

**Report of Use of Force Expert
Howard Ray Webb
Regarding
Evans v. Multnomah County
September 4, 2009**

I am Howard Ray Webb, and I am providing this report at the request of Ben Haile, attorney at law. In doing so, I state the following:

1. I am over the age of eighteen and competent to testify in this matter herein.
2. I am an independent consultant and trainer, offering consultation, expert testimony, and training in the areas of corrections, law enforcement, and private security practices and procedures.
3. I am the Executive Director of the American Council on Criminal Justice Training (ACCJT). The ACCJT is a 501(c)(3) non-profit public safety education and criminal justice training organization. The ACCJT provides criminal justice training classes and instructor development courses on a local, statewide, and national basis.
4. I was employed as a police officer for the Umatilla Tribal Police Department (Oregon) from 2003 to 2007. As a police officer, I investigate both person and property crimes, responded to high-risk incidents, and conducted unknown risk and high-risk traffic stops.
5. I have trained use of force, defensive tactics, and survival skills instructors for over five hundred criminal justice agencies nationally and internationally. This training includes information regarding the proper use of control tactics/procedures for corrections deputies/officers and law enforcement officers.
6. I provided use of force training to the two-thousand member international law enforcement security force for the 1996 Olympic Games in Atlanta, Georgia.

7. I have given presentations on the proper use of force, search and seizure issues, and tactics by corrections and police officers at national and international seminars and conferences.
8. I am the former Director (Bureau Chief) of the Montana Law Enforcement Academy – 2001 to 2004. As Director, I was responsible for the development, implementation, evaluation, and oversight of corrections, police, advanced, professional, and regional training courses and programs offered on-site and regionally by the Montana Law Enforcement Academy.
9. I am the former Chief Defensive Tactics, Survival Skills, and Patrol Tactics Instructor for the Montana Law Enforcement Academy and the Use of Force Expert for the State of Montana – 1999 to 2004.
10. I am the former Director of Training for Hitman Training Systems. Hitman is a division of DHB Armor. DHB is the largest manufacturer of soft body armor in the United States – 1996 to 2004.
11. As the former Director of Training, I developed the first and only law enforcement simulation training equipment that allows the integration of non-deadly force and simulated deadly force into training scenarios. And, I conduct instructor development and advanced training programs in use of force and officer survival skills on a national and international basis.
12. I was employed by the Montana Department of Justice, assigned to the Montana Law Enforcement as a Training Development Specialist - 1999 and 2000.
13. My areas of responsibility and expertise at the Montana Department of Justice included all phases of police program management for recruit and advanced training at the Montana Law Enforcement Academy, chief defensive tactics instructor (corrections and police), use of force expert for the State of Montana, and develop and manage the survival skills training programs: patrol practices, building searches, vehicle stops, police vehicle operation, and officer survival.
14. I was employed by the Oregon Department of Public Safety Standards and Training from 1988 to 1999 and held the rank of lieutenant.

15. My areas of responsibility and expertise at the Oregon Department of Public Safety Standards and Training included all phases of police program management for recruit and advanced training at the Oregon Public Safety Academy, chief defensive tactics instructor (corrections and police), use of force expert for the State of Oregon, and develop and manage the survival skills training programs: patrol practices, building searches, vehicle stops, and officer survival.
16. I have been retained to review and evaluate the circumstances involving the booking of Mr. Evans into the Multnomah Co. Justice Center.
17. In forming my opinion, I have reviewed:
 - 1). Exhibit E – eight photographs
 - 2). Exhibit H – Multnomah Co. Circuit Court Criminal Complaint
 - 3). Memorandum in Support of Plaintiff’s Motion for Partial Summary Judgement – CV-07-1532-BR
 - 4). Officer Hager’s Incident Report – No. 0682886
 - 5). Officer Hager’s Arrest Report – No. 0682888
 - 6). Officer Albertson’s Use of Force Report - No. 0682888
 - 7). Officer Helwig’s Special Report – 06-82888
 - 8). Portland Police Bureau Property Receipt – No. 994992
 - 9). Deputy Griffith’s Use of Force Report – No. 709812
 - 10). Deputy Aljet’s Use of Force Report – No. 709812
 - 11). Deputy Hathaway’s Information Report – No. 709812
 - 12). Deputy Hathaway’s Hazard Report – No. 709812
 - 13). Inmate Grievance Form - No. 10351

- 14). Misconduct – Hearing Report - No. 11668134
 - 15). MCSO Incident and Accident Analysis Worksheet dated 9/11/06
 - 16). Defendants’ answers to plaintiff’s first interrogatories to Deputy Richard Hathaway – Civil No. 07-1532-BR
 - 17). DVD copies of the jail video recording of Mr. Evans booking process – one copy had audio enhancement
 - 18). Written transcript of Michael Evans’ Deposition
 - 19). Written transcript of Cathline Gorton’s Deposition
 - 20). Written transcript of Richard Hathaway’s Deposition
 - 21). Written transcript of Robert Griffith’s Deposition
 - 22). 2003 MCSO Hazardous Incident Reports – Dispositions
 - 23). 2004 MCSO Hazardous Incident Reports – Dispositions
 - 24). 2005 MCSO Hazardous Incident Reports – Dispositions
 - 25). 2006 MCSO Hazardous Incident Reports – Dispositions
 - 26). John Van Houte’s expert witness report
 - 27). Eugene E. Atherton’s expert witness report
19. On August 10, 2006, at approximately 11:00 p.m., Michael Evans was arrested by Portland Police Bureau Officer Hager. On August 11, 2006, at approximately 12:26 a.m., Officer Hager transported Michael Evans to the Multnomah County Justice Center to be booked on charges relating to their investigation
 20. Mr. Evans was escorted to the booking area. At the booking counter, Mr. Evans stood at the counter with Deputy Griffith on his left side and with Deputy Hathaway on his right side. Both deputies are physically larger than Mr. Evans.

Mr. Evans was unhandcuffed and searched by Deputy Hathaway without physical resistance by Mr. Evans. Deputy Griffith and Hathaway state in their written reports and in their depositions that Mr. Evans exhibited defiant body language during the booking process. Deputy Griffith states in his Use of Force Report “Inmate Evans chose to ignore any and all questions asked of him ...Evans was extremely slow to follow Deputy Hathaway’s orders...Evans reluctantly complied, and removed his rings, ear ring, and both nipple rings.” Deputy Hathaway states in his Information Report “I asked inmate Evans the medical questions he just looked at me and refused to answer.” “I instructed inmate Evans to remove his jewelry and again he just looked at me. I asked Evans a second time and he took off his jewelry.”

21. On the booking video, Mr. Evans appears calm and cooperative. I observed no physical cues of potentially violent behavior. In Deputy Griffith’s deposition, he states on page 55, lines 14 through 23 “Q. Did Mr. Evans make any verbal threats to you before you took him down? A. To me? Q. Yes. A. No. Q. Did he make any verbal threats to Deputy Hathaway before you took him down? A. I would have to say no. I don't recall him saying, you know, "I'm going to kick your ass," or "I'm going to kill you," or anything like that, no.”
22. It is my opinion that at this point in the booking process Mr. Evans demonstrated normal behavior for a person being booked into a jail. It has been my professional experience that most people who are arrested and lodged in a jail often exhibit superficially uncooperative, non-violent, behavior. Consequently, it is my opinion that Mr. Evans’ behavior did not indicate that he was an “Immediate Threat” to deputies Griffith and Hathaway. Mr. Evans was not verbally abusive, using threatening gestures, or demonstrating a combative posture. His behavior was relatively passive. Subtle indications of potentially resistive behavior (bringing his hands down to his sides, not making eye contact with the booking deputy, and placing his hands on hips) do not ever justify the level of force the deputies used on Mr. Evans several minutes after he demonstrated them. Officers are trained that subtle behaviors such as these can be indicators of the potential for resistive behavior so the deputies are not caught off-guard if the inmate becomes resistant in the future.

23. As part of the booking process, Mr. Evans was asked to submit to placing his finger print on a property receipt. Mr. Evans refused to cooperate. Corrections officers are taught at the Oregon Public Safety Academy and in corrections training nationally tactical communications skills for dealing with difficult, verbally resistive, and hostile inmates.
24. When Mr. Evans refused to submit to the fingerprinting process, Deputy Hathaway should have attempted to verbally persuade Mr. Evans to comply by explaining the lodging process and presenting his options. Corrections officers are taught that when they explain the administrative process and the inmate's options (within that process) the inmate is more likely to comply with the officer's request. Deputy Hathaway should have explained to Mr. Evans that in order to be released from jail he must be fingerprinted. And, if he consents to being fingerprinted now, it will only speed up the release process when it is time for him to leave.

