1005.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1005.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Confederated Tribes of Grand Ronde Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action. Forms of discipline include, but are not limited to, training, counseling and punitive action.

1005.10.1 SERGEANT RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Sergeant of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Sergeant may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Sergeant may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Sergeant shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1005.10.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Sergeant for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1005.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1005.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules.

1005.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

Confederated Tribes of Grand Ronde Police Department

Policy Manual

Personnel Complaints

1005.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.

James Wolfer
DPSST# 51798

[REDACTED]
Newberg, OR 97132
[REDACTED]

To:

Kristen Hibberds, DPSST Professional Standards Coordinator/Investigator
DPSST Police Policy Committee

Ms. Hibberds and members of the Police Policy Committee,

This letter is regarding the incident that occurred on August 13, 2017 regarding the use of force and associated reports and statements made by me, as well as the allegations of dishonesty being reviewed by the committee.

I would like to begin by stating that I was *never* dishonest in any of my dealing with the Grand Ronde Tribal Police Department in any capacity, neither in my official capacities nor in any unofficial capacity. Specifically, I was not dishonest during the use of force that occurred on August 13, 2017, nor was I dishonest in the phone call to my Sergeant, Sgt. McAllister, nor was I dishonest in any of my written reports or statements.

I was, however, mistaken as to what had occurred, and reported to my supervisors and in my written reports what had occurred according to my perception of the events during a high stress, rapidly evolving and violent situation. During the incident on August 13, 2017, I was alone, with no backup, as the closest backing officer was still about ten minutes away and had told me so via radio. The suspect was reported to be violent, and both dispatch and my Lieutenant had advised me via radio that the suspect had warnings for violent conduct. Additionally, the suspect had a valid and confirmed warrant for Assault II, which I knew meant he was suspected of causing serious physical injury to someone. The suspect was reported to be actively trespassing at the Spirit Mountain Casino as well.

I called casino security via my cell phone, and was advised that the suspect was becoming "confrontational" with casino staff. I believed that meant that the risk to the public was increasing, including non-sworn security staff, and that waiting for backup could mean that a member of the public could be injured by a wanted and known violent individual. I believed it was my duty to intervene at that time in order to protect members of the public. Upon arrival, I was pointed to the suspect by casino security, who was walking away from them in the parking lot and towards a vehicle. There was a female with him, who was later identified as the suspect's mother. Due to the fact that I was alone, without backup, and there were now two subjects, including one known to be violent and wanted for Assault II, I had my taser out.

I gave multiple commands to the suspect, calling him by name, to get on the ground, while I was clearly identified as a police officer. I do not recall if at that time I verbally identified myself as a police officer, but I was in full patrol uniform on a clear, sunny day. The suspect, who I had positively identified, continually ignored my verbal commands to get on the ground. He kept attempting to walk away while the female subject yelled at me and kept getting in between the suspect and myself. I gave commands to the female to back away and to the suspect to get on the ground.

At one point, the suspect stopped and faced me. I kept giving commands to the male suspect to get on the ground or he would be tased, and the female subject suddenly rushed me. At that moment, the male suspect quickly raised his hands about shoulder height into what I believed at the time to be a fighting stance. I had tunnel vision and was afraid I was about to have to fight both subjects alone and without backup. I believed that the male subject, who was a known violent person, was the greater threat, and I tased him and was ready to utilize hands on techniques with the female. The female backed away while continually yelling at me. The taser deployment was effective, and the male suspect had fallen on his back. The suspect turned over on his stomach per my verbal commands. I began to try and handcuff the male suspect while he was facedown, and the female subject continued to yell at me.

I had not double locked the handcuffs yet, and the male subject began to respond to the female subject's yelling. The male suspect began to move around, and what I believed at the time to be attempting to get up. Even though the suspect was in handcuffs, they were not double locked and I had not yet completed a putdown for weapons. Additionally, I was still worried that the female subject would attempt to rush me as I had to yell at her to stay back, and if she did so, even a handcuffed subject with an additional subject's help could attempt to overwhelm me. I gave multiple commands to the suspect to stop resisting or he would be tased again, and he continued to move, while yelling at me "F- you!" With the tenseness of the suspect's body, the highly escalated situation, I believed the suspect was attempted to push me off of him and I activated the taser again. After the cycle, the suspect stopped moving and complied with my verbal commands. The female subject disappeared soon after that. Per policy, I called for medical personnel via radio to evaluate the suspect.

