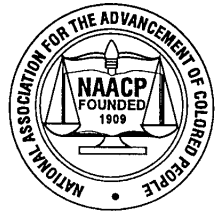


VANCOUVER BRANCH NAACP # 1139  
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VOLUME 2; ISSUE 2; AUGUST 2002



EDITOR: Earl W Ford; REVIEW BOARD: Bertha Baugh, Chad Clark, Valarie Williams, and Joyce Batten

**PRESIDENT'S COLUMN:**



This is a special edition newsletter to update you on the exoneration of Chief Reeves of the charges that he **“Acted under the Color of Law”** to obtain the release of a friend.

The complete text of the Washington State Attorney General's investigative report can be found at our website [www.naacpvanc.org](http://www.naacpvanc.org). Excerpts from the Attorney General's (AG's) report are contained in this newsletter. You may also call our hotline, if you do not have Internet access, and we will mail you the AG's report.

You may have noticed that even though Chief Reeves was exonerated by the AG's report, The Skanner was the only newspaper that carried a headline, reading that the Chief was exonerated.

The Columbian and Oregonian continued to carry news reports that said only that the Attorney General refused to prosecute, when in fact, the AG's summation concludes that, **“In fact, I am confident that the State would be unable to meet even the minimal “probable cause” standard required to bring criminal charges in this matter, let alone prove a crime beyond a reasonable doubt.”**

Even though you won't read it in our major newspapers, Mr. Moran's statement confirms what we believe to be the bedrock principles of our American system of justice: **“You are innocent until proven guilty”**

I have told many people that this story reminds me of the movie Rosewood, based on a true

story of a small Florida town. In that true story an entire town inhabited by black people was burned to the ground by a mob of angry whites after a scandalous white woman was beaten by her boyfriend, while her husband was at work. In order to hide her affair she claimed that a black man raped her.

We came to the defense of Chief Reeves, because we saw a Rosewood type scenario being played out in our local media. We are glad that this issue has been put to rest. Chief Reeves has decided not to pursue a return to his job here in Vancouver. He believes that the environment has been poisoned with misinformation. This vindication allows him to move on with his good name intact and I wish him well.

**RE: RCW 43.10.232 Referral- Washington State Patrol Investigation of Former Vancouver Police Chief Stanley Reeves**

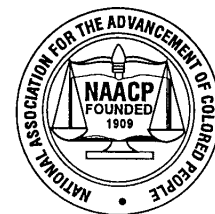
By way of brief overview, this investigation began with an allegation that the former Chief of the Vancouver Police Department, Stanley Reeves, criminally assisted Rhonda Mullinax, a woman with whom he had a relationship, in avoiding a criminal traffic matter on May 31, 2001. I use the term “criminally”, because my inquiry turns solely on what, if any, criminal charges can be proven against Chief Reeves. My inquiry was not to determine if what he did (or did not do) was prudent, ethical, or right.

In addition, after the State Patrol interviewed Ms. Mullinax and others, peripheral areas of investigation involving Chief Reeves were also pursued and are addressed below. Finally, while you did not directly ask me to prosecute or address issues regarding Ms. Mullinax's potential criminal involvement in this matter, I took the liberty of doing so in the interest of economy of scarce criminal justice resources.

**I. Standard of Review**

Like your office, we are guided by the Rules of Professional Conduct, particularly those that pertain to prosecutors. Consideration was also given to the filing standards enumerated in

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RCW 9.94A.430-460. The applicable legal standard for crimes against persons and property is:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. See RCW 9.94A.411(2)(a).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised. See RCW 9.94A.411(2)(a).

You should know that, while this office takes all cases that are referred to it very seriously, there are few cases, if any, that are looked at as thoroughly as one where the public's trust is involved. Regardless of the person's position in our society, however, we are still constrained to make our charging decisions based on the admissible evidence that is available to us. We are also mindful that any criminal prosecution must overcome the presumption of innocence and be proven beyond a reasonable doubt.

To summarize my decision, after an extensive review of the voluminous materials submitted by the State Patrol in this matter, **I am compelled to decline to file criminal charges against either Chief Reeves or Ms. Mullinax.**

The following will outline the relevant facts of each potential charge as well as my basis for deciding why criminal charges cannot be proven.