Often inmates will cooperate when the benefits of their cooperation are explained. Unfortunately, Deputy Hathaway did not attempt to apply interpersonal communication skills to gain Mr. Evans compliance.

25. Instead, Deputy Hathaway grabbed Mr. Evans' right arm/wrist and attempted to physically force his hand to the inkpad that was on the booking counter. Mr. Evans appeared to tense his arm to prevent it from moving forward to the counter. At this point, Mr. Evans offers "Static" resistance to being fingerprinted. Static Resistance occurs when the inmate resists the officer's attempt to gain physical control by balking, becoming dead weight, or grasping a solid structure. Static Resistance is the lowest level of the physical resistance category.
26. As the booking video demonstrates, at 0028:29 Deputy Hathaway starts to move Mr. Evans' right arm upward and Deputy Griffith grabs Mr. Evans by the left arm. At 0028:30, Deputy Hathaway moves his left hand up to the bicep/tricep area of Mr. Evans right arm in an attempt push Mr. Evans forward onto the booking counter to stabilize and control him. This is the proper action for Deputy Hathaway to take. Corrections officers are trained at the Oregon Public Safety Academy and in corrections defensive tactics training nationally to apply pressure to the back of the tricep, while holding the wrist, to force a resisting inmate onto a flat surface (wall, table, counter) to control the inmate. This leverage technique is referred to as an "Arm/Shoulder Lock."

27. As Deputy Hathaway pushes Mr. Evans' arm upward and forward, Mr. Evans' elbow misses Deputy Hathaway's nose and face. When the video is played in slow motion, it can be seen that Mr. Evans' arm/elbow misses Deputy Hathaway's face by an estimated two or more inches. At the same time, Deputy Griffith pulls Mr. Evans to the left by his arm. At 0028:33, Deputy Hathaway delivers knee strikes to Mr. Evans right leg as Deputy Griffith pulls Mr. Evans to the ground. Deputy Hathaway (who is larger than Mr. Evans) has a two handed hold on Mr. Evans' right arm. Deputy Griffith (who is six feet and four inches tall and weighs three hundred pounds) has a hold of Mr. Evans' by left arm and has his right arm wrapped around Mr. Evans' head/neck. In addition, Deputy Griffith is using his weight to force Mr. Evans to the ground. At this point, the deputies are having little difficulty taking Mr. Evans (a smaller man) to the ground. The delivery of knee strikes by Deputy Hathaway constitutes unreasonable and excessive force under the circumstances. Consequently, the strikes to Mr. Evans' leg are an unnecessary infliction of pain.
28. At 0028:31, Deputy Griffith punches Mr. Evans twice in head and neck area before he takes Mr. Evans to the ground. At 0028:34, while Mr. Evans is on the floor, Deputy Griffith punches Mr. Evans once in the side. At 0028:39 and 0028:54, he punches Mr. Evans again. The punches to Mr. Evans' head, neck, and side by Deputy Griffith were an unreasonable and an excessive use of force. Deputy Griffith states in his deposition, page 34, lines 12 - 14, "A. I do recall hitting him in the side twice. And just hard enough, trying to get his attention, you know." Corrections officers are taught at the Oregon Public Safety Academy and in corrections use of force training nationally that an officer can only use high levels of physical force for a legitimate correctional objective. Striking an inmate "to get his attention" is not a legitimate correctional objective. Furthermore, Deputy Griffith admits in his deposition that someone could be badly injured by a focused blow: page 46, lines 19 - 21, "A. I learned at a young age I could hurt somebody pretty bad with focused blows."
29. At 0028:35, while Deputy Griffith pins Mr. Evans to the ground, Deputy Hathaway punches Mr. Evans' with his right fist. At 0028:36, Deputy Hathaway punches Mr. Evans' with his right and left fists. At 0028:37, Deputy Hathaway punches Mr. Evans with his right and left fists. At 0028:38, Deputy Hathaway punches Mr. Evans' his right fist.

Within a period of three or four seconds, Deputy Hathaway hit Mr. Evans with his fists six times. The punches were delivered to Mr. Evans torso and head. During the time that Deputy Hathaway delivers the six punches, Deputy Griffith has Mr. Evans pinned to the floor by placing his body weight on Mr. Evans' head, neck, and shoulders. The punches delivered to Mr. Evans' body and head by Deputy Hathaway were an inappropriate and an excessive use of force because lesser force options were available to the deputies under the circumstances.

