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**DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE DIVISION
INVESTIGATION REPORT**

CASE/FILE NO.: CPC0001-09
DATE OF REPORT: June 22, 2009
SPECIAL AGENT: Ron Nelson
ATTORNEY: Donna Maddux

I. Scope of Investigation

On January 21, 2009, Multnomah County District Attorney Michael Schrunk and Portland Police Chief Rosanne Sizer jointly sent a letter to Attorney General John Kroger asking for a criminal investigation "of the matters pertaining to Mayor Sam Adams and Beau Breedlove that have come to public attention."

In response, the Oregon Department of Justice (DOJ) conducted a comprehensive investigation, which included interviews with 57 witnesses; review of voluminous City Hall records, including phone and email accounts; review of campaign brochures, emails, and other materials; review of Breedlove's cell phone records; and a forensic examination of the electronic contents of Breedlove's cell phone, Adams' cell phone and three of Adams' computers.

The DOJ investigation addressed five key questions:

1. Did Adams have sexual intercourse with Breedlove before June 25, 2005, while Breedlove was under 18 years of age, in violation of ORS 163.435 and ORS 163.445?
2. Did Adams have sexual contact with Breedlove before June 25, 2005, while Breedlove was under 18 years of age, in violation of ORS 163.415?
3. Did Adams commit official misconduct in violation of ORS



162.405 or ORS 162.415 by hiring a *Portland Mercury* reporter in 2008 in an effort to stop her from pursuing a story about Adams' relationship with Breedlove?

4. Did Adams commit official misconduct in violation of ORS 162.405 or ORS 162.415 by using government resources to disseminate false information during his tenure as city commissioner or as mayor?
5. Did Adams commit theft or theft by deception in violation of ORS 164.085 by making false statements about his relationship with Breedlove in campaign fundraising materials?

II. Investigative Findings

A. ILLEGAL SEXUAL INTERCOURSE

ORS 163.435¹ and ORS 163.445² make it a crime to engage in, *inter alia*, “sexual intercourse” or “deviate sexual intercourse” with a person under 18 years of age. Breedlove and Adams both deny that they engaged in sexual intercourse before June 25, 2005, when Breedlove turned age 18. DOJ has obtained no witness testimony or other evidence to contradict these claims. Accordingly, there is no basis for a criminal charge pursuant to ORS 163.435 or ORS 163.445.

B. ILLEGAL SEXUAL CONTACT

ORS 163.415³ makes it a crime to engage in, *inter alia*, “sexual contact” with a person under the age of 18.

¹ ORS 163.435 Contributing to the sexual delinquency of a minor.

(1) A person 18 years of age or older commits the crime of contributing to the sexual delinquency of a minor if:

* * * * *

(c) The person engages in deviate sexual intercourse with another person under 18 years of age or causes that person to engage in deviate sexual intercourse.

(2) Contributing to the sexual delinquency of a minor is a Class A misdemeanor.

² ORS 163.445 Sexual misconduct.

(1) A person commits the crime of sexual misconduct if the person engages in sexual intercourse or deviate sexual intercourse with an unmarried person under 18 years of age.

(2) Sexual misconduct is a Class C misdemeanor.

³ ORS 163.415 Sexual abuse in the third degree.

1. Facts

In March of 2005, Breedlove worked as a volunteer intern for Oregon State Representative Kim Thatcher in her Capitol office in Salem. Breedlove was 17 and had graduated from high school nine months prior. In March of 2005, Adams was serving as a Portland City Commissioner.

On March 24, 2005, Adams traveled to Salem to meet with legislators. Adams and Breedlove first crossed paths when Adams briefly passed Representative Thatcher's office. Although details in their accounts vary, Adams and Breedlove both acknowledge that before Adams left the building, Adams received a card that included Breedlove's name, phone number and a brief note from Breedlove.

Adams told DOJ that he lost the card containing Breedlove's contact information. He called Representative Thatcher's office on March 31, 2005, and spoke with a woman who provided Breedlove's number. Adams called Breedlove that day and the two began communicating by cell phone and text message.

Available records show regular cell phone and text message communication during April, May, June and July of 2005. Adams' phone records show the following call history to Breedlove: two calls on March 31st; nineteen calls in April; eight calls in May; five calls in June; twelve calls in July. In addition, Adams placed one call to Breedlove in August; and one call in November. Breedlove's phone records are available for the time period from April 13, 2005 – May 11, 2005. According to Breedlove's records, from April 13 – April 30, Breedlove called or text messaged Adams 31 times. From May 1 – May 11, Breedlove called or text messaged Adams 11 times.

