



PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 Henry Street NE, Suite 300, Olympia WA 98506
PO Box 40919, Olympia WA 98504-0919
Phone: 360.570.7300 Email: filing@perc.wa.gov
Web: www.perc.wa.gov

UNFAIR LABOR PRACTICE COMPLAINT

Amended Complaint in Case # _____

Applicable Rules: Chapters 10-08, 391-08, and 391-45 WAC

PARTIES Include information for all parties involved.

COMPLAINANT Puget Sound Police Managers Association

Contact Carl Cole
Address [REDACTED]
City, State, ZIP [REDACTED]
Telephone [REDACTED] Ext. _____
Email [REDACTED]

RESPONDENT King County Sheriff

Contact John Urquhart
Address [REDACTED]
City, State, ZIP [REDACTED]
Telephone [REDACTED] Ext. _____
Email [REDACTED]

EMPLOYER King County Sheriff

Contact John Urquhart
Address [REDACTED]
City, State, ZIP [REDACTED]
Telephone [REDACTED] Ext. _____
Email [REDACTED]

ALLEGED VIOLATION

Indicate if the alleged violation is against:

Employer Union Both*

***Note:** If the violation is against both the union and employer, two separate complaints must be filed with two statements of facts describing the alleged violation against each.

STATEMENT OF FACTS and REMEDY REQUESTED

Attach on separate sheets of paper in numbered paragraphs a brief statement of the facts regarding the alleged unfair labor practice(s).

- Include times, dates, places, and participants of occurrences.
- Indicate statutes allegedly violated.
- State whether a related grievance has been filed.
- Describe the remedies requested.
- For more information refer to WAC 391-45-050.

BARGAINING UNIT

***Note:** If the alleged violation relates to more than one bargaining unit, a separate complaint must be filed for each unit.

Identify Bargaining Unit Captains

Department or Division Sheriff's Department

Collective Bargaining Agreement

- The parties have never had a contract.
 A copy of the most current contract is attached.

AUTHORIZED SIGNATURE FOR COMPLAINANT

Print Name James M. Cline
Address [REDACTED]
City, State, ZIP [REDACTED]

Telephone [REDACTED] Ext. _____
Email [REDACTED]
Signature [Handwritten Signature] Date 6/19/17

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I. STATEMENT OF FACTS

1.1 The Puget Sound Police Managers Association (PSPMA) represents two bargaining units which include all Lieutenants, