

City of Eugene Oregon Police – Lane County Jail and Pre-trial Release System  
Pattern and Practice of Police Brutality, Police Rape/Molestation, Abuse of Mental Health Resources  
**DRAFT PRESENTATION**  
by Andy Clark 3270 Stoney Ridge Rd. Eugene, OR 97405 541.510.3915

**Notice to Defendants listed in draft lawsuit Case Site: [www.RisePatriot.com](http://www.RisePatriot.com)**

1. Wells Fargo Bank, NA and Wells Fargo Home Mortgage via its Corporate Agent, Wells
2. City of Eugene, Oregon – Police Department and Police Auditor
3. State of Oregon – District Attorney's Office for Lane County
4. Alex Gardner – District Attorney for Lane County
5. Lane County, Oregon – Commissioners, Sheriff's Department: Jail, Pre-Trial Release Office

City of Eugene Police have a long-standing structure that permits and conceals the very worst forms of community abuse. This presentation draws upon a handful of cases and relates them back to my case. It also provides the first hand standing to include this material in my already filed 42 USC 14141 Complaint with the Federal Bureau-Investigation, Civil Rights Division.

I present a factual basis for these two Allegations. They are well-indicated to the point requiring an 'forensic audit' involving State and Federal oversight agencies. Replacing police leadership might help solve police abuse. The mandatory use of police technology is more likely to resolve problems.

**Allegation:** City of Eugene Police learn from previous cases how to better conceal their activity and to make it even more embedded into the structure of their activity. Too many of the police operate as a criminal organization and freely rape and even murder Citizens and get away with it. Technology to investigate and remedy the problem is deliberately circumvented. It was in my 2013 case.

**Allegation:** The culture of community abuse is so embedded in the Police Department (et al) it is likely some leaders and/or key staff were corrupted with coercion, sexual favors, drugs, or cash.

**Purpose of this Presentation:**

1. **Citizen demand** for a forensic audit of the structure within City of Eugene Police that allows and conceals illegal police activity in Eugene, OR. This includes but is not limited to police command/control/supervision but also the impotent role of the Police Auditor.
2. To support my damage recovery efforts in Courts.
3. It is necessary to *discover and include* the material in my Court case so that it is made a matter of public record in the PACER system for future review.

**Representative Cases Included:**

1. My own cases involving City of Eugene Police are completely documented on Case Site: [www.RisePatriot.com](http://www.RisePatriot.com) backed up on [www.osunrise.com](http://www.osunrise.com) . It is total manufacture of crime by corporate interests using police who were fully aware of what they were doing. Complete audio of police activity and reports are linked from there.
2. The case of "Officer Z", the high school police-molester.
3. Police Evidence Room inventory missing.
4. The 'Monroe' case and the 'Lewis' case.
5. The Magama case.
6. Mental Health Cases, murder and massive abuse by police of mental health.

Police / Prosecutor: Do unto others as you would have done unto yourselves. What was perpetrated against me is ghastly. I protested it as any American Man should...using my intellect. You people never stopped to understand there was a reason for all my communications... a really good reason. Mostly: you were LIED TO about a physical threat and police actively worked directly with and for Ogletree Deakins. The communication tracing and testimony of Det. Tony Veach will, I am sure... astound all.

Police appear to be subject to being perverts so they persistently think and act like the citizen is also perverted.

The one page that follows of police reports from 2011 succinctly encapsulates various aspects of what police actually do. On just one page, I was repeatedly branded as crazy. I was labeled a rape threat. On other pages of the police reports they explain how that was used to put me on a special internal 'watch list' of violent offenders.

Notice the last paragraph. Anyone with half a brain understands that when employees say things like that to police it is because they are MOCKING the police for their bizarre, excessive response.

Other details that emerge are all endlessly documented within my various presentations and will come out more fully in Discovery processes. One of the most pervasive? Police are massively wasting the public resource. They exaggerate and invent crime every day. They have no ability to determine truth and instead just react and respond like a mob of violent thugs and bullies.

Notice in 2011 they audio taped everything but the arrest event. Notice two years later in 2013 they made sure to audio/video NOTHING. Notice on the police reports they are often typed at night or, the time stamp is suspect (see the attached page shows the time as 1200 which is like the blinking clock light on the old VCR machines). They use their technology AGAINST the Citizen to continue providing fodder to our "criminal justice system" and in my case to aid and abet the racketeering activity of Wells Fargo et al and its various Agents such as Ogletree Deakins in Portland OR.

BRAD POTTER  
920-515

I responded to Wells Fargo Mortgage at 100 E Broadway regarding a trespass complaint.

I contacted Christiansen and Potter. Christiansen is a security guard hired by Wells Fargo because of safety concerns about a former employee, Clark. Potter is a mortgage consultant in the office. They told me that Clark had recently (weeks ago) been terminated from his position at the office and had been repeatedly trying to come back in and entering back onto the property.



Potter said that Clark has, for several months, been demonstrating increasingly bizarre behavior. He described behavior that can be generalized as conspiratorial, neurotic, and obsessive. He said that he is turning the organization into the FBI for prosecution under the RICO statute. He said that he will rape his bosses because they fired him. He has continually come back and tapped on the windows and opened the front doors of the business after being told not to enter the premises.



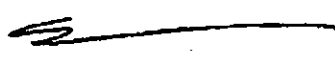
Both Potter and Christiansen told me that they have authority to trespass people from the premises and they have done so with Clark via police contact. (on 071811, Officer Esch contacted Clark and told him that he was not allowed on any Wells Fargo Property - this was documented in an FI)

Because of Clark's behavior which resembles psychosis, Wells Fargo hires Christiansen as a guard for the safety of the workers there. On the above date and time, Christiansen and Potter told me that they saw Clark ride up on his bike and approach the doors of the business to within one foot of the doors. The business is on a corner and this would clearly be on the business property. He left when he saw he was being observed. As they were relating this to me, we all observed Clark approach the same corner on his bike. He appeared to observe me inside and rode off eastbound. By the time I could get out of the building, he was gone.

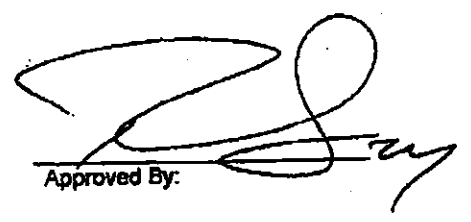
Potter and Christiansen both told me that the manager, Martin, has formally trespassed him from the location. Martin did not answer his phone. They said that they wanted him arrested for trespass.

I attempted to call Clark but he would not answer his phone.

The employees whom I spoke to were very concerned for their safety. They asked if they should carry guns to protect themselves from Clark should he return. They describe him as very mentally unstable and unpredictable.

 164  
SCHULKE #164  
Patrol, DOWNTOWN

072911 @ 1200

  
Approved By:

I will let the attached articles speak for themselves mostly. Some people might look at the cases and conclude that is a reasonable number given the time frame being discussed and the fact they were resolved in courts. They need to be looked at for the STRUCTURE that permits such abuse.

Once a person scratches just a little bit below the surface it becomes immediately apparent that the Allegations (see page 1) are almost certainly correct and require immediate FORENSIC investigation which includes, as needed, complete tracing of police electronic signals....both personal and business. The investigation needed is of the type police would do to a citizen, including searches of their homes and computer equipment as they did to me in attempts to frame me and to provide information back to the corporate Enterprise that directed police activity in my case.

### **Officer Z – the high school Police Molester** Material to add to the article contents:

- a. This indicates police ability to cover up their activity and how they treat their own transgressions in a fashion opposite of how they mistreated me. Officer Z was 'capacity released' from jail. He was supposed to be in jail during the same time I was (July 25, 2013). It is unclear to me if he was ever jailed and if so, it was not for long.
- b. Officer Z had to wear an ankle bracelet. I assert it was placed on him such that he could slip it off. I have absolutely no proof or even indication of that. However, given how police seem to cover and excuse each other, that assertion is not unreasonable. **Simple investigation method: Compare the GPS readout of the ankle monitor to Officer Z's GPS locator signals stored by his cellular device.**
- c. The rumors within the community are indicated within the news articles. In short: he is accused of outright rape of students via coercion over the years. He is accused of molesting of children as young as middle school age 'in the name of school security'. An example cited of his activity when he was stationed at Spencer Butte Middle School includes an account that he reached into a teen aged girl's bra in search of imagined contraband. Forensic review of all of Officer Z's computer and cellular records over a 10 year timeframe will indicate the extent of his activity.
- d. Discovery will show that Officer Z's conduct in a non-Police situation would have been subject to extraordinarily long prison terms. There was significant, muted community outrage over the short length of the sentence. It was not broadly reported that Officer Z was immediately 'capacity released' to make room for me who did nothing but fax business concepts to an office in Portland, OR.

### **Police Evidence Room Inventory Missing**

- a. This situation is most indicative of a long-standing major problem. It appears State Police dealt with it on a "transactional basis". That means they investigated the cause and extent of the leakage. They **did not** consider what was done with the 1,000 pieces of missing evidence that included drugs, guns, jewelry, and cash. **They did not consider what police are able to do with those items. They did not consider questions such as how much evidence even made it to the lockup.** For example, if \$20,000 is seized in cash it is a simple matter to keep \$10,000. Same applies to drugs and guns.
- b. I have standing to question/explore this situation in Court in my Case due to what appears to be a police attempt to plant drug evidence in my home in July 2011. That is indicated from police video in conjunction with the specifics of my arrest and fervent, repeated attempts by police to enter my home while I was chained. That has been reported in other formats, including FBI reports.

## **The 'Monroe' case and the 'Lewis' case**

Both of these cases resulted in awards against City of Eugene. Both appear to involve Eric Klinko and the same type of excessive force and lack of due process violations.

Erik Klinko was assigned my second degree municipal trespass case in 2011. It is more than obvious that was a deliberately incorrect assignment that is part of the systematic manufacture of crime that is endemic in every large and small phase of my cases.

What is significant beyond the apparent facts:

1. There is a very questionable need for SWAT forces in Eugene, OR. News articles (not included) do not reflect a single case that warranted or justified any extra-ordinary police action. They also reflect frequent accidents and use of special forces wrongly, as if to justify their existance.
2. A major violation happened (Monroe). It was repeated (Lewis). It was repeated again in my personal case. That indicates that police do little or nothing to prevent the next abuse except hiding it better.
3. It is indicative of a 'rouge group' of police that essentially control police operations outside formal chain of command and over time, co-opt and coerce others to aid or abet the group. Discovery will determine that allegation one way or the other.

## **The Magama Case**

This case is among the most lurid and shocking cases to be found anywhere. Mass rape of perhaps 100 citizens by one police officer. It is the tip of the rape-by-police iceberg. The articles and public records speak for themselves fully. Some might point to this case and say "the system is working". Once again:

1. The "Officer Z" case indicates the same type of conduct is pervasive and the structure still exists to allow it and conceal it.
2. Magama committed offenses over time. There was plenty of indications of abuse and all were ignored, allowing the next one and the next one.
3. At the time, attorneys and others (see article) considered that Magama was a well deserving 'sacrifice' ... the worse of the worst.... but the activity continues in a wide variety of methods. The most common method of police rape is semi-consensual/coerced. It involves a usually young female who is given an option by a police officer to engage in sex or be ticketed/arrested/prosecuted depending on the situation. A comparison of traffic stops of female drivers and the tickets given to them versus male drivers will indicate the extent of what I perceive to be a very dangerous and unconstitutional favorable treatment of women versus men at every single turn of the "criminal justice system". Simply put: women commit just as many crimes and infractions but get away with it due to police favoritism all the way through police coercion/rape. Discovery in my case will demonstrate the extent (or not) of that truth which can then be augmented by forensics of electronic systems as it relates to officers in question. For example, suppose a police officer is identified who frequently lets female suspects "get off with a warning". His cellular and email records can then be traced to determine if he had any contact later with the persons. Generally: any police contact of citizens is suspect. Simply obtaining

all telephone records of all police and correlating them to arrest records and other records will indicate what police actually do, which is indicated by cases like Magama and Officer Z.

## **Mental Health Cases, murder and massive abuse by police of mental health.**

I included several articles on this topic as it relates to Eugene Police. Here are some of the reasons:

1. The policeman who first came to my home 7-18-11 admitted on audio that he was under treatment for some mental health issue and persisted that perhaps I should seek treatment for police-perceived mental health issues.
2. Police did deliberately and with advance planning and malice use their mental health profiling against me, especially during the 2011 events. They are heard on their own audio conjecturing about my mental health and making statements passed to them by Wells Fargo (employer).
3. Police incite mental illness or cause people to become angry by visiting their homes in absence of a valid reason. Police visits at night when family and neighbors are around as happened several times over the last few years is very irritating to a citizen. Police are not qualified or licensed to interface with mental health issues but they do.
4. The article regarding a police-supported Measure 42 to extend certain timeframes for keeping people locked up in mental hospitals is Orwellian. What is outrageous is that the death of one police officer was used as the reason. It has nothing to do with all the citizen abuse caused by police mental health profiling and deliberately inciting mental health conditions. Like the Officer Z case, it speaks to the FACT that police circle the wagons around their own while continuing their abuse of the Citizens.
5. In my case in 2011, an emotion sensing war dog (aka K-9) assisted the bogus arrest/kidnapping event. Many people are very afraid of dogs. In my case, the dog was wagging its tail looking to be petted and fed a treat but unfortunately I was in chains. I included an article regarding the Ryan Salisbury case where police executed a mentally ill man in his home. The question arises... if a large group of police POSSIBLY with dogs (matters not but would be additive) would that not CAUSE the problem that resulted in the shooting/execution? Compare that with a TYPICAL hostage situation in, say, a BANK. If a robber with a gun held hostages in a bank, Police normally would use 'stand-off' techniques and negotiators. That whole aspect of 'differential treatment' was never discussed back in 2007 when it happened. Note: locally the matter was dropped at the request of the family who wanted to move on and heal (according to the articles). Matters involving police structure and pattern/practice of abuse can still be addressed without re-opening the case itself.

Conclusion: City of Eugene police are totally out of control. Eugene is an excellent 'petri dish' for discovery of national police abuse practices. We are a small, isolated community. Nothing can be hidden in Eugene. All electronic traces of all activity are stored and can/should be forensically investigated. However: it is easier and better to simply offer a limited period of IMMUNITY to those who come forward. The focus should...for a change...not be focused on the past or victims. It should be 100% 'forward looking'. In other words, a police abuser who would normally be considered a criminal can that way be considered the ideal source of information to PREVENT future abuse and end the Structure of Abusive by Police. Police overtime inducement is another contributing factor.

## Eugene Weekly : 3.29.07

ARTICLE : FEBRUARY 24 2012 - 2.05AM

### Whitewash

#### Victims' attorneys blast city report on officer sex scandal

BY ALAN PITTMAN

When Roger Magaña worked at the Eugene Police Department (EPD), women complained over and over that he was using his badge to force sex, but Eugene police did nothing. After Magaña was finally caught after six years and sent to prison for abusing a dozen women, substantial evidence emerged that other police officers had failed in the investigation, supervision and hiring of the criminal. But the police again did nothing.

What the police and city did do is select a former cop who wrote a report that agreed with their inaction. That consultant, former McMinnville Police Chief Rod Brown, released a report last week that city officials claimed should restore lost citizen confidence in the EPD.

City Manager Dennis Taylor praised the "incredibly objective" report, which largely concurred with the city position that no other officers should be investigated, disciplined or reprimanded for their handling of the Magaña complaints. The city paid \$5 million to settle lawsuits by the victims of Magaña and Juan Lara, another officer convicted of a lesser sex crime spree. "I just hope this will close the chapter," Taylor said of the Brown report.

But Michelle Burrows, the Portland attorney for one of Magaña's most frequent victims, called the Brown report a "whitewash." Burrows emailed that the retired police chief's report "itself manifests why society should not let the police review their own conduct." She continued:

*The analysis by the report writer just repeats all the justifications and excuses proffered by the Eugene Police Department as to how the abuse was allowed to spread to 35 women over six years. It isn't just the benefit of hindsight that allows us to see this. The law enforcement community who worked with Magaña and Lara are trained to detect criminal activity, especially sexual misconduct. The officers who knew parts of the entire puzzle are as important a part of how the extensive abuse continued as Magaña or Lara, and in some respects their willful disregard of what was obvious is just as bad as what Lara and Magaña did. We trusted them to do the right thing and even now with this inane report, they still refuse to take responsibility for their own actions.*

Elden Rosenthal, a prominent Portland civil rights attorney, represented two of Magaña's other victims. "I disagree strongly with the conclusions of the report," he said.

"This is the reason that you don't have the police investigate the police," Rosenthal said. "This is the reason you need to have independent review."

"The people of the city of Eugene should not countenance police not reporting the misconduct of their fellow officers," Rosenthal said. "Unless the culture of the Eugene Police Department changes, there will be other incidents of misconduct in the future."

In his \$25,000 report, Brown argued that "the dynamics of working in law enforcement ... are only comprehended

when you have lived that professional life."

But Rosenthal said the judge and jury system doesn't leave it only to cops to judge cops. "That's what the civil rights laws are all about."

Rosenthal noted that federal Judge Thomas Coffin dismissed many of the city's and Brown's arguments in ruling against the city on summary judgement.

Brown argued that the "crux" of the issue was that the seriousness of the complaints against Magaña made it more "reasonable" to ignore them. "When a complaint is regarding an offense or action by an officer that is so egregious as to be outrageous and inconceivable, the receiving officer looks upon the allegation with incredulity and skepticism."

"It's absurd," said Rosenthal of the argument by Brown and the city.

Greg Veralrud, a Eugene attorney for several victims of Magaña and Lara, said he hadn't had a chance to read the report. He said in some cases, he could understand why officers didn't believe the women when they complained, although "the pattern should have been recognized by someone."

But Veralrud said officers clearly failed in other complaints. He cited an early incident where Magaña sexually abused an underage police cadet who complained to two other officers who believed her but did not report the incident to superiors. "I thought that was egregious," he said. "That should have sent some shivers up the ranks."

Brown laid out his arguments absolving the police in a 33-page report after reviewing depositions, personnel files and documents provided by the city and interviewing a few police officials but not talking to victims.

Burrows, who conducted many of the 40 depositions and read 12,000 pages of discovery documents in the case, said Brown's report is refuted by a heavily footnoted, 133-page motion for summary judgement she filed last year before the city paid to settle the case.

In the document, Burrows alleges Magaña had "nearly 45 victims in over 100 documented acts of sexual abuse." She alleges that officers and police repeatedly failed to respond to complaints. "During the entire five years of Magaña's activities, 23 different officers, one chief of police and the director of human resources had actual knowledge of no less than 15 different complaints involving 15 different women who were being either harassed, raped or sexually abused by Magaña."

Here's a list of some of the key allegations that Burrows makes, citing sworn depositions from Eugene police officers, city officials and city documents:

- City police and human resource officials "knowingly covered up officer Magaña's pre-employment criminal history in order to fulfill minority quotas," Burrows alleged. Det. Scott McKee said that when Magaña was 17 or 18, Magaña was "accused and ... convicted of an offense that involved forcible or compelled sexual acts with a young girl." The next year he was arrested for burglary but not convicted. Documents relating to the criminal history were "lost" but later "mysteriously resurfaced" during the criminal investigation.

The police background investigator recommended against hiring Magaña, but he was "hired anyway at the insistence of Chief [Leonard] Cooke, Captain Roy Brown, [officer] Frank Bone and Helen Towle." Burrows cited police Human Resources Director Towle's deposition in writing that Towle "does not believe that criminal arrests disqualify an applicant for an officer position."

By hiring Magaña, the city was "giving that violent sex offender the means to rape and sexually abuse as many as 45 known victims," Burrows wrote.

- "Officer [Gerald] Webber testified in trial and deposition that a woman told him Magaña was asking for 'blow jobs,' but he thought that she was making it up despite the fact that he knew the woman never lied to him." Webber repeatedly testified under oath that he told acting Lt. Jim Fields about the accusation and Fields told him to drop it. But Fields called that claim a "damn lie."

- After a woman's sexual complaint, "Magaña apparently sent [officer Mel] Thompson and another officer back to

the woman to tell her to stop 'making up' information about Magaña. ... The woman apparently believed she had been threatened."

- A woman told officer [William] Reimers that Magaña was fondling another woman. Reimers had sworn under oath in court documents that the woman was an honest or reliable source for criminal investigations, but decided that she "was not credible in a complaint about another officer," Burrows wrote.
- Lax discipline was prevalent in the department, Burrows alleged. Drunk driving "officers were stopped by patrol, taken in to the department for booking, but a lieutenant intervened, turned off the videotaping equipment and arranged for the officer to be taken home with no charges."
- There were unconfirmed "accusations by the wives of some of the RDU [Rapid Deployment Unit] officers that some officers were frequenting prostitutes on duty and as part of the job."
- RDU officers showed their genitalia to prostitutes during sting operations, Burrows alleged. "The RDU officers, seeing nothing wrong in removing their clothing, were complying with the women's request to undress to 'prove' they were not cops."
- Within EPD Magaña "had the reputation as a 'ladies man' and openly bragged to other RDU officers of having sex with over 100 women."
- The complaint by Magaña's final victim was initially dismissed. "Officer [Kathy] Flynn's 'investigation' of the [woman's] complaint that Magaña was fondling her lasted 90 minutes, was never referred to Internal Affairs and was not sent on to a superior officer." The persistent woman pressed her complaint with other officers but initially, "Neither Officer [Randall] Smith nor [Scott] McKee believed the woman, refused to meet with her personally and asked her questions designed to intimidate or discourage her."
- Supervisors failed to supervise, Burrows alleged. Magaña's supervisor "Sgt. [Joseph] Harris was viewed as a 'lax supervisor' who "sometimes misses the point." Supervisors were consumed with bureaucratic duties to the extent that they had less than 15 percent of their time available for direct supervision, another city consultant reported. "The RDU was a secret entity all unto themselves with almost no oversight by management."
- "Sgt. Harris reviewed a complaint made by [a woman] and seemed to conclude that Magaña was not telling the truth, engaged in activity which was not verifiable." A review consultant also told Towle and Chief Thad Buchanan that Magaña lied in the case. But everyone who knew about the case, Harris, Buchanan, Towle, Lt. Fields and Capt. Becky Hanson, did nothing.
- A police recruit complained that Magaña made sexual advances to her in 2003 when she was being trained by him, but there was no evidence the complaint was investigated.
- Officers Rich Bremer, Sgt. Jennifer Bills and Lt. Rick Siel knew that an underage police volunteer complained that Magaña had made inappropriate sexual contact with her that led her to leave the police. Magaña was not investigated and no record was made of the incident.
- The mother of one of Magaña's victims called to complain to an unidentified captain who took no action.
- A victim told officer Ryan Wolgamott that Magaña had raped her. The complaint was in front of officers Kara Bankhardt, Mel Thompson and Sgt. Scott Fellman. They ignored the complaint.
- A woman "made a statement to a municipal court judge, 'How would you like it if a Eugene cop forced you to suck his dick?'" The judge did not investigate or report the incident.

Burrows alleged that Magaña thrived in an EPD atmosphere where sexual impropriety was tolerated. One female sergeant allegedly had sexual relations with an 18-year-old male cadet she was supervising and with four different officers, two of whom were married. Her simultaneous relationships with two officers caused tension and "safety issues at work."

Sgt. Derel Schulz, while married, engaged in a sexual relationship with a female Coburg officer, Burrows alleged.

"Apparently, the female cadet broke it off, but Schulz started 'stalking her' and she obtained a stalking complaint. The department 'covered it up and made the complaint go away.'"

A woman who was a secretary on the narcotics team filed sexual harassment complaints against three to four officers including Sgt. Ron Swanson and Thad Buchanan, who later became chief. Chief Hill admitted he received two sexually based complaints which he said were not substantiated.

Officer Jeff Glemser said under oath that the unpunished impropriety by other officers contributed to the scandal, Burrows reported, quoting him. "Other people were getting away with it. Supervisors, people you are supposed to look up to. ... Now if these people were dealt with appropriately, Magaña may still be working here and he may have not done as much as what he was doing."

"Things are covered up because they are afraid of what the public will find out," Burrows quoted Glemser.

Burrows called it "damning" that a "stunning number of officers" supposedly trained to recognize criminal activity received complaints about Magaña and did nothing.

"It is not enough for them to pretend to some level of naivete, or innocence. 'We'll never be the same again.' They had a duty to know and to be mindful of their oath to the very citizens they failed," Burrows wrote.

Brown and the city claim that the police department won't ignore complaints in the future.

But Burrows notes, "The street level officers who were questioned said without hesitation that it was the standard policy and procedure" to not act on the complaints against a fellow officer. "Even to this day they see nothing wrong with discounting the complaints as they did."

RELATED TERMS: [Archive](#)

COMMENTS: 0

0 Comments

REPLY TO THIS COMMENT



REPLY

SHARE THIS COMMENT



Be the first to comment.