30. As the Chief Defensive Tactics Instructor for the Oregon Board on Police Standards and Training assigned to the Oregon Police Academy in 1988, I incorporated the use of focused blows as a self-defense technique and control tactic into the Academy's Corrections Defensive Tactics Program. Prior to 1988, the use of focused blows as a defensive tactics technique was not taught in the Academy's corrections defensive tactics training program. At the Oregon Public Safety Academy's Corrections Defensive Tactics Program and in corrections defensive tactics training nationally, focused blows are taught as counter-measures to serious physical assaults and as a pain compliance technique when lesser force options have been ineffective in controlling a dangerous situation.
At the time the deputies hit Mr. Evans with the focused blows, they were not being assaulted, nor did they have reason to believe that the situation was so dangerous that blows were needed.
31. At the Oregon Academy and in corrections use of force training nationally, corrections officers are taught that the legal standard for using non-deadly force to control a pretrial detainee is set forth in the U.S. Supreme Court ruling of *Graham v. Conner*. In *Graham*, the High Court stated it was impossible to establish a finite definition for "Reasonable Force." However, it did establish a four-part test to determine if a specific use of non-deadly force was reasonable. The test consists of: (1) the immediate threat to the officer or others, (2) the type of crime committed, (3) whether the person is resisting, (4) whether the person is trying to escape.
32. **Immediate Threat.** Mr. Evans was taken to a secure booking area. In close proximity of the booking area, there were at least four deputies and two police officers. He was searched by Deputy Hathaway and found to have no weapons. At the time, the knee strikes were delivered to Mr. Evans, he was not an immediate threat to the deputies, the police officers,

or other inmates. Deputy Hathaway had a two handed hold on Mr. Evans' right arm, and Mr. Evans was facing and moving away from the Deputy Hathaway. At no time did Mr. Evans move toward the deputy to assault him. Deputy Griffith had a hold of Mr. Evans' left arm and was holding Mr. Evans around the head and neck with his right arm. Furthermore, Deputy Griffith (outweighing Mr. Evans by one hundred and twenty pounds) was using his size and weight to drive Mr. Evans to the ground. At this point, Mr. Evans is not an immediate threat to anyone in the correctional facility.

33. During the time Deputy Hathaway administered six punches to Mr. Evans' body and head, Deputy Griffith had Mr. Evans pinned to the floor by placing his full three hundred pounds on Mr. Evans' head and upper body. Deputy Hathaway had placed his body weight on Mr. Evans's rear torso to pin him to the floor. Mr. Evans is laying on his left side, his knees pulled up toward his body, and his hands clasped together near his chest. Deputy Griffith had just conducted a "Pat Down" search of Mr. Evans' clothing; therefore, the deputies knew Mr. Evans had no weapons on his person that he could access without the deputies noticing. It is possible that Mr. Evans could have had a weapon concealed in his colon or sown into his clothing, but he could not access the weapon with the deputies sitting on him. It is a common occurrence for arrested suspects to bring contraband or weapons into the jail by police officers who perform a sloppy "intrusive clothing search" before being placed into their patrol vehicles. Because police officers miss weapons during their initial clothing search, the corrections deputy performs a pat down search of the arrest person for weapons at booking. Mr. Evans did not attempt to bite, scratch, hit, or kick the deputies. In fact, Deputy Griffith states in his deposition, pg. 31, lines 14 – 16, "Q. Mr. Evans didn't do anything particular that increased your fear of being bitten? A. Just experience." At this point, Mr. Evans is not an immediate threat to anyone in the correctional facility. Consequently, in my opinion, the use of focused blows by Deputies Griffith and Hathaway are unreasonable and excessive force.

34. **The level of crime.** Deputies Hathaway and Griffith testified at their depositions that they were not aware of the charges for which Mr. Evans was arrested, for which he was being booked, and that they do not typically know because this does not affect their conduct with an inmate.

For his conduct at the booking counter, Mr. Evans was charged with “Assault on a Public Safety Officer.” Mr. Evans denies that he hit Deputy Hathaway. According to Deputy Hathaway, it was a single blow delivered to his nose while Mr. Evans was facing the opposite direction. No other deputy or officer witnessed the strike. And, the strike is not visible on the booking video. It is more probable that Deputy Hathaway was injured accidentally during the struggle to control Mr. Evans. In fact during the delivery of the failing punches by Deputy Hathaway, he accidentally punched Deputy Griffith in the head. This act gives credence to the theory that Deputy Hathaway was accidentally injured in the chaos of colliding bodies. Given the totality of the circumstances, the level of the alleged crime is not a factor that would tend to make a high degree of force reasonable. Consequently, the use of multiple focused blows to force Mr. Evans to place his hand behind his back is (in my opinion) excessive force.