## II. Chief Stanley Reeves

Distilled to their essence, there are four allegations made against the former Chief by Ms. Mullinax or others. The first two allegations are related, and they are that Chief Reeves "stalked" Ms. Mullinax at her job and in other areas of her life. Included **within this general stalking allegation is an allegation that Chief Reeves burglarized or unlawfully entered Ms. Mullinax's home while she was in her bedroom with other men.**

During their times together, Chief Reeves was given full access to Ms. Mullinax's apartment. At times, his practice was to enter her apartment after her children were asleep and leave before they awoke. He did so through an unlocked door to her apartment. While it may be argued that on the evening in question, Chief Reeves was not invited to her apartment, it is equally probable that he was not told he could not enter the apartment and only did so when he found the door ajar or unlocked.

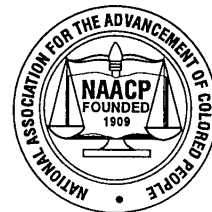
**In Ms. Mullinax's statement, she indicates that on the evening of the alleged burglary, she answered the door and asked Chief Reeves to leave. Chief Reeves did so immediately...**

While Chief Reeves appeared to have joined the same health club that Ms. Mullinax belonged to, **there is no evidence anywhere, least of all from Ms. Mullinax, that Chief Reeves engaged in any unlawful "stalking" behavior** – at least as that term is defined in our laws. **For these reasons, there is no basis to support a stalking or burglary charge.**

The next two possible charges involve the alleged misuse of Chief Reeves' office as Vancouver Police Chief. The first alleges that he misappropriated \$92.00 in per diem expenses while he was supposedly at the FBI National Academy in Virginia. It is Ms. Mullinax's contention that on July 15, 2001, the Chief spent the night with her in a Portland hotel. During this time, the Chief claimed \$92.00 in per diem meal expenses.

**Other than Ms. Mullinax's statements, there is no direct or circumstantial evidence to prove that Chief Reeves spent the night with her in Portland that particular evening.**

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Ms. Mullinax paid for the room with her credit card....

**The final allegation against the former Chief involves the alleged Official Misconduct** for his participation in a traffic stop that occurred on May 31, 2001. More specifically, it has been alleged that Chief Reeves either "un-arrested" Ms. Mullinax after she had been placed in custody for DUI or used his official capacity to prevent such an arrest.

To prove Official Misconduct, the State must establish beyond a reasonable doubt all of the foregoing elements:

**9A.80.010. Official Misconduct**

- (1) A public servant is guilty of official misconduct if, with intent to obtain a benefit or to deprive another person of a lawful right or privilege:
  - (a) He intentionally commits an unauthorized act under color of law; or
  - (b) He intentionally refrains from performing a duty imposed upon him by law.
- (2) Official misconduct is a gross misdemeanor.

Chief Reeves' statement and phone records confirm the time that he received a call from Ms. Mullinax. Those records show that the call came only after she had called others and attempted to get a ride from them first. According to Reeves' statements, he was completely unaware that the police had stopped Ms. Mullinax until he pulled up on the scene. It is also inconsistent with the statement of one witness who said that Reeves stopped by the witnesses' house looking for Ms. Mullinax after her call when he could not find her. That witness has stated she told Chief Reeves that Ms. Mullinax was in the back of a patrol car on Talton Street.

Even after speaking with Ms. Mullinax, Chief Reeves stated that he still had no indication that she had even been drinking. All of this too, is hard for me to believe.

**Turning to the ultimate issue, however, at no time did Chief Reeves admit or imply, directly or indirectly, that he "intentionally" acted under color of law to obtain an unlawful benefit for Ms. Mullinax.**

**(a) Officer Therese Kubala**

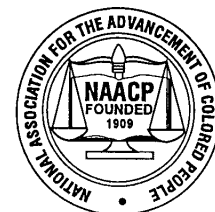
Vancouver Police Officer Kubala could be expected to testify that she stopped Ms. Mullinax for driving approximately 10 miles per hour over the posted limit. Officer Kubala did not observe her to be swerving or creating any other risk of danger aside from her speed. Once stopped, the officer eventually detected a "whiff" of alcohol that caused her to ask Ms. Mullinax if she had been drinking. Ms. Mullinax replied that she had been.

Almost immediately, Ms. Mullinax became quite emotional and told Officer Kubala that Chief Reeves was to blame for the whole incident. Presumably this referred to either her speeding and/or her having been drinking. She then showed the officer a book about extramarital affairs that she claimed she was going to give to Chief Reeves. Besides invoking Chief Reeves' name at the scene, **Ms. Mullinax also mentioned several other police officers she knew.** At some point during the stop, Officer Kumala attempted to learn if, indeed, Mullinax knew the officers she was naming. It wasn't until Chief Reeves arrived on the scene, however, that Kubala became convinced that Ms. Mullinax was telling the truth. In her words, she was "shocked" when Reeves arrived at the scene.

Shortly after stopping Ms. Mullinax and running her license, Officer Kubala administered FSTs. After the FSTs, Officer Kubala felt Ms. Mullinax's sobriety was "borderline" so she then administered a PBT. According to Officer Kubala, the PBT reading was slightly over the legal limit of .08 (i.e. 1/5000 or 1/6000 over .08).

At some point in the stop, presumably after the administration of the PBT and FST's Officer Kumala alerted dispatch that she had one "in custody". **What was not made clear is what Mullinax was "in custody" for, or if by the use of the term "in custody", Officer Kubala really meant that Mullinax was only being "detained" for investigation and had not yet**

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been “arrested”. As you know, the terms “custody” and “arrest” have very precise legal connotations that are different from “detention” for investigation.

There is one piece of evidence that tells me Ms. Mullinax was only being “detained” during the stop. In normal police procedure, when a subject is under arrest, they are almost uniformly handcuffed behind their backs. **Officer Kubala’s statements indicate that Ms. Mullinax was simply placed in the patrol car and allowed to use her cellular telephone to make some calls for a ride home. In addition, given the large volume of calls placed by Ms. Mullinax during this time, it is clear she was not handcuffed and likely not “arrested” during the contact.**

It is clear, however that regardless of whether Ms. Mullinax had actually been “arrested” or was merely being “detained”, Officer Kubala asked dispatch to purge the “in custody “ reference after Ms. Mullinax was released to Chief Reeves. Officer Kubala’s stated that the stop (e.g. “...cause either way she’s going to get, in my mind she’s going to be released on citation...(sic)”). While this appears to be unusual, I am not in a position to say or prove that it was done for the purpose of covering up someone’s actions.

There is no question that an officer has a great deal of discretion that can be exercised in the performance of his or her duties. This is true even where there is probable cause for an arrest. In general, an officer can cite and release at the scene, take the person to the jail for booking, or have the person call for a ride home. This setting in particular also lent itself to a great deal of discretion for the officer regarding what charges or infractions to levy, if any, because Officer Kubala believed that Ms. Mullinax’s FST’s and PBT were, at worst, “borderline”.

Given a PBT reading that was only slightly over the .08 limit and borderline FSTs, however, Officer Kubala might well have decided that, because Ms. Mullinax’s blood alcohol level would almost certainly decrease below the legal limit by the time an admissible breath test was administered, she would simply issue a citation and let her get a ride home. Or she could, as she appears to have

done in this case, simply give the detainee a stern warning and have her call for a ride home. While in hindsight certain decisions are perhaps better than others are, any of these options would have been within the lawful parameters of the officer’s discretion.

Ultimately, however this case hinges solely on what Chief Reeves intended to do, and then did, to procure the release of Ms. Mullinax to his custody without being cited. Conversely, the question is not what Officer Kubala thought Chief Reeves wanted to occur. In other words, to prove its case, the State must prove some overt and intentional act by Chief Reeves to obtain an unlawful benefit for Ms. Mullinax.

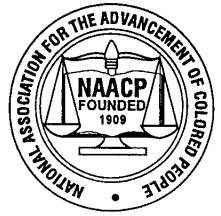
**IV Conclusion**

My decision to decline to file criminal charges against Chief Reeves and Ms. Mullinax is based solely on an objective review of the relevant facts that would be admissible at trial against the backdrop of all the relevant criminal statutes that could conceivably be applied. Factored into the calculation, of course, is the credibility of the various witnesses as well as the availability of objective physical evidence. On both points, the State is wholly lacking in proof. In fact, I am confident that the State would be unable to meet even the minimal “probable cause” standard required to bring criminal charges in this matter, let alone prove a crime beyond a reasonable doubt.

Nothing herein, however, should be construed to exonerate or affirm the propriety of the actions of those directly involved in the events of May 31, 2001. Succinctly put, the reports I have reviewed are replete with examples of people exercising poor judgment. However, at the end of the day and as is the case here, not every instance of poor judgment can be equated with a criminal act.

**Brian T. Moran**  
**Chief Criminal Prosecutor**  
**Assistant Attorney General**

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