ALSO ON EUGENE WEEKLY

WHAT'S THIS?

### Results of UO basketball player rape investigation

By [Name] — Regarding your chosen wording in the headline, it isn't an "investigation" when evidence is ...

### Skatelandia

By [Name] — Theres no downside to a skatepark. They dont fix skateparks ever so its not like they have to keep ...

### Letters to the Editor: 7-3-2014

By [Name] — "Gov. John Kitzhaber, Sen. Ron Wyden and Congressman Peter DeFazio all agree ...

### Letters to the Editor: 6-19-2014

By [Name] — re: Babylon in TurmoilIt's good to mention the Carter Doctrine, but every President since ...



EUGENE, Ore. — New leads have come out in the investigation into former Eugene Police Officer Stefan Zeltvay and his interaction with students at South Eugene High School.

In July, Zeltvay was convicted of sexually harassing and abusing six women. There were reports of a groping incident at the school involving a female student during the 2006-2007 school year. Zeltvay was the school resource officer at the time.

Investigators believe they now know the person linked to the alleged misconduct.

What started as a rumor has now become an official investigation.

“Today I received additional information about that rumored behavior involving a student and a search that purported to be potentially misconduct,” said Sgt. Scott McKee, Eugene Police Department.

Police received reports that Zeltvay put his hand down a female student’s shirt and groped her while conducting an on-campus drug investigation. Now, investigators say they know someone linked to that alleged misconduct, and they have identified more witnesses. This rumor turned investigation has prompted investigators to look into rumors circulating online.

“We are hearing a lot of chatter in social media about the Stefan Zeltvay arrest,” McKee said.

Posts about Zeltvay’s conviction of sexually harassing three female coworkers, sexually abusing a fourth coworker, and inappropriately touching two other women, including a fellow officer’s wife, flood Facebook.

“I’ve seen a lot of posts from multiple people who do and don’t go to this school regarding Officer Z and the whole problem there,” said junior Jade Reynolds.

That includes a post from a South Eugene High School student that reads, “No longer will kids be subjugated to his sick perversions.” And this post with a link to an article on Zeltvay’s arrest with the caption: “Yea, finally,” which is concerning investigators.

“I am not seeing the volume of reports to the police dept that we are hearing about on Facebook,” McKee said.

That’s why they’re urging victims to come forward.

Sgt. McKee says he has talked to several women who were victimized by Zeltvay’s behavior. He says they weren’t criminal in nature, but questionable. He has yet to contact the person linked to the 2006 groping incident.

## RELATED ARTICLES

- [Man Stabbed Near Saturday Market \(0\)](#)
- [‘No Refusal’ DUII Patrols for July 4th \(1\)](#)

# Audit: Guns, drugs, money missing from police evidence unit

By KVAL News | Published: Mar 20, 2013 at 2:53 PM PDT (2013-03-20T21:53:31Z) | Last Updated: Dec 5, 2013 at 7:21 AM PDT (2013-12-5T14:21:40Z)

8+1 2 Tweet 11

Guns%2C+Drugs%2C+Money+Missing+From+Police+Evidence+Unit&Random=0.6544185403645397&PartnerID=134071&Cid=199243491)



EUGENE, Ore. - Eugene Police can't account for over 1,000 pieces of evidence, including guns, drugs and jewelry, according to an audit.

The audit also found Eugene Police had not formal procedure regarding what do to if items disappeared.

[\(/news/local/Audit-Guns-drugs-jewelry-missing-from-Eugene-Police-evidence-unit-199243491.html?tab=video&c=y\)](#)

Now internal affairs and Oregon State Police (<http://www.kval.com/search?q=%22Oregon+State+Police%22>) are investigating the Property Control Unit as police work to build a new system for storing and tracking evidence.

[PLAY VIDEO 199243491.html?tab=video&c=y](#)

"It was alarming to see some of the extent of our shortcomings and disappointing," Chief Pete Kerns said. "The internal affairs investigation will help us understand if the quality of our performance of our employees has anything to do with it."

A still from Eugene Police Department video of the Property Control Unit. KVAL News was not allowed inside to film.

Kerns said the department has been working to fix the problems since the audit last August. Those changes include assigning 7 additional people to the Property Control Unit.

"With the increased staffing, we can improve the efficiency of the systems, we can afford to research the new software that we have that can make things run better," Kerns said.

The audit also found problems with packaging and labeling evidence, safekeeping items and documentation.

PHOTOS (/NEWS/LOCAL/AUDIT-GUNS-DRUGS-JEWELRY-MISSING-FROM-EUGENE-POLICE-EVIDENCE-UNIT-199243491.HTML?TAB=GALLERY&C=Y)

- [READ the executive summary of the audit, redacted prior to release \(http://www.kval.com/news/local/Audit-Guns-drugs-jewelry-missing-from-Eugene-Police-evidence-unit-199243491.html?tab=gallery&c=y&img=3\)](#)

The missing items date back to 1990. The auditor found no process in place for attempting to locate items determined to be missing from the property unit.

## MORE TO EXPLORE



Wilderville woman



<http://www.kval.com/news/local/Wilderville-woman-charged-with-shooting-husband-in-the-leg-265956871.html>  
<http://www.kval.com/news/national/Woman-arrested-after-spraying-child-with-pesticide-265044211.html>



If the election were held today, which candidate for governor would get your vote?

- Gov. John Kitzhaber
- Rep. Dennis Richardson
- Other

[Submit](#)

## MOST POPULAR



[Humpty Dumpty has a great fall at Enchanted Forest](#)

<http://www.kval.com/news/local/Humpty-Dumpty-takes-great-fall-at-Enchanted-Forest-265968291.html>



[Amusements abound at the 44th Oregon Country Fair](#)

<http://www.kval.com/news/local/44th-Oregon-Country-Fair-photos-costumes-music-food-Veneta-Eugene-215344051.html>



['I was just shocked they could do that and that there was no warning'](#)

<http://www.kval.com/news/local/I-was-just-shocked-they-could-do-that-and-that-there-was-no-warning-265620681.html>



[Train carrying Boeing fuselages derails in Montana](#)

<http://www.kval.com/news/local/Train-derails-in-western-Montana-3-cars-in-river->

[Home](#) / [Our Sources](#) / [About Us](#) / [FAQs](#) / [Advanced Search](#)



Q GO!

Not what you're looking for? Try an advanced search.

## Buy This Entire Record For \$7.95



Download the entire decision to receive the complete text, official citation, docket number, dissents and concurrences, and footnotes for this case. Learn more about what you receive with purchase of this case.

Buy Now

Add To Cart

### Havens v. City of Eugene

July 6, 2007

**ELIZABETH (REDETZKE) HAVENS AND JOR BRYCE HAVENS, PLAINTIFFS,  
v.  
CITY OF EUGENE, ET AL., DEFENDANTS.**

**25 HOMES UNDER \$100,000**

Custom Homes - Stick Built Homes As Low As \$45,900



The opinion of the court was delivered by: Michael R. Hogan United States District Judge

#### ORDER

This case involves the execution of a search warrant at property located at 464 West Adams Street, 909 West Fifth Avenue and 923 West Fifth Avenue in Eugene, Oregon on October 17, 2002.

In the predawn hours of October 17, 2002, more than 50 police officers using a light armored vehicle executed a search warrant at three adjacent properties. The owners of the properties, Tam Davage and Marcella Monroe, (who have alleged similar claims against defendants in a separate action) rented the 464 Adams Street house to plaintiffs Elizabeth and Jor Havens.

Defendants the City of Springfield, Jerry Smith, Richard Lewis, Michael Wisdom, Jim Ball, Thad Buchanan, Casey Froehlich, Doug Ledbetter, Dan Long, Kevin McCormick, Lee Thoming, Lane County, Jan Clements, Christopher Doyle, Gordon Gill, and Clifton Harrold previously moved for summary judgment as to all claims.

Plaintiffs' counsel failed to respond in writing to the motions.

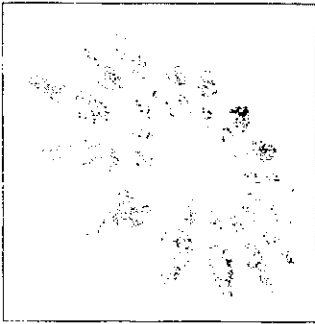
In addition, approximately 25 other summary judgment motions were filed and plaintiffs' counsel responded by dismissing those moving parties. Currently before the court are several summary judgment motions, some of which have resulted in yet more stipulated dismissals. Plaintiffs' counsel declined to respond for several months, but has recently filed some responses and sur-replies. In addition, there is a motion to strike and a motion for attorney fees. Much of the background information regarding this case can be found in the accompanying order regarding the Davage case, 04- 6321-HO.

Plaintiffs Elizabeth Havens (formerly Redetzke) and Jor Havens allege claims for unlawful search (lack of probable cause), unlawful search (judicial deception), excessive force, excessive force related to destruction of property, and unreasonable seizure pursuant to 42 U.S.C. § 1983. Plaintiffs also allege state law claims for false imprisonment, assault, battery, intentional infliction of emotional distress, and invasion of privacy by intrusion upon seclusion.

1. Motion for Summary Judgment By defendants Karol Herbert, Jeff Drullinger, Pete Deshpande (#278)

## Home Solar Lease Options

solarcity.com



Get Clean, More  
Affordable Energy  
Today. Act Now And  
Save!



Defendants Pam Olshanski, Scott Dillon, Rene Tobler, and Steve Swenson also moved for summary judgment, but plaintiffs stipulated to their dismissal. Defendants Herbert, Drullinger, Deshpande, and Swenson move for summary judgment as to all claims against them.

### A. First Cause of Action-- Lack of Probable Cause

As noted in the Davage order, there was probable cause supporting the search. There was sufficient basis for Judge Henry to find probable cause to issue the search warrant. Thus, even the officers who prepared the affidavit in support of the search warrant or were team leaders are entitled to summary judgment on plaintiffs' first cause of action asserting lack of probable cause.\*fn1

### B. Second Cause Of Action Judicial Deception

It is unclear from plaintiffs' memo if they oppose summary judgment as to this claim. Plaintiffs do not offer any evidence of intentional or reckless false statements or intentional or reckless omissions in the warrant application. Summary judgment is granted as to this claim.

### C. Third Cause of Action Excessive Force

Plaintiffs in this case offer very little argument or support for their claims. Plaintiffs do not respond to the individual summary judgment motions, but do adopt the arguments of plaintiffs in Davage. It is difficult to locate support for excessive force specifically directed against these plaintiffs as a result.

However, Plaintiff Elizabeth Havens has submitted an affidavit detailing her account of the events. Defendants have moved to strike the affidavit, but to the extent she details her own personal knowledge it is enough to show she allegedly suffered excessive force. When the affidavit is combined with other materials in the two cases, it is enough to demonstrate the presence of certain defendants during the time the alleged excessive force took place.

Plaintiff Elizabeth Havens, who resided at the 464 Adams residence, states she had just awoke on the morning of October 17, 2002, when she heard three terrifyingly loud explosions that shook the house and scared me so badly I could not even move. I heard a loud, crackling, frightening announcement system seemingly shouting my address ... over and over and I saw red flashes out my bedroom window.... My fiancé Jor ... and myself were naked in our bed. I saw Jor get up out of bed [and] grasp for some clothing. At that moment I heard the doors burst in with a splintering crash as they were sledge-hammered open by the defendants, who were gaining entry by this action without bothering to knock first.... I saw three defendants, though there were possibly more, all dressed in camouflage uniforms with face masks and guns, swarm into our bedroom. One of these defendants and possibly others, pointed his gun at my fiancé Jor as he sat naked on the floor with his hands spread out in front of him.... I was in terror that I was about to be shot in my bed and my fiancé killed on the floor in front of me.

At this point the defendants, one of whom was wearing glasses, reached towards me and grasping me by my arms dragged me up out of the bed exposing me to everyone in the room as completely naked. I then suffered the humiliation of having my arms pulled behind me and my hands handcuffed while standing on the bed totally naked. The defendants then fumbled about in my closet adjacent to the bed for covering to put over me. Since I had just been handcuffed naked my arms were not able to go through the sleeves of the robe and so the defendants simply draped it about me and tied it with a sash. It seemed to me that this whole process took several minutes during which I was exposed, naked and vulnerable, to all the individuals in my bedroom and possibly others who may have been standing in the doorways of my bedroom. I saw that Jor had been handcuffed naked by the defendants as well as I saw his arms were not through the sleeves of the robe that the defendants had placed on him.

Jor and I were then taken into the living room at gunpoint and made to sit on the couch, guarded by a defendant with a gun....



# Public Arrest Records

○ instantcheckmate.com

- 1) Enter a Name & Search for Free.
- 2) View Background Check Instantly.

During the time that [the Davage plaintiffs] were being forced into the living room my robe was slipping off and gaping in the chest area. I looked at Jor and saw that his robe was falling open and his genital area was becoming exposed. After I saw Marcella was made to sit by the defendants on the chair across from me, I saw that Marcella was hunched on that chair shivering in her underwear and I was embarrassed for us all to be handcuffed in this state of exposure, humiliated in front of one another and waiting in fear and anguish for an answer as to why were being treated in this manner.

I was very cold and beginning to shiver. It was 39 degrees in Eugene that morning of October 17, 2002. I felt my hands were becoming numb from the handcuffing. I heard Marcella say that her handcuffs were too tight and that she was cold. An unidentified RDU officer leaned over in front of her, held up a knife to her face and said he was going to cut her handcuffs off. At this point I also said my handcuffs were too tight. None of the defendants responded to my plea and being fearful of the defendants ... I did not repeat my request. At no time did any of the defendants ask any of us whether our handcuffs were too tight, or whether we were cold or not or whether we felt we were adequately covered or whether we consented to the search and seizure operation.

A while later, a female officer, who was defendant Rauch, came by and adjusted the front of my robe and placed a blanket over Jor and I. Some time after this, a male officer, who was defendant Drullinger, came over to Jor and I with a camera and insisted on taking our pictures, telling us to "get your heads up" and I was subjected to the humiliation of having my photo taken by defendant Drullinger while I was handcuffed, disheveled, distraught and a prisoner in my own home.

... I heard defendant Herbert make a comment to the effect that she had the power to treat us in whatever way she saw fit and then defendant Herbert said that if Jor was going to be an "asshole" to her she would be an "asshole" to him....

It seemed to me that a couple of hours went by while the defendants ransacked our house with defendants occasionally coming in and going out. I saw and heard several defendants, who were defendants Klinko, Froehlich and others come in and ask Tam and Marcella questions and ask them how to use keys to their cars....

At some point, I heard Jor ask for the names of the defendants in the room with us. One defendant who was either defendant McCormick or defendant Drullinger said that they were "obviously police officers." Jor said, without raising his voice and without addressing the defendants in a hostile manner, "I didn't ask what you are, I asked who you are." The defendant became angry, jabbing his finger in Jor's face and yelling, "Well, you WERE growing pot in the basement and now you are going to get busted for it, right!???"

...

I heard defendant Herbert now tell us that we were each going to use the restroom. Defendant Herbert then took me into the bathroom first. I did not feel like I had to urinate or defecate, but sat down on the toilet and defendant Herbert began to interrogate me. I felt very intimidated ....

[H]ours after the defendants detonated grenades in our yard, dragged me out of bed at gunpoint and handcuffed us while naked, humiliated me and my fiancé Jor in front of my landlord and his wife ... I was still forcibly detained as a prisoner in my own home ... still handcuffed....

...

Two days later, after still not being able to feel one of my thumbs ... I went to Urgent Care to see if I was now suffering permanent damage from the lengthy handcuffing I had just endured .... The doctor on duty determined that I had temporary nerve palsy, directly related to the handcuffing by defendants....

Affidavit of Elizabeth Havens (#361) at pp. 3-12.

As noted in the Davage order:

Merely securing the occupants during a valid search does not amount to excessive force. See *Mueller v. Mena*, 544 U.S. 93, 100 (2005) (use of handcuffs to detain occupants during execution of a search warrant is reasonable). However, "a detention conducted in connection with a search may be unreasonable if it is unnecessarily painful, degrading, or prolonged." *Franklin v. Foxworth*, 31 F.3d 873, 875 (9th Cir. 1994). Even though plaintiffs fail to adequately respond, the motion for summary judgment is denied on the excessive force claim as plaintiffs' own testimony creates issues of fact as to the reasonableness of the detention once Deshpande was present. See *Liston v. County of Riverside*, 120 F.3d 965, 981 (9th Cir. 1997)(genuine issue of fact regarding the reasonableness of detention with respect to officers, who by their presence in the home, assisted in restraining plaintiffs). Although defendants claim the law was not clearly established, at the time, regarding the contours of an unreasonable detention such that they would know that a detention that lasted for about 4 and a half hours, required plaintiffs to remain in a numbing position, required plaintiffs to remain cuffed, and required plaintiffs to remain only partially clothed for two hours while cold was unconstitutional, the case law demonstrates otherwise. See *Meredith v. Erath*, 342 F.3d 1057, 1061-62 (9th cir. 2003):

Police may detain persons without probable cause while executing a search warrant if justified by the circumstances. *Michigan v. Summers*, 452 U.S. 692, 705, 101 S.Ct. 2587, 69 L.Ed.2d 340 (1981). Such a detention may be unlawful under the Fourth Amendment "either because the detention itself is [unreasonable] or because it is carried out in an unreasonable manner." *Franklin v. Foxworth*, 31 F.3d 873, 876 (9th Cir. 1994). A seizure must be "carefully tailored" to the law enforcement interests that, according to the *Summers* line of cases, justify detention while a search warrant is being executed. *Ganwich v. Knapp*, 319 F.3d 1115, 1122 (9th Cir. 2003) (quoting *Florida v. Royer*, 460 U.S. 491, 504, 103 S.Ct. 1319, 75 L.Ed.2d 229 (1983)). Where such law enforcement interests arguably justify a detention, we balance those interests against the intrusiveness of the seizure to the persons detained. *Summers*, 452 U.S. at 699-705, 101 S.Ct. 2587 (1981); [Footnote omitted] *Ganwich*, 319 F.3d at 1120. Thus, the reasonableness of a detention depends not only on if it is made, "but also on how it is carried out." *Franklin*, 31 F.3d at 875 (quoting *Tennessee v. Garner*, 471 U.S. 1, 7-8, 105 S.Ct. 1694, 85 L.Ed.2d 1 (1985)). "[A] detention conducted in connection with a search may be unreasonable if it is unnecessarily painful, degrading, or prolonged [..]" *Id.* at 876. [Footnote omitted].

We have not previously addressed the reasonableness of detaining a person in handcuffs during the execution of a search warrant for evidence. [Footnote omitted] We have held, however, that the use of guns and handcuffs during an investigatory detention "must be justified by the circumstances." *Robinson v. Solano County*, 278 F.3d 1007, 1014 (9th Cir.2002) (quoting *Baker v. Monroe Township*, 50 F.3d 1186, 1193 (3d Cir.1995)). We held in *United States v. Bautista*, 684 F.2d 1286 (9th Cir. 1982) that the use of handcuffs was justified during a Terry stop to ensure officer safety from suspected violent criminals and to prevent their escape. *Id.* at 1289. We have also commented, in a case involving the detention of a suspect during a search for contraband, that ...

Buy This Entire Record For \$7.95 

Download the entire decision to receive the complete text, official citation, docket number, dissents and concurrences, and footnotes for this case.

Learn more about what you receive with purchase of this case.

[Buy Now](#)

[Add To Cart](#)

[Home](#) / [Our Sources](#) / [About Us](#) / [FAQs](#) / [Advanced Search](#)

copyright 2014 LRC, Inc. [About Us](#)

[PRIVACY POLICY](#)

JULY 7, 2014

SUBSCRIBER SERVICES

# The Register-Guard

AUGUST 11, 2014

## City pays woman in police lawsuit The settlement stems from a 2007 search of her home

By Karen McCowan

The Register-Guard

APPEARED IN PRINT: MONDAY, APRIL 26, 2010, PAGE B1

The city of Eugene has paid \$21,250 to settle a lawsuit with a 60-year-old woman who accused police of excessive force and violating her rights by hauling her outside in a revealing nightgown during a 2007 search of her home.

Elaine M. Lewis, now 62, also accused Eugene police Sgt. Eric Klinko and officer Kyle Evans of injuring her when they forcibly removed her from a house in the 2400 block of City View Street.

Lewis sought \$50,000 in medical and other economic damages, as well as \$100,000 in noneconomic damages for loss of her freedom from unreasonable seizure, pain and suffering, and mental anguish.

A settlement agreement filed in federal court stipulates that the payment is not "an admission of liability or disputed facts" by the city.

The May 12, 2007, incident began about 11:30 a.m. when police responded to a tip that a possible fight and stabbing involving several males had occurred at the residence.

But Lewis hesitated when Klinko asked and then ordered her to leave the premises so officers could conduct a welfare search to ensure that no injured person was still inside. She was wearing a “blue, see-through nightgown,” her suit contended, and didn’t want to go completely outside in broad daylight. Lewis said she asked to remain on the home’s porch or to get something to cover herself up before going into public view.

Instead, Klinko and Evans reportedly used a “pain compliance hold” on both of her arms, Lewis alleged. She said they did not let go even after she felt “sharp pain” in her arms, screamed and told them she was injured. After forcing her outside, they threw her to the ground, her suit charged.

In its response to the charges, the city acknowledged that the two officers grabbed Lewis by both arms and “escorted her outside the house.” It admitted only that Lewis was “wearing a blue article of clothing.”

The city’s attorney, Jens Schmidt, argued that Klinko’s and Evans’ use of force was reasonable under the circumstances, and therefore “privileged and justified.”

The city also acknowledged that she was transported to a local hospital. According to Lewis, she required medical treatment for damage to her wrists and shoulders; for inflammation; and for reduced range of motion and temporary loss of use of her wrists and arms.

Lewis could not be reached for comment. Both Schmidt and Lewis’ attorney, Christopher Bevens, declined to talk about the case.

## Submit

## Connect

## Marketplace



6

1

0

2

Like

Tweet

+1

Share



A surveillance camera at the Lane County Jail captured video footage of a Eugene - police officer landing a flurry of punches to the face of a handcuffed drunken-driving suspect who later “reacted in shock” when an investigator showed him the footage, according to a police report.

The suspect, 36-year-old Eugene resident Shaymond Michelson, had been highly intoxicated at the time of the beating and had no recollection of it, Eugene police Sgt. Scott McKee wrote in a report detailing his criminal investigation into now-former officer Charles Caruso’s actions.

A grand jury declined to indict Caruso on assault charges. But the Police Department’s investigation — launched last fall at the direction of the city police auditor’s office — helped bring an end to Caruso’s brief career as a Eugene officer.

Michelson suffered facial injuries when Caruso punched him repeatedly on the night of Sept. 13, 2013. He has informed the city and the county that he intends to sue both government entities for unspecified damages.

The Register-Guard obtained police reports in the case and the jail video through public records requests.

To comply with state law, the county obscured the faces of law enforcement personnel shown in the 14-minute video, which was recorded by security cameras in the jail’s secured entryway, or “sally port.”

Caruso arrested Michelson after a woman reported to police that an “extremely intoxicated” Michelson had touched her and other people inappropriately at a party, and then crashed his car, according to a police report written by Caruso.

Caruso wrote that Michelson was found behind the wheel of the damaged vehicle, stopped in the middle of Fox Hollow Road in south Eugene. Michelson told Caruso that

he was too drunk to stand up, and two officers were needed to drag him to a patrol vehicle after he had been handcuffed, according to Caruso's report.

Caruso wrote that, after arriving in the sally port, Michelson physically resisted being escorted into the jail. The officer said he could not support Michelson because of his size, and "used his own momentum to take him to the ground," where he continued to resist, according to the report.

McKee, meanwhile, wrote in his report that Caruso did take advantage of Michelson's momentum, but that "it is also clear that officer Caruso uses a two-handed throw and tripping maneuver in order to render him to the (concrete) ground." The move "could be reasonably expected to cause physical injury" that Caruso did not attempt to mitigate, McKee wrote.

The video shows Michelson leaning back toward Caruso before the officer throws him onto the floor and pins him down by kneeling on his throat.

McKee noted several other questionable statements in Caruso's report, saying that the video does not support Caruso's claim that Michelson resisted being turned onto his stomach after being thrown to the ground; or that Caruso struggled to hold Michelson in place before Lane County sheriff's deputy Neil Woolsey arrived at his side about 35 seconds later. Caruso's assertion that Michelson looked at Woolsey before kicking his left foot toward the deputy's face is "debatable," McKee wrote.

The video shows Michelson suddenly kicking toward Woolsey's face, at which point the deputy grabs his leg. Caruso, meanwhile, appears to react to the kick by punching Michelson in the face five or six times as the handcuffed suspect lay on the ground.

Caruso wrote that he had punched Michelson to prevent him from injuring him or Woolsey, since the officer already had struggled to overcome Michelson's resistance. McKee said the video footage "does not corroborate any such resistance on the part of Michelson at the very point when officer Caruso says it was most acute."

After the punching, other jail staff members appear, bandage Michelson's face and lead him away.

Michelson's face appears red and puffy, with a blackened right eye, in a mug shot taken when he was booked into the jail. According to McKee's report, Michelson said he went

to a hospital after being released from custody the next day. Medical staff told Michelson that he hadn't suffered any concussion or broken bones, but had soft tissue damage and swelling in his head and face; neck pain, bruising and swelling; back pain; left wrist and hand pain and swelling; and abrasions, pain and lacerations on both legs, McKee's report states.

Michelson — who, according to a breath test had a 0.14 blood-alcohol content on the night of his arrest — told McKee that he didn't remember much about the circumstances of his arrest and had no recollection of being punched by Caruso.

McKee twice wrote in his report that Michelson "reacted with shock" while viewing the sally port video: first when Caruso threw him to the ground on the concrete parking surface and again when the officer punched him in the face repeatedly.

Michelson "said he was shocked at the behavior of officer Caruso on the jail video, but at the same time felt somewhat relieved to know the mechanisms of his personal injuries, as disturbing as they were to watch," McKee wrote.

Both Caruso and Portland attorney Chris Cournoyer, who represents Michelson in the civil case, declined to comment for this story. Eugene City Attorney Glenn Klein did not respond to an emailed request for comment.

Caruso continued working as a patrol officer until Nov. 7, when he was placed on "modified duty" that included nonpatrol assignments.

Eugene Police Chief Pete Kerns said Caruso's employment relationship with the city was severed in December, just one month before the officer's standard 18-month probationary period was scheduled to end. Generally, a police employee's probation may be terminated when department officials determine that he or she is "not meeting the standards of the position," Kerns said.

Michelson, meanwhile, pleaded guilty on Oct. 4 to charges of intoxicated driving, hit-and-run driving, physical harassment and attempted assault of a public safety officer. Woolsey was named as the victim of the attempted assault. The harassment charge stemmed from alleged physical contact with a woman at the birthday party where Michelson had become intoxicated.

Michelson now is participating in a standard, court-ordered diversion program offered

to first-time drunken-driving offenders. But prosecutors ultimately decided against seeking to convict Michelson of the remaining charges that had been filed.

On Nov. 14, Lane County Chief Deputy District Attorney Patty Perlow took the unusual step of dismissing the other three charges after Michelson had pleaded guilty to them. Although Michelson had admitted wrongdoing, Perlow informed the court in writing that “a material element of the crimes” could not be proved beyond a reasonable doubt.

Perlow previously said in an interview with The Register-Guard that she decided to dismiss the charges after learning of the police-brutality investigation involving Caruso.

Perlow declined to specify the potential conflict that prompted her office to ask prosecutors in Douglas County to present evidence in the case to a grand jury, to determine if Caruso should be charged with assaulting Michelson. In March, the grand jury declined to indict Caruso.

*Follow Jack on Twitter @JackMoranRG . Email [jack.moran@registerguard.com](mailto:jack.moran@registerguard.com) .*

## Today's News stories

### UNIVERSITY OF OREGON

#### **It's a small world with a very big upside**

By Jack Moran

### WEST

#### **Salem mental hospital honors 'forgotten souls'**

### LOCAL NEWS

#### **Tree transformation**

By Jack Moran

### BUSINESS

#### **Marijuana dispensary to stay open**

### EUGENE

#### **City rule restricts fireworks for a time**

## **KVAL 13 - Eugene, Oregon**

[Print this article](#)

# **New tool to help police recognize mentally ill subjects**

*Originally printed at <http://www.kval.com/news/local/114612054.html>*

By Kristina Nelson KVAL News January 26, 2011

EUGENE, Ore. - Denise Salisbury knows about mental illness all too well.

Her son Ryan had bipolar and anxiety disorder.

In November of 2006, Ryan suffered from a severe mental breakdown and threatened to kill himself.

His family called police to come help take him to the hospital, but he wouldn't make it.

According to Denise Salisbury, Ryan walked down their driveway toward police holding a knife by his side, never swinging it at police.

Police tried to stop him by shooting him with bean bags and asking him to drop the weapon, but Salisbury says it didn't do anything but provoke her son.

So they shot him.

"He was shot and killed by five rounds. And it was three o'clock in the morning, no one was around," said Salisbury. "We just felt that if the officer had been trained properly, things would have been a lot different."

Now a new statewide database could help avoid shootings like the Ryan Salisbury case.

People suffering from mental or physical illnesses can voluntarily register their information in the database, including details about their illness and any medications they may be taking.

If they ever have encounters with law enforcement, officers can run the person's name through the system from a police car computer.

"It will give them some descriptors that characterize or tell law enforcement officials what behaviors to look for," said Linn County Health Administrator Frank Moore. "It will also give the potential for some suggestions as to how to approach the individual."

Moore, along with State Representative Andy Olson, R-Albany, helped develop the new system. House Bill 3466 was passed in July 2009.

Olson said there were concerns from some that the system might not be secure, but he assures

that it is.

"Law enforcement data system is pretty tight," he said. "I mean it's part of the Oregon State Police. It's routinely monitored on a regular basis, and it has to meet criteria, too, from federal standards."

Moore said he thinks this new system will make the difference when it comes to safety.

"I personally believe and professionally believe that this bill and how it's being enacted and written into law will ultimately save lives," he said.

Denise Salisbury said she's open to the idea of a database, but has reservations.

"It could be a good thing, first of all being voluntary. I think that's very important," she said. "But just the database itself - I think it needs to be coupled with crisis intervention training."

Linn County is the first county in the state to launch the new database.

Other counties could follow later this year.

every six months that a civil commitment order currently has to be reviewed. He says the bills are also about community safety.

“It’s also concerning when to those of us . . . responsible for the safety of our community when an individual who still may suffer from a mental health condition that lead to the commission of a very serious crime that caused the death isn’t detained and they continue to be a danger to the community,” says Chief Kerns.

Under the current language of the bill, if a civil commitment order is signed for more than two years, a mentally ill person could only request a hearing every two years.

The bill would also force the committed person accused of a crime to stay in the same mental health facility for treatment.

Both bills have to go through a legislative committee the Oregon Senate, the Oregon House and the Governor’s Office before they can become law. Through that process, the language of the bills may change.



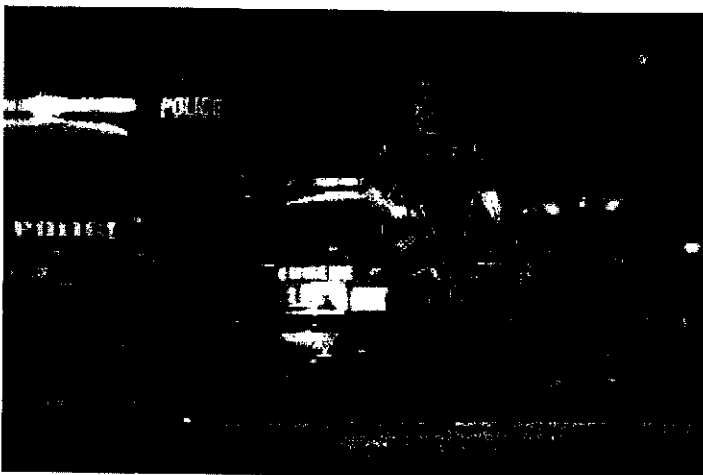
Tags: [Cheryl Kidd](#), [Chris Kilcullen](#), [civil commitment](#), [Eugene Police Department](#), [Floyd Prozanski](#), [Measure 11](#), [Oregon District Attorney’s Association](#), [Oregon Legislature](#), [Oregon State Hospital](#), [Pete Kerns](#)

Posted in [Uncategorized](#) | [No Comments](#) »

## Dad sues Eugene police in son’s death – but not for excessive force

Posted by [admin2](#) on 2nd December 2012

By [Karen McCowan](#), The Register-Guard, Dec. 1, 2012



A Eugene man has filed a \$3 million civil rights lawsuit against the Eugene Police Department and three officers for allegedly entering his home without permission and taking his mentally ill adult son to a local hospital, where he died of cardiac arrest after being “prescribed an overdose of medication.”

The suit accuses Officer **Rachel Schacht** and Sgts. **Bill Solesbee** and **Carl Stubbs** of assault and battery for scuffling with and physically removing **Mark David Walden** from the family’s north Eugene home. But it makes no allegation that any of the officers inflicted physical injuries leading to the 42-year-old man’s December 2010

death.