35. **The level of resistance.** Mr. Evans did statically resist the deputies’ attempts to fingerprint him and handcuff him. Mr. Evans was laying on his side with his hands clasped together with over five hundred pounds of deputies laying on top of him. This level of resistance does not justify the use of six focused blows to force him to place his arms behind his back.

Furthermore, at the Oregon Public Safety Academy and in the Pressure Point Control Tactics defensive tactics-training program (a program endorsed by the National Institute of Corrections), corrections deputies and officers are taught to apply pressure points to get an inmate to remove his hands from under his body. In Deputy Hathaway’s deposition he states, pg 60, lines 1-5, “Q. Okay. And how are you trained to respond when a person holds their arms to their chest? A. There's lots of things we do. We use focused blows; if you have the opportunity to obtain pepper spray; Taser. You name it. There's lot of things to try.” It would have been a more reasonable use of force if Deputies Hathaway and Griffith had applied pressure points, or pepper spray to gain Mr. Evans’ compliance. Based on the level and type of resistance offered, the use of focused blows is unreasonable and excessive force.

36. At 0028:38, Deputy Aljets moves to Mr. Evans’ right side to assist in controlling him. At this point, there are three deputies laying, kneeling, pushing, or pulling on Mr. Evans. At 0028:42, Deputy Griffith pushes himself up off the floor to apply more of his body weight to Mr. Evans.

Also, at this time, Officer Albertson slowly moves around the booking desk toward Mr. Evans. At 0028:43, Deputy Griffith moves to the front of Mr. Evans and applies pressure to his head and neck.

37. At 0028:44, Officer Albertson stops and puts on rubber gloves. At 0028:47, Sgt. Gorton moves to the back of Deputy Hathaway in an attempt to assist with the control of Mr. Evans. However, there are too many deputies on Mr. Evans to allow her contact with him.
38. At 0028:54, Officer Albertson slowly moves to the left side of Mr. Evans and looks for an opportunity to make contact. However, there is only one open area between Deputy Griffith and Deputy Hathaway. This open spot exposes Mr. Evans' back and spinal area. At 0028:56, Officer Albertson kneels down next to the open area between the deputies and delivers a knee strike to Mr. Evans' back and spine. As portrayed on the booking video, Officer Albertson does not think the deputies are in dire need of assistance because he takes approximately twelve seconds to put on rubber gloves before delivering a knee strike to Mr. Evans' back. Officer Albertson's knee strikes are the most outrageous display of gratuitous and excessive force on the booking videotape.
39. At 0029:06, Officer Hager and Sgt. Gorton pull Mr. Evans' legs out of the pile of deputies, and Mr. Evans lays on his stomach with his hands under his body. The actions of Officer Hager and Sgt. Gorton are reasonable and in accordance with the training provided by the Oregon Public Safety Academy and corrections defensive tactics training nationally. At this point, Mr. Evans has four deputies and two police officers pinning him to the floor. Because of the weight of the deputies and the officers pushing down on him, Mr. Evans is unable to pull his arms from under his body and place them behind his back.
40. At 0029:30, Sgt. Gorton accesses a Taser, moves to the left side of Mr. Evans, and puts the beam from the Taser's laser sight directly into Mr. Evans' left eye. At 0029:43, Sgt. Gorton moves the laser off Mr. Evans' face. The pointing of the Taser at Mr. Evans' face and shining the laser into Mr. Evans' eye is not only an inappropriate use of the Taser, but Sgt. Gorton's actions violate the safety protocols of "Taser's" training program. According to the training provided by "Taser" the face and the head are non-target areas for the deployment of the Taser for the safety of

the inmate. Furthermore, Taser training teaches not to shine the laser into the eyes of inmates/suspects to prevent injury to the eyes.