Later, after backup and medical personnel had arrived and cleared the subject for transport, I had him in the back of my vehicle. I called my Sgt., Sgt. McAllister, per policy, to advise him on the use of the force. I told Sgt. McAllister what I believed had happened: that the suspect had "squared up on me," i.e. taken a fighting stance, and that he had resisted on the ground while I was still applying handcuffs. At this time, I had not seen the body camera footage, and I was still flooded with adrenaline.

I took the suspect to the jail. The suspect refused to use the Intoxilyzer, and was extremely intoxicated, so jail staff had me transport the suspect to the hospital to be evaluated. He was eventually medically cleared for lodging at the jail, and was transported back to the jail and lodged by me. I typed a Probable Cause affidavit to lodge the suspect, and again, had not yet seen my body camera footage, so I wrote the affidavit with what I believed happened: that the male subject had "squared up" his body and took an aggressive stance towards me while at the same time the female subject was trying to confront me, so I tased the male suspect. I also wrote that the suspect tried to roll away from me before I could double lock the handcuffs, and that he ignored verbal commands to stop resisting so I activated the taser a second time.

Later, at the police station, per policy, while writing my report I viewed the body camera footage. I was surprised to see that during the initial confrontation with the suspect, when he raised his arms into what I believed to be a fighting stance, I observed that he raised his arms about shoulder high and began walking backwards, and did not appear to actually be taking a fighting stance. I also observed that while I was handcuffing him, the body camera did not pick up all of the factors that I did, such as the suspect's body tensing up, and so it appeared that the suspect was not resisting greatly.

I wrote my report the next morning. During my report, I wrote "the following happened in substance, to the best of my recollection and perception at the time of the incident." I then wrote about what I had experienced and believed *at the time of the incident*, including that I believed the suspect "put his hands up but point his feet towards me in an aggressive stance, and I believed [the suspect] was getting ready to assault me. At that time, [female subject] was still yelling at me and walking towards me aggressively." I then described all the factors I had in making the use of force decision, and described tasing the suspect. I also described how the female subject kept approach me while I was attempting to handcuff the male suspect, and that I continually had to yell commands at her to back up.

I also wrote that the male suspect "continued to yell at me and tried to roll away from me while tensing his body up. I told [suspect] to stop resisting or he would be tased again. As I attempted to double lock the handcuffs, [suspect] tensed his body up and tried to roll away from me, and I told him again to stop resisting but he continued to try and roll away from me. I activated my Taser again for a five second cycle, and [suspect] immediately stopped resisting."

On the last page of my narrative, I also noted the discrepancies between the video footage and my perception at the time of the incident. I wrote "I later reviewed my body camera footage and observe that directly before I activated my Taser, [suspect] took a step backward with his hands up. I did not notice this during the incident due to the speed at which events were unfolding and due to the fact that [female subject] was approaching me and I believed I was about to be assaulted and would have to fight both [female subject] and [male suspect] without a cover unit."

Directly after I completed my report, Lt. Hernandez asked me to come to his office. Lt. Hernandez was there with a representative of HR, and told me that he had not yet read my report, but that he watched the body camera footage and believed I violated policies. He asked me why I tased someone with their hands up, and I told him that at the time, I believed he was not putting his hands up, but trying to actively assault me. I also advised Lt. Hernandez that I had addressed the discrepancy in my report. Lt. Hernandez told me I was being placed on leave, and directed me to be available for an interview and to make a statement with an outside agency, either Oregon State Police or Polk County Sheriff's Office.

During the week, I was called by Sgt. McAllister and advised I needed to come to a meeting on Friday, August 18, 2017 at HR. During that meeting, I was given several pieces of paper (that I was not allowed to keep) that advised that a review had been done of the use of force and that at this time, they were recommending termination. I read a report by Dallas Police Department that indicated that they agreed with Lt. Hernandez that I had violated policy, and in fact, they believed I should have tased the female subject, not the male subject. I do not have a copy of the Dallas Police Report at this time.