Adams and Breedlove both told DOJ that they arranged to meet for lunch at the Macaroni Grill in downtown Portland within a few weeks of their initial contact. Neither claims to be able to recall the exact date of that lunch meeting, but both agree it was most likely in April of 2005. Breedlove's age came up in conversation during the meal. Adams says he was surprised to learn Breedlove was only 17. After lunch, Adams drove Breedlove to the train station where the two parted company. A point of dispute arises about events during that drive. As discussed below, Breedlove alleges that he and Adams kissed at some point during their drive while Adams denies that this occurred.

Breedlove told DOJ he subsequently received notice of a First Thursday event at City Hall and decided to attend. Breedlove said he contacted Adams prior to the First Thursday event and informed Adams that he planned to attend. Neither claims to

(1) A person commits the crime of sexual abuse in the third degree if the person subjects another person to sexual contact and:

(a) The victim does not consent to the sexual contact; or

(b) The victim is incapable of consent by reason of being under 18 years of age.

(2) Sexual abuse in the third degree is a Class A misdemeanor.

remember with certainty the month in which this event took place. Both agree that it was before Breedlove turned 18 on June 25, 2005.⁴

Witness accounts of the specific events of this night vary greatly, but include a number of undisputed elements. Breedlove said he arranged to have a friend give him a ride from Salem to Portland that evening. Breedlove arrived at City Hall alone and with a gift for Adams. Adams said he pulled a few staff members into his office and told them that there was a 17 year-old at the event who was interested in him. Adams said he asked staff members to help keep some distance between Adams and Breedlove during the event. Adams introduced Breedlove to his staffers and others present. Adams also asked his staffers to attend to Breedlove during the evening. By all accounts, Adams networked with the crowd during the event and did not interact significantly with Breedlove. Breedlove remained for the entire event, which began around 5:00 p.m. and typically would have ended around 8:00 p.m.

According to both Adams and Breedlove, they left City Hall together after the event and walked to the Lotus Restaurant. Adams and Breedlove later left the restaurant when Breedlove's friend arrived to pick him up. Adams and Breedlove both stated there was no intimate physical contact between them either during or after their meal at the Lotus restaurant.

At some point, Breedlove invited Adams to Breedlove's 18th birthday party at Breedlove's parents' home in Salem. Adams attended the party on June 25, 2005. Adams and Breedlove both state that there was no intimate physical contact between them during the party.

Adams and Breedlove continued to communicate by phone and text message after the June 25, 2005 party and into July 2005. They eventually scheduled a Saturday evening date at Adams' residence, which included consensual sexual conduct. Breedlove and Adams continued to communicate via cell phone and text through July 30, 2005. Regular cell phone and text message communication dropped off after that date. In September of 2005, Breedlove left Oregon for a job in Hawaii.

2. Disputed allegations

a. The Drive after Lunch at Macaroni Grill

In his statements to DOJ investigators, Breedlove asserted that during the drive to the train station after lunch at the Macaroni Grill in April 2005 – when Breedlove was still underage – Adams stopped at a traffic light, leaned over and kissed him on the lips. Breedlove said he considered it a mutual kiss and has described it as “brief” and “romantic.” Breedlove said that he and Adams parted company at the train station

⁴ Considering the date of their first contact by phone, their intervening lunch, and the fact that Adams was out of town for the June 2005 First Thursday function, Adams and Breedlove agreed that they most likely attended the First Thursday event that occurred on May 5, 2005.

without further physical contact.

Adams told DOJ that he was attracted to Breedlove and considered the lunch to be a date based on their cell phone and text message exchanges leading up to the lunch, which Adams described as mildly flirtatious. Adams denied any kissing or intimate physical contact with Breedlove while they were driving to the train station after lunch. Adams contended that he had cleared his calendar that afternoon with the hope that, if lunch went well, he and Breedlove could also attend a movie across the street. Adams claimed that when he learned over lunch that Breedlove was only 17, he immediately dismissed the idea of extending their lunch date and informed Breedlove that he could not be involved with someone under age 18. Adams claimed that it is common for him to greet or leave friends with a hug or quick kiss on the cheek. Adams said he does not specifically recall such an exchange with Breedlove at the train station on this day, but he acknowledged that this type of exchange may have occurred.

b. First Thursday

According to Breedlove, Adams personally invited him to the First Thursday event. Breedlove recalled baking cookies and taking those with him to City Hall to present to Adams as a gift. Breedlove claimed that he presented the gift to Adams and Adams accepted the gift. Breedlove claimed that, after the event ended and most of the public had left the building, he and Adams entered the men's restroom on the second floor.

According to Breedlove, no one else was in the restroom at that time. He alleged that, after using the restroom, they embraced each other and engaged in a long, mutual kiss on the lips. Breedlove described the incident as "passionate" and "making out." He could not describe who initiated the contact. Breedlove claimed that, "it just happened."

Breedlove further asserted that, after the kiss, as he and Adams were leaving the restroom, a uniformed security guard was entering. Breedlove described the guard as an older, white male. Breedlove claimed the security guard said that he had seen Adams enter the restroom and was concerned because Adams had been in the restroom for a long time.

In an interview with DOJ, Adams denied that the kiss in the restroom occurred. Adams also did not recall being in the restroom at the same time as Breedlove. In September 2007, Adams publicly stated that he invited Breedlove to First Thursday at the end of their lunch. Adams maintained in his statements to DOJ that he did not remember extending a personal invitation to Breedlove, but was aware that Breedlove planned to attend. Adams claimed that Breedlove presented him with a gift that night that included a vase and a shirt. Adams said he did not accept the gift and that he discussed with Breedlove that it would be inappropriate for him to accept the gift because Breedlove was 17 years old and Adams could not get involved with someone that age. Adams reported that he accompanied Breedlove to the Lotus Restaurant because, at the end of the event, Breedlove told him that his friend could not pick him up for another 30 to 45 minutes. Adams claimed that he did not want to leave Breedlove by himself in City Hall, but also

did not think it was a good idea to be alone with Breedlove. Adams suggested they wait for Breedlove's friend in one of the closest public restaurants.

3. Lack of Corroborating Evidence

DOJ's investigation uncovered no documentary, physical, or electronic evidence, such as emails, text messages, or notes, to corroborate Breedlove's claim that Adams kissed him while driving to the train station after lunch at the Macaroni Grill or in the City Hall bathroom during the First Thursday event. In addition, DOJ has not identified any witnesses to corroborate these claims. The lack of corroborating witnesses is discussed below.

a. Glenn Clark

Breedlove asserted that an "older, white male" security guard witnessed Breedlove and Adams leaving the restroom on First Thursday after they kissed. Assuming Breedlove's assertion was correct, this potential witness would not have direct first-hand knowledge of any intimate physical contact between Breedlove and Adams. But the guard could potentially corroborate that Breedlove and Adams were in the restroom together that evening – an allegation which Adams denies.

In 2005, City Hall security guards were employed by DePaul Industries Security Services. DOJ contacted all available DePaul employees who worked at City Hall during the relevant time period in 2005. None of the employees recalled witnessing Adams and Breedlove in the restroom. However, one guard – Glenn Clark – claimed to have information about this encounter.

Glenn Clark served as a security guard in City Hall from 2004 through April 15, 2005. In a written statement that Clark provided to *The Oregonian*, Clark stated that he and Security Officer Jacoby Demissie worked the same shift during a First Thursday event sometime between January 2005 and April 2005. Clark reported that at approximately 7:30 or 8:00 p.m., Demissie came down from the second floor of City Hall and walked over to the front of the security desk where Clark sat. Clark claimed that, in a flat tone, Demissie said words to the effect that "I just saw Sam Adams having sex with this younger guy in the bathroom." Clark claimed he then asked if the younger guy was underage and Demissie responded "no." Clark did not visit the second floor himself and reported that no one overheard his conversation with Demissie. He further stated that he did not repeat Demissie's remarks to anyone.

Clark claimed he forgot about this conversation with Demissie until he ran into another former City Hall security guard at a bar on February 1, 2009. Clark stated that the other former security guard mentioned that *Willamette Week* was trying to find former security guards who worked at City Hall and that the discussion triggered Clark's memory of his conversation with Demissie four years earlier.

Three factors undermine Clark's claim. First, Jacoby Demissie flatly denied Clark's story. Jacoby Demissie was a DePaul Security guard assigned to City Hall in

2005. Demissie stated that he did not recall ever seeing Adams engaged in sexual activity with a young man in the restroom or telling Clark those details. Demissie further stated that, had he witnessed this, it would be an incident he would not have forgotten. Demissie did not have any recollection of seeing Breedlove in City Hall. Second, Demissie is African American, which does not match Breedlove's description of the security guard as an older white male. Finally, Clark did not serve as a security guard in City Hall after April 15, 2005, and thus was not employed on the May 5, 2005 First Thursday event that Breedlove most likely attended.

b. Lack of Contemporaneous Corroborating Witnesses

At the request of DOJ, Breedlove provided names and contact information for close friends and associates from 2005 who could verify his account. Two persons recalled Breedlove mentioning a date, kissing or a sexual relationship with Adams some time in 2005. However, neither of these two witnesses knew if this alleged contact or their conversations with Breedlove took place before or after Breedlove's 18th birthday. In addition, neither possessed any concrete information about the alleged kissing incidents after the Macaroni Grill lunch or at the First Thursday event. As a result, their information is not probative as to whether Adams committed a crime.

DOJ also analyzed Breedlove's cell phone and text message activity for April and May of 2005 in order to identify other potential corroborating witnesses. In this manner, DOJ identified two potential witnesses: Nathan Torrez and Lacey Visto⁵. Nathan Torrez informed DOJ that he drove Breedlove from Salem to Portland and back on the night of the First Thursday event. Torrez told DOJ that Breedlove did not mention any kissing or intimate contact with Adams during the ride back to Salem that night. Lacey Visto, who described her relationship with Breedlove in 2005 as "close," recalled Breedlove telling her about meeting Adams at the legislature. Visto stated that she was aware of some form of romantic relationship between Adams and Breedlove in the summer of 2005 but could not confirm whether that relationship occurred before or after Breedlove turned 18. Visto told DOJ that Breedlove's initial interest in Adams was romantic and that he pursued the relationship aggressively. She recalls Breedlove saying that Adams was hesitant due to their age difference and the fact that Adams was a public figure. Neither Torres nor Visto possessed any concrete corroborative information about the alleged kissing incidents after the Macaroni Grill lunch or at the First Thursday event.

4. Breedlove's Credibility

Because DOJ has not identified any witnesses or evidence corroborating Breedlove's claims that Adams kissed him before Breedlove turned 18, viability of any potential criminal charge rests solely on Breedlove's likely testimony and his personal

⁵ Breedlove was asked to provide the name of the individual who drove him to the First Thursday event, but refused. Further, when asked to provide the names of individuals who could corroborate his account, Breedlove did not provide Visto's name.

credibility. DOJ has concluded that significant questions exist regarding the credibility of Breedlove's account.

a. Inconsistent Statements

Over time, Breedlove has provided inconsistent statements about critical events. These statements would be used at any trial to undercut Breedlove's credibility. For example, on January 21 and 22, 2009, Breedlove was interviewed by Adams' attorney Sam Kauffman and investigator Kara Beus and provided a statement. In that statement, which Breedlove signed and dated for accuracy on January 22, 2009, Breedlove asserted that he and Adams did not engage in any sexual contact or kissing at any time before his 18th birthday. This statement flatly contradicts Breedlove's statements to DOJ.

On January 24, 2009, Charlie Hinkle, Breedlove's attorney, emailed a document entitled "Statement of Beau Breedlove," dated January 24, 2009, to Adams' attorneys. Hinkle's email reads "Here is the statement that Beau prepared today, which he authorized me to give you." That document included the following statement: "After lunch, Sam drove me to the train station. When he dropped me off at the train station, he kissed me." That same day, Breedlove provided *The Oregonian* with an interview. In the interview, and in a subsequent interview with DOJ on February 23, 2009, Breedlove asserted that on the day of their lunch, Adams kissed Breedlove on the lips not at the train station, but while stopped at a traffic light near Pioneer Square.

Breedlove has also made inconsistent statements about the circumstances under which this story came to the attention of the Portland media. In statements to Adams and the media, Breedlove blamed others repeatedly for leaking information about his relationship with Adams to the press. In February of 2009, for example, Breedlove stated in an interview with *Unzipped* magazine that a "spurned lover . . . tipped off the Portland media to the Adams affair." The article further stated, "the man – many years his senior, just like Mayor Adams – did it after he and Beau had a messy breakup. 'That guy caused me and my family a ton of stress and turmoil.'"

In fact, Breedlove repeatedly sought to interest the media in his story after he moved back to Portland from Michigan in November 2007. Breedlove sent the *Portland Mercury* an anonymous email about his relationship with Adams on December 27, 2007, and met with *Portland Mercury* reporter Amy Ruiz on January 2, 2008. During the meeting, he agreed to provide her with information as long as he could remain anonymous. After Ruiz stopped pursuing her story, Breedlove contacted *Willamette Week* and began to provide *Willamette Week* staff with information about his relationship with Adams.

b. Breedlove's motivations

Breedlove has benefited, both in notoriety and financial gain, from bringing his relationship with Adams to the attention of the media. In February of 2009, for example, Breedlove accepted *Unzipped* magazine's offer to be featured on the magazine's May

cover and traveled to Los Angeles for a photo shoot and interview. According to Breedlove, *Unzipped* paid him for his work, but he declined to tell DOJ the amount. In a jury trial, this information could be used to attack his motive.

c. Breedlove's Felony Conviction

While in Hawaii in 2006, Breedlove pleaded guilty to theft in the second degree, a Class C felony. Breedlove was caught leaving a Macy's department store with over \$750 in clothing. As part of his plea agreement, he was sentenced to five years supervised probation. Under Oregon Evidence Code Rule (OEC) 609(1)(a), prior felony convictions are admissible in criminal proceedings to attack the credibility of a witness. A theft conviction is also admissible for impeachment purposes as a crime involving dishonesty. OEC 609(1)(b).