41. At 0029:48, Mr. Evans places his hands behind his back. At 0029:54, Mr. Evans is lifted off the floor and moved to a holding cell.
42. It is my professional opinion that the knee strikes and focused blows delivered to Mr. Evans by Deputies Hathaway, Griffith, and Officer Albertson were objectively inappropriate and excessive force. In addition, the deployment of the Taser by Sgt. Gorton was in violation of Taser training and a misuse of the Taser. Furthermore, it is my opinion that the use of the knee strikes and focused blows by the deputies and the officer caused Mr. Evans to resist longer and harder because Mr. Evans believed he was not being controlled – Mr. Evans believed he was being sadistically beaten. After reviewing the booking video, I believe it was reasonable for Mr. Evans to believe he was the recipient of an excessive and malicious beating by the deputies and officers.
43. It is my professional opinion that the deputies could have controlled the situation without additional risk to themselves or Mr. Evans by using less intrusive control techniques which are part of their training including the following:
 - (1). Deputies Hathaway and Griffith should have pinned Mr. Evans to the booking counter with a physical control technique (Arm/Shoulder Lock) and handcuffed him. If the deputies were unable to pin Mr. Evans to the counter, only then, should they take Mr. Evans to the floor, for control, with leverage and body weight.
 - (2). If Mr. Evans had resisted the deputies' use of reasonable force, Deputies Hathaway, Griffith, and Aljets should have used their body weight to pin Mr. Evans to the ground.
 - (3). Officers Hager and Albertson should have controlled Mr. Evans legs and bent them forward at the knees to pin him to the ground. After Mr. Evans had pulled his arms under his body to prevent the deputies from handcuffing him, Deputy Griffith should have applied a pain compliance pressure point to the facial nerve located at the mandibular angle on the side of Mr. Evans neck and ordered him to place his arms behind his back.

- (4). If the repeated application of the pressure point technique to Mr. Evans' mandibular angle was ineffective in motivating Mr. Evans to comply with Deputy Griffith's verbal commands to place his hands behind his back, Sgt. Gorton should apply Taser drive stuns to Mr. Evans' thighs, buttocks, or lower back until Mr. Evans complies with the deputies directives.
 - (5). Mr. Evans should be handcuffed with his hands behind his back, escorted into the cell, laid face down on the bench or floor, and unhandcuffed.
44. Furthermore, it is my opinion that there is a pattern of the use of excessive force on inmates by correction deputies. In reviewing the Hazardous Incident Reports provided to me, I observed a pattern of deputies using excessive force by striking inmates with closed fists on the face, head, back, and abdomen. Also, deputies used excessive force on inmates by kicking or knee striking the inmate in the body and the groin or by banging an inmate's face on the booking desk. In addition there were incidents where inmates were shocked with the Taser by a dart deployment while only demonstrating "Static" or passive resistance or for failing to follow the deputy's verbal commands.
45. Clearly, the causation of the pattern of the use of excessive force is due to the lack of proper use of force and defensive tactics training. An additional causation is the deliberate indifference to the problem of the use of excessive force by corrections deputies by the Corrections Division's command and supervisory staff. As indicated in the department's Hazardous Incident Report, a Corrections Division Deputy Commander or his/her designatee reviewed each report. Consequently, from the first-line supervisor to the deputy commander, the sheriff's office administration was aware of the use of excessive force on inmates and failed to take correction action. It is my opinion that this failure to discipline and properly train their corrections deputies was the cause for the use of excessive force on Mr. Evans. Based on my education, training, and experience as a trainer in use of force in corrections facilities and law enforcement agencies, failure by senior officers to respond to a pattern of excessive force creates a serious risk that the level of force used by some officers will continue to escalate in seriousness and frequency.

46. The following is a sampling of the use of force incidents that I reviewed that led me to the conclusion that the sheriff's office failed to train/properly train or respond to their deputies in the use of force by corrections professionals and properly supervise their corrections deputies in their use of force on inmates:

- 1). 02/07/03 23:05 The inmate is somewhat hyper but is complying with commands. The inmate yells when she is ordered to take off her bra. Two deputies each grab an arm and one of the deputies applies a digital control lock, bending her thumb back until it "pops." The deputy "felt the inmate's teeth" on his finger and immediately delivers four punches (two with each hand) to inmate's head.
- 2). 02/13/03 16:47 The inmate refuses to go into the cell. She is forcefully escorted by the deputy and pushed into the cell. When she turns around to face the deputy, she moves her arm back. The deputy pushes the inmate into a "seated position" then delivers several punches to her chest and a "forearm strike" to her head.
- 3). 02/15/03 22:45 The inmate is complaining about his eyes, and wants them washed out. As he gets out of the patrol car and proceeds to the booking area. He allegedly "mule kicks" the deputy, who turns and punches him directly in the face. The inmate falls the ground.
- 4). 03/13/03 23:00 While in the booking area, the inmate mumbles swear words.
The deputy tells the inmate that if he removes his hands from the counter again she will "drop him." The inmate makes fists with his hands and seems agitated. The deputy pushes the inmate to the ground and punches him in the back .
- 5). 253 06/29/03 21:00 The inmate mumbled under his breath while the deputies conducted the search. The Deputy grabbed him by the jaw and neck and another deputy grabs his pants and pulls him backwards. The deputy holding the jaw and neck lets go and strikes the inmate with his hand.

- 6). 7/30/03 3:17 An inmate was upset about having her ring cut off. She then refused to sign a property receipt. At that point, she was pulled to the floor by her hair. While deputies restrained the inmate on the floor, a deputy punched her in the face. One deputy spoke to the sergeant about the incident, saying that his report would “look different from the others” because he reported that a deputy had punched the inmate in the face, while the other four deputies had not reported this. He also stated that the deputy was a bully in the booking area and that the force was not necessary. The sergeant interviewed the other three deputies involved. The two who had not punched the inmate stated that they would have handled the situation differently. The deputy who punched the inmate in the face stated that her memory of the incident was unclear because she struck her head as she fell to the floor. The sergeant referred the incident to the Internal Affairs Unit for further review. Ultimately, the chief of the facilities corrections division determined that the actions of the officer who struck the inmate in the face were proper and justified.
- 7). 2/8/04 13:50 Inmate became uncooperative while booking photos were being taken. Sergeant Gorton took him to the floor and placed a knee on his back. While the inmate was on the floor, another deputy struck him in the face.
- 8). 02/28/04 18:35 The inmate says he will cooperate and is complying with booking process. The inmate either snorts or clears throat during search. The deputies put him in a headlock and drag him into a cell. The deputy slams his head into a wall before exiting the cell.
- 9) 03/17/04 18:50 Inmate taken to the floor after walking away from deputies. While two deputies restrained him on the floor, the inmate continued to resist, and a third deputy struck him in the face with handcuffs and then deployed OC spray in his face.
- 10). 08/13/04 20:00 The female inmate doesn't hold still after her handcuffs are removed in the cell and raises her hands. The male deputy kicks her in the chest. She falls into the wall. He then steps forward and slaps her in the face.

- 11). 10/11/04 15:45 The inmate throws his coat onto the counter during the booking process. Then, he takes his hands off counter. The deputy takes the inmate to the floor. Other deputies restrain the inmate on the floor. The deputy straddles the inmate, but the inmate continues to “pull away.” The deputy punches him twice in the head.
- 12). 11/18/04 01:50 The inmate refuses to sign the property sheet. Two deputies take him to the ground. The inmate “rolls away” and a deputy applies “focused knee blows” to the inmate’s side.
- 13). 12/23/04 09:40 The Inmate is frustrated that he could not see a doctor and refused to be housed. He is told to be quiet and comply. The inmate stands up out of chair – his arms flailing. The deputy hits him in the face 3 times. Other deputies arrive and push him to the floor and handcuff him.
- 14). 01/02/05 18:50 The deputy sends the inmate to his cell after the inmate makes sarcastic comments. The deputy enters the cell, knees the inmate in testicles and threatens him by stating “I’ll pound your ass into the ground.”
- 15). 02/19/05 06:00 Inmate is in a kneeling position in the cell. The inmate is agitated but settles down after his handcuffs are removed. The inmate stands up and moves toward the deputy. The deputy delivers multiple punches to his face.
- 16). 3/17/05 06:40 The inmate is not complying with the final part of a strip search. The deputy threatens to leave him in his cold cell naked. The inmate makes a “slight motion forward” and “brings his hands up.” The Deputy pulls inmate’s head forward and knees him “6-8 times” in the stomach. He is brought to the floor and held by multiple deputies. The inmate is 55 years old. There is a “big red bruise” on inmate’s cheek and he has a bloody lip.
- 17). 04/08/05 13:06 The inmate is given a sack lunch. As the deputy is leaving the cell, the inmates tries to leave cell. The deputy pushes the inmate back and delivers three punches to his face.

