



Department of Justice

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FEDERAL OFFICIALS CLOSE INVESTIGATION INTO FEBRUARY 2017 ARREST OF MICHAEL FESSER

PORTLAND, Ore.—The U.S. Attorney Office for the District of Oregon announced today that the federal criminal investigation into the arrest of Portland resident Michael Fesser on February 25, 2017 has been closed after finding insufficient evidence to support federal criminal prosecution.

In February 2020, the U.S. Attorney's Office, the Justice Department's Civil Rights Division, and the FBI opened a criminal investigation into the circumstances surrounding Mr. Fesser's arrest following media reports that the West Linn Police Department had settled a civil lawsuit with Mr. Fesser. This federal investigation sought to determine whether the evidence of events leading to Mr. Fesser's arrest was sufficient to prove beyond a reasonable doubt that any officers' actions violated federal criminal civil rights or public corruption statutes.

The FBI conducted an independent investigation of the facts surrounding Mr. Fesser's arrest. It interviewed 18 people, including Mr. Fesser, current and former police officers, current and former City of West Linn City employees, and community members. The FBI received approximately 28,000 pages of material in response to 24 subpoenas, including investigative records, training and disciplinary records, phone records, and financial records.

After examining the circumstances surrounding Mr. Fesser's arrest and the evidence gathered, the FBI and career Justice Department prosecutors from the U.S. Attorney's Office and the Civil Rights Division concluded that they could not prove beyond a reasonable doubt that officers involved in Mr. Fesser's arrest willfully violated Mr. Fesser's civil rights or federal public corruption statutes. In this case, under the applicable federal criminal civil rights laws, the government would have to prove beyond a reasonable doubt that Mr. Fesser's constitutional rights were violated and, if a violation occurred, the actions taken by law enforcement officers were willful.

Willfulness requires proof that an officer acted with the specific intent to do something the law forbids. It is not enough to show that an officer made a mistake, acted negligently, acted by accident or mistake, or even exercised bad judgment. Here, the government cannot prove that

the manner in which Mr. Fesser was arrested violated a federally protected right, or that the actions taken by law enforcement officials were willful as defined above.

To the extent that the criminal investigation into Mr. Fesser's arrest raised issues concerning the broader policies and practices of the West Linn Police Department, the U.S. Attorney's Office has taken steps to connect West Linn and its police department to national community oriented policing technical assistance.

The Justice Department remains committed to investigating wrongful arrest allegations and will continue to devote the resources required to ensure that all allegations of civil rights violations are thoroughly examined. The department aggressively prosecutes criminal civil rights violations whenever there is sufficient evidence to do so and pursues alternatives when there is not.

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