5. Conclusion

The only proof DOJ has obtained that Adams may have engaged in illegal sexual contact with a minor comes from Breedlove. Breedlove's account of the two alleged incidents of kissing before his 18th birthday is called into question by the lack of corroborative witnesses or corroborative evidence. In addition, Breedlove's prior inconsistent statements, financial gain, and prior felony conviction for a crime involving deception has compromised his credibility as a witness. For these reasons, we conclude that there is not sufficient credible evidence to justify criminal prosecution.⁶

C. ALLEGATION OF OFFICIAL MISCONDUCT: THE HIRING OF AMY RUIZ

ORS 162.405⁷ and ORS 162.415⁸ make it a crime to engage in "official

⁶ Because we have concluded that there is insufficient evidence to charge Adams with this offense, it is unnecessary to address the question of the credibility of Adams' denial of Breedlove's contentions.

⁷ ORS 162.405 Official misconduct in the second degree.

(1) A public servant commits the crime of official misconduct in the second degree if the person knowingly violates any statute relating to the office of the person.

(2) Official misconduct in the second degree is a Class C misdemeanor.

⁸ ORS 162.415 Official misconduct in the first degree.

(1) A public servant commits the crime of official misconduct in the first degree if with intent to obtain a benefit or to harm another:

(a) The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or

(b) The public servant knowingly performs an act constituting an unauthorized exercise in official duties.

misconduct.” Though no reported cases exist involving government hiring decisions, it is highly likely that the statute would be violated if a government official hired an employee for an impermissible reason, *e.g.*, in exchange for a bribe or other personal benefit.

1. Amy Ruiz

Amy Ruiz was employed by the *Portland Mercury* in the fall of 2007 when Breedlove returned to Oregon. She received an anonymous email from Breedlove alleging that Breedlove and Adams kissed in a City Hall men’s restroom. In January and February of 2008, Ruiz met with Breedlove to discuss the allegation and attempted to find corroborating evidence to support Breedlove’s claims. On February 29, 2008, Ruiz met with Adams to discuss the anonymous email. In an interview with DOJ, Ruiz recalled showing the email to Adams. Ruiz told DOJ that after consultation with her editor, she ultimately dropped her pursuit of the story in February 2008 because she was unable to corroborate the information Breedlove provided her.

Ruiz claimed she noticed the Planning and Sustainability Advisor position posted on the web at “CommissionerSam.com” on or about October 27, 2008. After she saw the opening, she provided her resume to Adams’ Chief of Staff, Tom Miller. Eventually, Lisa Libby called and asked her to come in for an interview. On December 22nd, 2008, Ruiz received a call requesting she return for a final interview and she was eventually offered the job. She asserted that she never had any contact with Adams during the hiring process and issues regarding the story she had explored earlier in 2008 were never raised.

2. Lisa Libby

Lisa Libby currently serves as the Planning and Sustainability Director for the Portland Mayor’s office. She began in this position in January 2009. Prior to this position, she served as the Senior Policy Director for Commissioner Adams. Libby claimed she was responsible for posting the job. She reviewed between 35 and 40 applications and selected 10 individuals for interviews. Ruiz was one of the individuals selected.

Libby claimed that based on first-round interviews, she narrowed the pool down to three applicants and asked Tom Miller to sit in on the second interview. Libby said that she and Miller agreed that Ruiz was the top candidate for the position. Libby reported that prior to offering Ruiz the job, Miller wanted to run the choice past Adams. According to Libby, Miller said that Adams was fine with their choice. Libby confirmed that Ruiz’ work on the Breedlove story never came up during the hiring process.

3. Tom Miller

Tom Miller currently serves as the Chief of Staff for Mayor Adams. Miller claimed that when he accepted his position, he and Adams agreed that Miller would have

(2) Official misconduct in the first degree is a Class A misdemeanor.

control over the hiring and firing of personnel. Miller concurred with Libby's account of the hiring of Ruiz, but did not recall if he asked Adams for final approval of the hiring decision. Miller also reported that, in December 2008, he and Libby originally approached city planner Radcliffe Dacanay about the position of Policy Advisor. Miller claimed, and Dacanay confirmed, that Dacanay declined the position. Miller confirmed that Ruiz' work on the Breedlove story never came up during the hiring process.