Rather, it says their “warrantless and unconstitutional entry” into **Frank Walden’s** house and their “unreasonable seizure” of Mark Walden caused him to suffer “significant physical injuries by his ultimate medical mistreatment at RiverBend where he should never have been taken.”

The suit, filed this week in federal court, also accuses the officers of violating the Americans with Disabilities Act and Mark Walden’s due process rights. It also accuses the Eugene Police Department of negligence for allegedly failing to adequately train officers how to properly detain, hold and communicate with mentally ill subjects.

Police spokeswoman **Melinda McLaughlin** said the department had not yet been formally served with the lawsuit and had no immediate comment. However, a police report obtained by The Register-Guard contradicts many allegations in the suit.

Mark Walden died Dec. 13, 2010, at Sacred Heart Medical Center at RiverBend, according to a death certificate signed Dec. 15, 2010, by Dr. **Daniel Davis**, the deputy state medical examiner for Lane County. The certificate does not list a cause and manner of death, citing “pending investigation” and “pending additional studies,” but other documents in a Lane County Circuit Court probate file show that PeaceHealth paid a \$500,000 wrongful death settlement to Mark Walden’s parents and to his estate.

According to Portland attorney **Robert Beatty-Walters’** sworn statement to a judge explaining the wrongful death settlement, Mark Walden had been a longtime patient of Lane County Mental Health, which had treated his schizophrenia with a daily 250-mg dose of the drug clozapine. Walden had voluntarily gone off the drug, though, several days before police took him into custody at his father’s home on Dec. 2, 2010, Beatty-Walters wrote.

Protocols for the drug require that patients taken off it for even a few days gradually ramp back up on their dosage to avoid risks including “cardiac arrhythmia leading to cardiac arrest,” Walters wrote. But hospital personnel immediately started Mark Walden back on a 250-mg dosage, he wrote.

“Less than four hours later, (Mark Walden) suffered cardiac arrest, which resulted in his ultimate death Dec. 13,” Walters wrote.

According to Frank Walden’s lawsuit on behalf of himself and his son’s estate, Mark Walden began showing symptoms of bipolar-type schizoaffective disorder following “a significant closed-head trauma” as a teenager. Mark Walden was hospitalized more than 20 times in the first decade he had the disorder, the suit said. But he stabilized after he began taking clozapine in 1997, according to the suit. He lived with his father and legal guardian, maintaining his own room, purchasing his own groceries, helping care for an invalid uncle, even earning a bachelor’s degree in psychology from the University of Oregon in 2010, the suit alleges.

Between 1997 and Dec. 2, 2010, Mark Walden was hospitalized only once, the suit says, after a September 2010 incident in which Frank Walden called Eugene police to “assist him with his son” after Mark Walden stopped taking his medication.

“A mental health hold was placed on him at the hospital,” the suit says, and he again “became compliant with his medication regimen.”

The suit charges that the Dec. 2 incident began when Mark Walden again went off his medication — reportedly

because he wanted to be “normal” — and began showing signs of active mental illness.

A nude Mark Walden was “in the process of stacking his furniture in the living room to clean,” according to the suit, when his father “attempted to call CAHOOTS,” a local non-profit organization whose mobile crisis intervention teams are dispatched through the Eugene police-fire communications center. Frank Walden sought help from CAHOOTS because its personnel knew his son, a sometime volunteer, and had previously helped talk Mark Walden back onto his medical regimen, the suit says.

Instead of CAHOOTS, however, Frank Walden reached a non-emergency police line and told an unnamed individual that he wished to notify CAHOOTS that “his son was having some difficulties again,” the suit contends. It alleges that Walden “specifically instructed the individual (that) he did not desire the police to respond.”

When officers arrived anyway, Walden asked them to leave and told them they did not have permission to enter his house, the suit alleges.

“The officers did not have a warrant and did not see Mark Walden until they unlawfully entered the home,” the suit charges. It also says Frank Walden told the officers that his son was “not dangerous” and “not suicidal.” Oregon law allows police officers to place mental health holds on subjects only if they believe them to pose a danger to themselves or others.

The suit also calls a police report on the incident “a contrived work of fiction” prepared by Solesbee. But a copy of the report, obtained Friday by The-Register-Guard, indicates that it was prepared by Officer **Dale Dawson** and signed by Stubbs.

In it, Dawson reported that the three named officers and two others were dispatched to Walden’s home on a report of “a mental subject behaving strangely.” Dawson also wrote that Frank Walden told him he’d called police because his son was “behaving in an irrational manner and could not safely care for himself.”

The report made no mention of Frank Walden denying entrance to the officers but said Dawson and Sgt. Stubbs first made contact with Mark Walden in his bedroom, where they found him removing items from a closet. He refused their request that he put on clothes and demanded that they leave his house, the report said.

“I told him his father, Frank, had called us,” Dawson wrote. “He said that man was not really his father, he had been replaced by an alien. Mark also told me of the bones in his hands and feet being removed and put back into his body backwards.”

The younger Walden became agitated and had both hands full of “items he had taken from a dresser drawer,” the report said. Dawson described the items as “10 to 15 pocket knives,” which he threw at the officers. The lawsuit calls that account a distortion, saying the knives were holiday gifts still sealed in their boxes.

The report said Dawson “believed Mark could not take care of himself and was behaving in a manner likely to put himself in danger if not taken into custody and taken to the Johnson Unit for an evaluation.” It said Dawson and Stubbs put Mark Walden into “control holds,” handcuffed him for officer safety, wrapped his lower body in a blanket and carried him to a gurney where medics were waiting.

Ironically, the lawsuit contends that Mark Walden should have been taken to the Johnson Unit, a secure psychiatric facility at Sacred Heart Medical Center University District, where staff members “had a file on him and were familiar with the significant medications he took.”

For reasons not explained in the police report, however, Eugene Fire Department medics instead transported Walden to Sacred Heart Medical Center at RiverBend.

The civil rights suit was filed by Beatty-Walters and Portland attorney **Michelle Burrows**. She worked with Montana celebrity lawyers Kent and Gerry Spence to win a \$1 million settlement for the family of **Fouad Kaady**, a 27-year-old Gresham man Tasered and fatally shot by Clackamas County and Sandy police in 2005 when he failed to comply with their requests after being burned in a car crash.

The local suit also accuses the Eugene Police Department of treating “mentally ill individuals as criminal detainees rather than medical patients,” and of “failing to call medically or specially trained individuals to assist” with detention of such subjects.

Dawson’s police report, however, lists “non-criminal mental hold” under its charge category.

Sgt. Solesbee has been involved in two other high-profile incidents involving Eugene police: on March 13, 2009, he forcefully arrested an environmental activist, who was handing out leaflets and used a handheld video camera to record most of the incident, outside an Umpqua Bank branch in downtown Eugene. The activist, **Josh Schlossberg**, alleged that his constitutional rights were violated and successfully sued the city and Solesbee. The city was ordered to pay \$419,000 to cover legal fees for Schlossberg and attorneys involved in the case.

Solesbee was also involved in the Dec. 15, 2010, shooting of a former Army soldier in the throes of a post-traumatic stress disorder episode who had fired several gunshots in a crowded Valley River Center parking lot. The man, Springfield resident **Michael Mason**, was paralyzed after being shot by Solesbee and Officer **Marcus Pope** while sitting in his vehicle in the Santa Clara area after not responding to the officers’ commands. Lane County District Attorney **Alex Gardner** later ruled the shooting justified.



Tags: [Alex Gardner](#), [Bill Solesbee](#), [CAHOOTS](#), [Carl Stubbs](#), [Dale Dawson](#), [Daniel Davis](#), [Eugene Police Department](#), [Fouad Kaady](#), [Frank Walden](#), [Josh Schlossberg](#), [Lane County Circuit Court](#), [Lane County Mental Health](#), [Marcus Pope](#), [Mark Walden](#), [Melinda McLaughlin](#), [Michael Mason](#), [Michelle Burrows](#), [PeaceHealth](#), [Rachel Schacht](#), [Robert Beatty-Walters](#), [Sacred Heart Medical Center at RiverBend](#)

Posted in [Uncategorized](#) | [No Comments](#) »

## **Aid on the Asphalt: Hitting the Street with CAHOOTS**

Posted by Jenny on 29th June 2011

By Dante Zuñiga-West, Eugene Weekly, June 29, 2011