I asked Lt. Hernandez why I was not being interviewed and having my statement taken. Lt. Hernandez advised me that he was acting Chief, as the Chief was currently at a training in Virginia. Lt. Hernandez told me they did not require my statement or any interview on my use of force to make the decision to terminate me. Lt. Hernandez advised me that at this time, I was only being recommended for termination based on a violation of the Taser policy, and no other violations. Lt. Hernandez told me I had the right to appeal the termination for five days and give any recorded statement I would like, but that if anything I said would be given to the DA for prosecution. Lt. Hernandez told me that if I resigned immediately, the investigation would stop at that point, only listing the reason for termination as being a violation of the Taser policy, and that

he would advise the DA that they believed I was acting in good faith. I specifically asked Lt. Hernandez if he was terminating me based upon any belief that I was dishonest, and told him that I never lied to him or Sgt. McAllister, and had accurately told them what I believed had happened based upon my perception at the time of the incident, in good faith. Lt. Hernandez told me that he would be reporting to DPSST that I was resigning in lieu of termination for a violation of the Taser policy, because he had not interviewed me and could not say if I had purposely been dishonest or not, and so he was not going to list dishonesty as the reason for termination if I resigned immediately. He did tell me that both the DA and DPSST could do "whatever they want" with an investigation, but that he would let them know he did not believe I should be charged as I was acting in good faith. I then asked why, since I had no citizen complaints and no letters of reprimand in my file, and he believed I was acting in good faith, he did not suspend me instead and do retraining. Lt. Hernandez told me that as acting chief, he could not "live with" the second taser use while the suspect was in handcuffs.

I wrote a letter of resignation and reiterated that I was never dishonest and never meant to mislead anyone.

Later, in February of 2018, I was contacted by OSP Detective Hegney-Bach, who advised she was investigating allegations of excessive force in a criminal investigation and would like my statement. I contacted an attorney and requested the attorney accompany me to give my statement, and told the attorney that I had nothing to hide and wanted to give my statement from the beginning, and that this was my first opportunity to do so. My attorney contacted Detective Hegney-Bach and scheduled a statement in March of 2018.

During the interview in March 2018, Detective Hegney-Bach asked many questions regarding the use of force, my mindset, and what I believed happened. I gave a complete statement, lasting several hours, voluntarily. As a result of Detective Hegney-Bach's statement, where she recommended that no probable cause existed for Assault, the DA advised that I did not exceed the legal justifications for use of force in Oregon.

During Detective Hegney-Bach's report, she viewed the body camera footage and noted that when I first tased the male suspect, he had his hands raised and took steps backward, at the same time the female subject "took a step toward Mr. Wolfer." She also notes during the second taser deployment:

While [suspect] was asking, "What did I do," he started pushing slightly off the ground with his knees; his head stayed on the ground. Mr. Wolfer then told [suspect] he had a warrant. [Suspect] still appeared agitated and flexed his arms and rolled slightly onto his left shoulder and then he rolled back on to his stomach. Mr. Wolfer warned [suspect] to stay on the ground or he would tase him again. [Suspect] said, "Fuck you" and Mr. Wolfer activated a five second taser cycle. [Suspect] was not flexing or rolling or moving his knees at the time Mr. Wolfer activated the taser probes."

While Detective Hegney-Bach notes that the suspect was not flexing or rolling or moving his knees at the time I activated the taser, I believed he was still resisting and was still tense. Looking back, that may have been his body tensing as he yelled to curse at me, which I may have misinterpreted as a continuation of his previously flexing and rolling and pushing off of the ground. Again, I had adrenaline and had a suspect I believed to be resisting who I believed had just tried to assault me.

Detective Hegney-Bach notes during her investigation that I addressed some of the discrepancies in my report as I noted above. She also notes that there was no probable cause to charge me with Assault IV, and that all witnesses believed I had not been excessive. The focus of Detective Hegney-Bach's investigation was not to determine dishonesty, merely to review if the use of force was legal, and she notes that those allegations would not be fully pursued during her investigation. Additionally, multiple witnesses told Detective Hegney-Bach that they observed the suspect to be resisting while on the ground.