4. Statement by Sam Adams

Adams reported to DOJ that he was not involved in the hiring of Ruiz and did not recall being asked to approve the hiring decision.

5. Conclusion

We have obtained no credible, admissible evidence contradicting the information set forth above. Based on this information, there is no evidence that Adams hired Ruiz in an effort to cover-up her investigation and reporting of the Breedlove/Adams story. Accordingly, there is no basis for a criminal charge pursuant to ORS 162.405 or ORS 162.415.

D. ALLEGATION OF OFFICIAL MISCONDUCT: MISUSE OF GOVERNMENT RESOURCES

ORS 162.405 and ORS 162.415 make it a crime to engage in "official misconduct." To the best of our knowledge, the official misconduct statutes have never been used to criminalize a false statement by a government official about his or her personal life.⁹ However, the statutes do criminalize use of government resources for an impermissible private use. See *State v. Gortmaker*, 60 Or App 723 (1982). Thus, if a government official ordered government employees to make false statements on office time or used significant government resources to disseminate false statements, that order might constitute the crime of official misconduct. The Department of Justice interviewed city government employees to determine whether any official misconduct took place. The facts DOJ uncovered are as follows.

DOJ identified two incidents that could potentially have involved misuse of government resources: one in September 2007 and one in January 2009.

Rumors that Adams had a sexual relationship with Breedlove became public in September 2007. At that time, Commissioner Adams did not have a public relations or media liaison staffer and handled press himself, with the assistance of his consultant, Mark Weiner. Adams posted his public response to the rumors on his

⁹ Election law prohibits the making of false statements in materials required by election law, which includes that information required on candidate filing forms and the required information for a candidate's voters' pamphlet statement. ORS 260.715(1). Violation of this statute constitutes a class C felony. Because Adams did not make any false statements about his relationship with Breedlove in his required candidate materials, this statute is not implicated in our investigation.

CommissionerSam.com website – a site owned and operated by Adams. Adams provided the press with interviews denying the allegations, but he did not order public employees to coordinate or participate in those interviews. Other than the fact that the interviews about Breedlove occurred on city property, DOJ has obtained no evidence that Commissioner Adams used significant government resources to disseminate his public denials in 2007.

The story resurfaced again on January 15, 2009, when a *Willamette Week* reporter and editor interviewed Adams in his office with two of his staff members present. Adams has acknowledged that in this interview he did make false statements about his relationship with Breedlove. However, the interview occurred after hours in the Mayor’s office and at the request of *Willamette Week*. Both staff members who participated, Ruiz and press secretary Wade Nkrumah, told DOJ that they volunteered to be present and were not directed to do so by Adams. Again, other than the fact that this interview occurred on city property, DOJ has obtained no evidence that Adams used significant government resources to disseminate false or misleading information. Accordingly, there is no basis for a criminal charge pursuant to ORS 162.405 and ORS 162.415.

E. THEFT BY DECEPTION

A political candidate who makes false claims during an appeal for campaign contributions may, in some instances, be found guilty of violating statutes prohibiting theft or theft by deception.¹⁰ See *Oregon v. Jolin*, Indictment No. 1092-03609 (Lane County) (defendant convicted of theft after asking for campaign contributions under false pretences and then using contributions for personal use).

DOJ interviewed campaign staff and reviewed campaign documents and literature

¹⁰ ORS 164.085 Theft by deception.

(1) A person, who obtains property of another thereby, commits theft by deception when, with intent to defraud, the person:

(a) Creates or confirms another’s false impression of law, value, intention or other state of mind that the actor does not believe to be true;

(b) Fails to correct a false impression that the person previously created or confirmed;

(c) Prevents another from acquiring information pertinent to the disposition of the property involved;

* * * * *

(2) “Deception” does not include falsity as to matters having no pecuniary significance, or representations unlikely to deceive ordinary persons in the group addressed. * * *

(3) In a prosecution for theft by deception, the defendant’s intention or belief that a promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed.

* * * * *

to determine whether Adams made any false claims regarding his relationship with Breedlove in connection with solicitation of campaign funds. DOJ obtained no evidence suggesting that Adams made false statements in fundraising literature or solicitations. No one involved in the campaign recalled any campaign materials or contribution requests that included or mentioned Adams' denials of a sexual relationship with Breedlove. There are no references to Breedlove or the rumors surrounding the relationship in any campaign or fundraising materials we reviewed. Accordingly, there is no basis for a criminal charge pursuant to ORS 164.085.