- 18). 04/29/05 23:30 The inmate fought with deputies. Deputy Hathaway struck him numerous times in the head and stomach.
- 19). 05/02/05 22:10 The inmate is being moved to a ISO cell and says "Fuck it" and turns towards the deputy. Two deputies push him against a wall, then sweep his feet and he falls to the floor. The deputy yells at inmate to stop resisting and put his arms behind his back, but inmate does not comply. The deputy punched the inmate repeatedly in the face until the inmate "complied."
- 20). 05/04/05 22:37 The inmate was being obnoxious during booking. As the deputies are moving him to an ISO cell, the inmate turns toward one deputy with "closed fists." The deputy strikes him in the head. A deputy puts the inmate's arm behind his back, but he is able to turn toward another deputy.

The deputy sprays the inmate in the face with pepper spray several times. The inmate is pulled into a cell by his "long black hair" and spray him again before the deputies left the cell

- 21). 07/09/05 22:45 The inmate points at the deputy during the booking process. The deputy grabs him and slaps him in the face and pushes him to the ground.
- 22). 12/6/05 9:10 The inmate made lewd comments to a female deputy during his search at booking area. The female deputy "tapped" the inmate's face on the booking desk causing his nose to bleed.
- 23). 12/22/05 16:35 The inmate was taken out of his cell to be fingerprinted. Behind the deputy's back, the inmate mouthed the words "Fuck you punk." In response the deputy jumped on the inmate. The reviewing Lieutenant wrote, "It appears from the documentation that the deputy allowed the inmate to goad him into losing his temper, which led to the use of force."
- 24). 3/24/06 18:40 The inmate kicked the cell door for thirty minutes. The deputies claim that the noise created a safety risk because they could not hear their radios. The deputies entered the cell, sprayed a full can of pepper spray on the inmate, and beat him on the head.

- 25). 3/31/06 0745 The deputies restrained an inmate on the floor of an ISO Cell. As deputy held the inmate down as the other deputies exited the cell. When the inmate attempted to get up, the deputy struck him in the face four times.
- 26). 6/18/06 3:15 Deputies forced an inmate into the cell. The inmate wouldn't let go of one deputy's right arm and tried to face him. The deputy pushed him forward and told him to lie on his stomach. The inmate refused to follow the instructions and said "If I see you on the outside I am going to take you out." Deputy Hathaway struck him several times in the head with closed fists.
- 27). 10/01/06 01:20 The inmate refused to sign the property form and is taken to the cell by two deputies. The inmate is ordered to lay on the floor. The inmate refuses to comply. The deputy strikes the inmate twice with "focused blows" to his back.
A deputy uses a pressure point on the inmate's jaw before the deputies leave the cell.
- 28). 11/18/06 04:30 The inmate is yelling in his cell. The deputy enters the cell and punches and a slaps the inmate in the face.
47. I have selected the above listed examples because they demonstrate a pattern of violating the national corrections' use of force standard of not striking inmates in the face and head as a physical control technique. In fact, the Oregon of Department of Corrections disciplines it officers for striking inmates as a means of physical control. Nationally, corrections deputies and officers are taught to only strike an inmate in the face, head, or groin when the officer is being physically assaulted. Furthermore, corrections deputies and officers are not taught in corrections or police defensive tactics training to hit an inmate in the face and head with a closed fist.
48. All of the above listed examples are summarized from the reports of the incidents written by the deputies involved. There were numerous other incidents in which deputies in the booking area reported striking inmates in the face or head which I have not included in this list. Although they too are inappropriate, they are not as compelling because the deputies reported that the inmate had attempted to use significant force against

them, such as an attempt to bite or hit. Therefore, I have chosen not to cite them as examples in the report.

49. There are significant similarities between these incidents and the events that occurred with Mr. Evans. First, all of these incidents occurred in the booking area of the Multnomah County Detention Center. Thus, it is a very focused sample out of all the use of force incidents within the jails in Multnomah County. Second, as with Mr. Evans, many of the incidents involved inmates engaging in only static resistance or disrespectful behavior. Third, Mr. Evans, like each of the inmates in the incidents described above, sustained blows to head. For these reasons, I conclude that the failure to respond to these incidents after reviewing them caused deputies to believe that the use of focused blows to the head was an acceptable technique to gain compliance from statically resistant or disrespectful inmates in the booking area, and therefore was a cause of the use of focused blows on Mr. Evans.

50. If I am provided with additional facts and information, I may have additional opinions.



Howard Ray Webb