Additionally, in October of 2018 I received copies of both Sgt. McAllister's and Lt. Hernandez's reviews of the use of force. After reviewing the reports, both Sgt. McAllister and Lt. Hernandez differ greatly in their perception of the events they viewed on my body camera. Not only do they differ from each other, but they differ from Detective Hegney-Bach's review of the incident. For example, Sgt. McAllister writes about what he observed from my body camera regarding the first use of force:

"Officer Wolfer then yells, 'get on the ground now!' 'Move aside!' 'Get on the ground now or you will be Tased!' At this point, [suspect] is standing there with both hands in the air, next to his head. It's clear that [suspect] has nothing in his hands. [Female subject] steps toward Officer Wolfer. Officer Wolfer moves towards his left and yells 'Back away! Get on the ground now!'

[Male suspect] is observed taking small steps backwards while holding his hands in the air, next to his head..."

Lt. Hernandez, by contrast, writes that in his review, the male suspect "raises his hands in the air above his head and slowly walks backwards while asking what did I do?"

Lt. Hernandez also writes that while the male suspect was on the ground, he moves while yelling and that I told him not to move or he would be tased, and notes: "[Male suspect] yells 'fuck you' and moves while saying this. Officer Wolfer tases him again for a full five seconds." Sgt. McAllister writes of the same incident:

"[Male suspect] then moves towards his left side and yells 'It is my business!' Officer Wolfer tells [male suspect] 'Stop moving or I will tase you again!' [Male suspect] then states 'Fuck you!' Officer Wolfer then discharges his CEW a second time, while [male suspect] is lying face down on the asphalt, with his hands cuffed behind his back...[male suspect] appeared to only attempt to roll to his left side to look at Officer Wolfer while he was saying 'Fuck you!'"

I believe it should be noted that Sgt. McAllister's review of the first incident indicates that the male suspect had his hands raised to about his head, while Lt. Hernandez believed that the male subject had his hands *above* his head. From my recollection, his hands were raised to about shoulder/head height, which is also a fighting stance, and with the adrenaline and tunnel vision I was experiencing at the time while the female subject also aggressively took steps towards me, I interpreted that as a fighting stance. Additionally, both Sgt. McAllister and Lt. Hernandez's review of the footage indicate that the suspect was moving while I was handcuffing him, but they interpreted that as "only attempting to roll to his left side to look at Officer Wolfer."

According to the landmark case, *Graham v. Connor*, "the 'reasonableness' inquiry in an excessive force case is an objective one: the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard

to their underlying intent or motivation... The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." I believe that Sgt. McAllister and Lt. Hernandez were interpreting not only the suspect's motives in his moving around as being passive, while they were not there to feel his level of resistance, while I interpreted it as active resistance from a known and violent offender. The later review by OSP and the DA concluded that "Given the totality of the circumstances, in particular the witness statements and level of threat believed by Mr. Wolfer to be imminent, there is not sufficient evidence to overcome the use of force justification afforded peace officers in ORS 161.235- 161.245."

I fully admit there are discrepancies between the video footage and my perception of what occurred. Lt. Hernandez and Sgt. McAllister both interpreted my actions as dishonesty, rather than a mere mistake of fact due to a "rapidly-evolving" situation, as stated in *Graham v. Connor*. I attempted to address this in my report, as noted above and noted by Detective Hegney-Bach. I want to reiterate that I was never dishonest during my dealings in this case, or any other time, with the Grand Ronde Tribal Police Department, Oregon State Police, the Polk County District Attorney, or any other time. During this use of force incident, I truly believed that the male suspect was attempting to assault me, and that during the second tase, I interpreted his movements as trying to pull away from me.

I do believe that my perception of the events was mistaken. From the beginning, I have been forthright and honest in my perception by immediately calling Sgt. McAllister and telling him what I believed happened, and later, when I learned that my perception was incorrect, I was forthright and honest in addressing that in my official report. My phone call addressing the use of force to Sgt. McAllister was fully recorded on body camera. I had no reason to believe I was not telling Sgt. McAllister the full truth of what happened. I did not know at the time I was mistaken. I never once tried to cover up my mistaken perception, and by writing about both my perception *and* what I later viewed on the body camera footage in my official report, I was taking full responsibility for my perception of the events being different.