III. Conclusion

We have obtained no evidence that Adams engaged in illegal sexual intercourse with a minor, committed official misconduct, or engaged in theft by deception. With respect to illegal sexual contact with a minor, Breedlove has asserted that such contact took place. However, Adams denies this, and we have obtained no evidence to corroborate Breedlove's claim. At times, a responsible prosecutor may seek to charge an individual with a crime based solely on the uncorroborated testimony of a single witness. However, a responsible prosecutor will do so only when there are no serious questions about the credibility of the witness's account. Here, there are serious questions about the credibility of Breedlove's account, due to his prior inconsistent statements, the lack of corroborating witnesses or evidence, his attempt to gain personally from matters related to his involvement with Adams and his prior criminal record. Accordingly, we have concluded there is insufficient evidence to charge, let alone convict, Adams with illegal sexual contact with a minor.

Appendix: SCOPE OF INVESTIGATION

1. INTERVIEWS

During this investigation, the following persons were interviewed on the dates indicated in 2009:¹¹

1. Sam Adams – May 28 (Portland Mayor)
2. Mario Aguilar – March 16 (Friend of Breedlove)
3. Jane Ames – February 11, February 19 and June 10 (Adams staff)
4. Pippa Arend – May 19 and June 17 (Program Director for P:ear)
5. Robert Ball – February 4 (Real estate developer)
6. Jesse Beason – February 12, February 19 and June 11 (Former Adams staff)
7. Pollyanne Birge – February 17 and June 12 (City of Portland staff)
8. Beau Breedlove – February 23, March 26, April 14, May 1, May 22 and June 10
9. Kate Brown – April 20 (Secretary of State)
10. Roland Chlapowski – February 12, February 19, March 18 and June 15 (Adams staff)
11. Catherine Ciarlo – February 12 and June 12 (Adams staff)
12. Glenn Clark – March 18 (Former DePaul Industries Security Guard)
13. Radcliffe Dacanay – April 8 (City of Portland Planning Bureau)
14. Jacoby Demissie – March 20 (Former DePaul Industries Security Guard)
15. Carol Duong – February 11 and April 9 (Adams staff)
16. Cevero Gonzales – February 12, May 4, May 18 and June 12 (Adams staff)
17. David Gonzales – February 25 (Former Adams staff)
18. James Graham – March 11 (Former DePaul Industries Security Guard)
19. Linda Heimdahl – May 11 (Aid to Representative Kim Thatcher)
20. Randy Hilderbrand – May 11 (Former Legislative Assistant to Representative Kim Thatcher)
21. Warren Jimenez – March 12, March 17 and May 19 (Adams staff)
22. Gordon Johnston – February 27 (Former Adams volunteer)
23. Tracy Kalar – May 20 (High school teacher of Breedlove)
24. Vera Katz – March 11 (Former Portland Mayor)
25. Robert Kieta – March 6 (City of Portland staff)
26. Ty Kovatch – March 12 and May 19 (Chief of Staff for Commissioner Randy Leonard)
27. Jason Landon – March 23 (DePaul Industries Security Guard)
28. Alacia Lauer – April 9 (Adams staff)
29. Randy Leonard – March 12 (Portland City Commissioner)
30. Lisa Libby – February 11, May 27 and June 12 (Adams staff)

¹¹ Mark Merkle, an ex-boyfriend of Beau Breedlove, refused to be interviewed as part of this investigation.

31. Maria Lim – February 11 (City of Portland staff; former Adams staff)
32. Richard Lloyd-Jones – June 11 (C & E Systems)
33. Thomas Miller – March 4, May 19 and June 10 (Chief of Staff for Mayor Sam Adams)
34. Scott Moore – January 27 (Former *Portland Mercury* newspaper reporter)
35. Warren Newberry – February 11 (Adams staff)
36. Wade Nkrumah – February 5 and June 15 (Former Adams staff)
37. Cindy Nordyke – May 11 (Sprague High School Registrar)
38. Arissa Oliveros – February 27 (Former DePaul Industries Security Guard)
39. Shoshannah Oppenheim – February 17 and June 15 (Adams staff)
40. Paul Peterson – February 11 (Adams staff)
41. Megan Ponder – March 11 and June 11 (Adams staff)
42. Amy Ruiz – February 17, February 23, May 19 and June 11 (Adams staff; former *Portland Mercury* newspaper reporter)
43. Obadiah Rutledge – January 27 and April 8 (Administrative Specialist/Reading Clerk, Oregon House of Representatives)
44. Kimberly Schneider – February 11 and June 16 (Adams staff)
45. Kathryn Skorniak – February 13 (Friend of Breedlove)
46. Sierra Stringfield – February 12, April 13, April 24 and June 12 (Adams staff)
47. Maria Thai Mai – February 27, June 15 and June 17 (Former Adams staff)
48. Kim Thatcher – February 3 (Oregon State Representative)
49. Nathan Torrez – May 21 (Friend of Breedlove in 2005)
50. Robert Tybie – March 5 (Former DePaul Industries Security Guard)
51. Grace Uwagbae – February 11 and April 8 (Adams staff)
52. John Vezina – February 18 (Friend of Adams in 2005)
53. Lacey Visto – May 28 (Friend of Breedlove in 2005)
54. Adam Villarreal – April 6 (Friend of Breedlove)
55. Mark Weiner – January 29, April 30 and June 11 (Political consultant to Adams)
56. Davis Wilson – March 31 (Former day porter at Portland City Hall)
57. Jennifer Yocum – February 11 and June 10 (Adams staff)