I have attached an article from the Force Science Institute regarding body cameras and use of force. Of note in the article is that a camera and the officer's perception can be drastically different, such as an officer's brain suppressing "some incoming visual images that seem unimportant in a life-threatening situation so you can completely focus very narrowly on the threat. You won't be aware of what your brain is screening out...in short, there can be a huge disconnect between your field of view and your visual perception and the camera's. Later, someone reviewing what's caught on camera and judging your actions could have a profoundly different sense of what happened that you had at the time it was occurring."

Additionally, the article talks about how "Some important danger cues can't be recorded," including "resistive tension." Of particular note is this paragraph: "And of course, the camera can't record the history and experience you bring to an encounter...for instance, an assaultive subject who brings his hands up may look to a civilian like he's surrendering, but to you, based on past experience, that can be a very intimidating and combative movement, signaling his preparation for a fighting attack. The camera just captures the action, not your interpretation."

And finally, the articles says that of greater consequence is the body camera's depiction of action and reaction times. "Based on the reactionary curve, an officer can be half a second or more behind the action as it unfolds on the screen." This is what occurred with me when the

male suspect was tensing up and rolling away. While Detective Hegney-Bach notes that the suspect stopped rolling and tensing immediately as I tased him, I was behind the reactionary curve and believed he was still resisting.

I made a mistake of perception in good faith when I interpreted the actions of the male suspect and female subject as an attempt to assault me, and have been upfront about that from the beginning. Additionally, during my termination hearing, I asked Lt. Hernandez for additional training so that I would not make such good faith mistakes in the future. I was absolutely, unequivocally not dishonest. I never had any intent to deceive anyone, neither outright nor by omission. I wished to give a full interview and statement after the event and made myself available, but the first time I was able to give a full statement was in March of 2018 during my interview with Detective Hegney-Bach.

I have been heartbroken that my former employer interpreted my actions as dishonest. Honesty and integrity are both extremely important to me, and I have tried to live my life with those values, especially in all official dealings. I am truly sorry that I was mistaken that day, and saddened that I was not given the opportunity to prove that I was honest. I would have gladly accepted retraining, additional training, and other consequences for my good faith mistakes, but I never lied.

Attached to this are two letters from professionals I have worked with. The first is a letter from Officer Fred Dilworth of Cottage Grove, who worked with me for over a year at our first department, Warm Springs Tribal Police, from 2010-2012. The second is a letter from my immediate supervisor in the Coast Guard Reserve, Petty Officer First Class Jason Armstrong. I have served in the Coast Guard Reserve since 2013, and am a Second Class Petty Officer serving as a Maritime Enforcement Specialist. In this role, I conduct Federal Law Enforcement boardings on the Willamette and Columbia River, and before that, in the Puget Sound area. We conduct civilian law enforcement, under a different set of use of force guidelines, however, we do conduct law enforcement with members of the boating public. I have received several awards in my time in the military, specifically in a law enforcement role, and my supervisors and chain of command have nothing but praise for my conduct and integrity. I hope this letter from PO1 Armstrong can serve to demonstrate that.

I appreciate the time taken to review this matter and this letter. I hope that the Committee is able to see that I acted in full good faith with no intent to deceive or be excessive, and have been forthright and honest from the beginning in this.

Very respectfully submitted,

James K. Wolfer



Headquarters: 124 East Walnut Street - Suite 120 Mankato, MN 56001 USA T: 507-387-1290 F: 507-387-1291

10 limitations of body cams you need to know for your protection

A special report from the *Force Science Institute*

The idea is building that once every cop is equipped with a body camera, the controversy will be taken out of police shootings and other uses of force because “what really happened” will be captured on video for all to see.

Well, to borrow the title from an old Gershwin tune, “It Ain’t Necessarily So.”

There’s no doubt that body cameras—like dash cams, cell phone cams, and surveillance cams—can provide a unique perspective on police encounters and, in most cases, are likely to help officers. But like those other devices, a camera mounted on your uniform or on your head has limitations that need to be understood and considered when evaluating the images they record.

“Rushing to condemn an officer for inappropriate behavior based solely on body-camera evidence can be a dicey proposition,” cautions Dr. Bill Lewinski, executive director of the *Force Science Institute*. “Certainly, a camera can provide *more* information about what happened on the street. But it can’t necessarily provide *all* the information needed to make a fair and impartial final judgment. There still may be influential human factors involved, apart from what the camera sees.”

In a recent conversation with *Force Science News*, Lewinski enumerated 10 limitations that are important to keep in mind regarding body-camera evidence (and, for the most part, recordings from other cameras as well) if you are an investigator, a police attorney, a force reviewer, or an involved officer. This information may also be helpful in efforts to educate your community.

(Some of these points are elaborated on in greater depth during the *Force Science Certification Course*. Visit www.forcescience.org for information on the course. An earlier report on body cam limitations appeared in *Force Science News* #145, sent 3/12/10. You will find online it at: www.forcescience.org/fsnews/145.html)

*** 1. A camera doesn’t follow your eyes or see as they see.**

At the current level of development, a body camera is not an eye-tracker like *FSI* has used in some of its studies of officer attention. That complex apparatus can follow the movement of your eyes and superimpose on video small red circles that mark precisely where you are looking from one microsecond to the next.

“A body camera photographs a broad scene but it can’t document where within that scene you are looking at any given instant,” Lewinski says. “If you glance away from where the

camera is concentrating, you may not see action within the camera frame that appears to be occurring 'right before your eyes.'

"Likewise, the camera can't acknowledge physiological and psychological phenomena that you may experience under high stress. As a survival mechanism, your brain may suppress some incoming visual images that seem unimportant in a life-threatening situation so you can completely focus very narrowly on the threat. You won't be aware of what your brain is screening out.

"Your brain may also play visual tricks on you that the camera can't match. If a suspect is driving a vehicle toward you, for example, it will seem to be closer, larger, and faster than it really is because of a phenomenon called 'looming.' Camera footage may not convey the same sense of threat that you experienced.

"In short, there can be a huge disconnect between your field of view and your visual perception and the camera's. Later, someone reviewing what's caught on camera and judging your actions could have a profoundly different sense of what happened than you had at the time it was occurring."

✖ 2. Some important danger cues can't be recorded.

"Tactile cues that are often important to officers in deciding to use force are difficult for cameras to capture," Lewinski says. "Resistive tension is a prime example.

"You can usually tell when you touch a suspect whether he or she is going to resist. You may quickly apply force as a preemptive measure, but on camera it may look like you made an unprovoked attack, because the sensory cue you felt doesn't record visually."

And, of course, the camera can't record the history and experience you bring to an encounter. "Suspect behavior that may appear innocuous on film to a naïve civilian can convey the risk of mortal danger to you as a streetwise officer," Lewinski says. "For instance, an assaultive subject who brings his hands up may look to a civilian like he's surrendering, but to you, based on past experience, that can be a very intimidating and combative movement, signaling his preparation for a fighting attack. The camera just captures the action, not your interpretation."

✖ 3. Camera speed differs from the speed of life.

Because body cameras record at much higher speeds than typical convenience store or correctional facility security cameras, it's less likely that important details will be lost in the millisecond gaps between frames, as sometimes happens with those cruder devices.

"But it's still theoretically possible that something as brief as a muzzle flash or the glint of a knife blade that may become a factor in a use-of-force case could still fail to be recorded," Lewinski says.

Of greater consequence, he believes, is the body camera's depiction of action and reaction times.

"Because of the reactionary curve, an officer can be half a second or more behind the action as it unfolds on the screen," Lewinski explains. "Whether he's shooting or

stopping shooting, his recognition, decision-making, and physical activation all take time—but obviously can't be shown on camera.

“People who don't understand this reactionary process won't factor it in when viewing the footage. They'll think the officer is keeping pace with the speed of the action as the camera records it. So without knowledgeable input, they aren't likely to understand how an officer can unintentionally end up placing rounds in a suspect's back or firing additional shots after a threat has ended.”

4. A camera may see better than you do in low light.

“The high-tech imaging of body cameras allows them to record with clarity in many low-light settings,” Lewinski says. “When footage is screened later, it may actually be possible to see elements of the scene in sharper detail than you could at the time the camera was activated.

“If you are receiving less visual information than the camera is recording under time-pressured circumstances, you are going to be more dependent on context and movement in assessing and reacting to potential threats. In dim light, a suspect's posturing will likely mean more to you immediately than some object he's holding. When footage is reviewed later, it may be evident that the object in his hand was a cell phone, say, rather than a gun. If you're expected to have seen that as clearly as the camera did, your reaction might seem highly inappropriate.”

On the other hand, he notes, cameras do not always deal well with lighting transitions. “Going suddenly from bright to dim light or vice versa, a camera may briefly blank out images altogether,” he says.

5. Your body may block the view.

“How much of a scene a camera captures is highly dependent on where it's positioned and where the action takes place,” Lewinski notes. “Depending on location and angle, a picture may be blocked by your own body parts, from your nose to your hands.

“If you're firing a gun or a Taser, for example, a camera on your chest may not record much more than your extended arms and hands. Or just blading your stance may obscure the camera's view. Critical moments within a scenario that you can see may be missed entirely by your body cam because of these dynamics, ultimately masking what a reviewer may need to see to make a fair judgment.”

6. A camera only records in 2-D.

Because cameras don't record depth of field—the third dimension that's perceived by the human eye—accurately judging distances on their footage can be difficult.

“Depending on the lens involved, cameras may compress distances between objects or make them appear closer than they really are,” Lewinski says. “Without a proper sense of distance, a reviewer may misinterpret the level of threat an officer was facing.”

In the *Force Science Certification Course*, he critiques several camera images in which distance distortion became problematic. In one, an officer's use of force seemed inappropriate because the suspect appears to be too far away to pose an immediate threat.

In another, an officer appears to strike a suspect's head with a flashlight when, in fact, the blow was directed at a hand and never touched the head.

"There are technical means for determining distances on 2-D recordings," Lewinski says, "but these are not commonly known or accessed by most investigators."

7. The absence of sophisticated time-stamping may prove critical.

The time-stamping that is automatically imposed on camera footage is a gross number, generally measuring the action minute by minute. "In some high-profile, controversial shooting cases that is not sophisticated enough," Lewinski says. "To fully analyze and explain an officer's perceptions, reaction time, judgment, and decision-making it may be critical to break the action down to units of one-hundredths of a second or even less.

"There are post-production computer programs that can electronically encode footage to those specifications, and the *Force Science Institute* strongly recommends that these be employed. When reviewers see precisely how quickly suspects can move and how fast the various elements of a use-of-force event unfold, it can radically change their perception of what happened and the pressure involved officers were under to act."

8. One camera may not be enough.

"The more cameras there are recording a force event, the more opportunities there are likely to be to clarify uncertainties," Lewinski says. "The angle, the ambient lighting, and other elements will almost certainly vary from one officer's perspective to another's, and syncing the footage up will provide broader information for understanding the dynamics of what happened. What looks like an egregious action from one angle may seem perfectly justified from another.

"Think of the analysis of plays in a football game. In resolving close calls, referees want to view the action from as many cameras as possible to fully understand what they're seeing. Ideally, officers deserve the same consideration. The problem is that many times there is only one camera involved, compared to a dozen that may be consulted in a sporting event, and in that case the limitations must be kept even firmer in mind.

9. A camera encourages second-guessing.

"According to the U. S. Supreme Court in *Graham v. Connor*, an officer's decisions in tense, uncertain, and rapidly evolving situations are not to be judged with the '20/20 vision of hindsight,' " Lewinski notes. "But in the real-world aftermath of a shooting, camera footage provides an almost irresistible temptation for reviewers to play the coulda-shoulda game.

"Under calm and comfortable conditions, they can infinitely replay the action, scrutinize it for hard-to-see detail, slow it down, freeze it. The officer had to assess what he was experiencing while it was happening and under the stress of his life potentially being on the line. That disparity can lead to far different conclusions.

"As part of the incident investigation, we recommend that an officer be permitted to see what his body camera and other cameras recorded. He should be cautioned, however, to regard the footage only as informational. He should not allow it to supplant his first-hand

memory of the incident. Justification for a shooting or other use of force will come from what an officer reasonably perceived, not necessarily from what a camera saw.”

[For more details about *FSI*’s position on whether officers should be allowed to view video of their incidents, see *Force Science News* #114 (1/17/09). You will find online it at: www.forcescience.org/fsnews/114.html]

10. A camera can never replace a thorough investigation.

When officers oppose wearing cameras, civilians sometimes assume they fear “transparency.” But more often, Lewinski believes, they are concerned that camera recordings will be given undue, if not exclusive, weight in judging their actions.

“A camera’s recording should never be regarded solely as *the* Truth about a controversial incident,” Lewinski declares. “It needs to be weighed and tested against witness testimony, forensics, the involved officer’s statement, and other elements of a fair, thorough, and impartial investigation that takes human factors into consideration.

“This is in no way intended to belittle the merits of body cameras. Early testing has shown that they tend to reduce the frequency of force encounters as well as complaints against officers.

“But a well-known police defense attorney is not far wrong when he calls cameras ‘the best evidence and the worst evidence.’ The limitations of body cams and others need to be fully understood and evaluated to maximize their effectiveness and to assure that they are not regarded as infallible ‘magic bullets’ by people who do not fully grasp the realities of force dynamics.”

Our thanks to Parris Ward, director and litigation graphics consultant with Biodynamics Engineering, Inc., for his help in facilitating this report.

For more information on the work of the Force Science Institute, visit www.forcescience.org. To reach the Force Science News editorial staff please e-mail: editor@forcescience.org.

Greetings,

I met James Wolfer in October 2010 while we were both employed by the Warm Springs Police Department, I became employed with the Warm Springs Police Department in September 2010, and James was hired approx one month later.

Due to our different hire dates, he and I were in different phases of our field training, but I observed early on James had what appeared to be an attention for detail with interviews, investigations, and reports. I observed James was well spoken and confident in his job, and appeared to possess a high level of education which was easy to identify while speaking with him and from reading his police reports. To this day James' Warm Springs Police Department police reports are some of the best police reports I have ever read.

I observed James' investigations were methodical, honest, logical, and fair. I never observed James take any short cuts or engage in any questionable practices. I worked with James repeatedly and handled countless calls for service with him. At no time did I ever observe anything dishonest or unethical. James always had a calm, professional, and logical demeanor. I never observed James abuse his police powers in any way, and all use of force incident I was aware of always appeared reasonable and justified.

There were a total five officers hired around the same time James and I hired, and James quickly became my favorite officer to work with. I attended the D.P.S.S.T. police academy with James and during our time there I observed he became liked and respected by the rest of the class, and was always helpful to other new recruits.

James and I have maintained a friendship since we both left the Warm Springs Police Department. I continue to visit with James on a regular basis, and I know he is still working in a career where he is regularly conducting investigations. I also know James is still an active Coast Guard member and conducts law enforcement operations in that capacity.

I am still currently employed in full time law enforcement and I have on multiple occasions contacted James with law enforcement related questions, and I have always trusted and respected his opinions and advice. And if I was given the opportunity to work with James in a law enforcement capacity again I would do so without hesitation.

Fred Dilworth.
[REDACTED]

U.S. Department of
Homeland Security

United States
Coast Guard



Officer In Charge
U.S. Coast Guard
Station Portland

6767 North Basin Avenue
Portland, OR 97217
Phone: 503-240-9365

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MEMORANDUM

From: J. R. Armstrong, ME1
STA PORTLAND

Reply to
Attn of: Jason R. Armstrong ME1
909-758-6262

To: Whom it May Concern

Subj: ME2 James Wolfer, ---5776

The purpose of this letter is to speak to the character of Petty Officer James Wolfer. I have known Petty Officer Wolfer for over four years while working together at Station Portland as reserve members of the United States Coast Guard. We have performed numerous waterborne law enforcement missions together, and for the last three years I have served as Petty Officer Wolfer's direct supervisor.

Petty Officer Wolfer has proven himself to me to be a man of integrity and someone that I can count on. I have never once questioned his judgement in a law enforcement capacity in the performance of his duty here at the station. Petty Officer Wolfer has demonstrated leadership in volunteering to train other members at the station on a variety of law enforcement skills. He is dependable and often volunteers to assist with additional tasks that need to be accomplished at the station. I have full faith in Petty Officer Wolfer's ability and forthrightness as a law enforcement officer. I can be reached on my cell phone at (909) 758-6262 or by email at Jason.r.armstrong@uscg.mil if you have any further questions.

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