2. DIGITAL, ELECTRONIC AND TRADITIONAL INFORMATION REVIEW

This investigation included an extensive review of the following records:

- Portland City Hall security records (April 2005 – June 2005)
- Adams' phone records (January 2005 – December 2005 and April 2008 – February 2009)
- City archived emails for Adams (January 2005 – January 2009)
- Adams' personal email accounts (January 2007 – March 2009)
- Adams' city calendar (April 2005 – July 2005)
- Adams' text messages (January 21, 2009 – January 28, 2009)
- Breedlove's phone records (April 12, 2005 – May 12, 2005)
- All known print, television and radio interviews featuring Breedlove,

- Adams or others relating to this investigation
- Social networking sites for Breedlove and Adams (Facebook and MySpace)
- Campaign brochures, emails, letters and 30-second television ad

A Blackberry Pearl cell phone used by Breedlove was examined. Breedlove voluntarily provided his phone to our investigators on March 26, 2009. Text messages from January 22, 2009 – March 5, 2009 were recovered.

The following computers, cell phone and memory cards used by Adams were examined and provided to DOJ investigators on the dates indicated:

- Office laptop – January 30, 2009
- Home computer – February 17, 2009
- Personal laptop – February 17, 2009
- Sprint cell phone – February 17, 2009
- Two SIM/memory cards linked to Adams' cell phone – April 6, 2009

3. ADAMS' COOPERATION

Adams submitted to a full interview with DOJ on May 28, 2009. Adams agreed to be interviewed without limit, advance terms or conditions. He appeared to fully answer each of the questions posed by this investigation. The interview lasted approximately 3 ½ hours.

In addition to the interview, DOJ also requested access to Adams' computers, cell phone, and email accounts. DOJ first made this request on Thursday, January 23, 2009. Arrangements were made for DOJ to pick up Adams' computers on Saturday, January 25, 2009. However, Adams' attorneys did not return calls that Saturday, but called on Sunday and suggested DOJ work through their office that week.

On Monday, January 27, 2009, DOJ's representatives contacted Adams' attorneys and reiterated DOJ's request for immediate access to Adams' computers and cell phones. A request was also made for a complete listing of electronic data sources utilized by Adams, including but not limited to telephones, computers, email accounts and social networking accounts.

On Wednesday, January 29, 2009, DOJ representatives traveled to the Portland law offices of Garvey Schubert Barer. During the meeting, Adams' attorney provided a one-page list of Adams' electronic data sources, but refused to provide any additional information, including passwords to email accounts which would allow DOJ investigators access to those accounts, or any equipment. DOJ learned that Garvey Schubert Barer forensic experts had created a forensic image of Adams' city computer and DOJ was offered the opportunity to access a copy at a later date. DOJ insisted on direct access to Adams' hardware in order to conduct an independent forensic review. DOJ received Adams' city laptop the following day.

On February 3, 2009, DOJ again requested consent to review Adams' personal computers, phone and electronic accounts. Adams' attorneys responded on February 12, 2009 and agreed to allow DOJ access to Adams' personal computers and his PDA.

Forensic examination of Adams' PDA revealed a missing memory card. DOJ requested access to those memory cards on February 18, 2009. On February 23, 2009, Adams' attorney Sam Kauffman reported to DOJ that "while we can confirm that the Mayor sometimes used the memory card slot on the PDA, there is no particular memory card that goes with the PDA." DOJ again requested any and all memory cards used with Adams' PDA during the relevant time period. On April 2, 2009, Adams' attorneys consented to production of two PDA memory cards that were previously in Adams' possession. DOJ picked up the memory cards from Adams' attorneys on April 6, 2009.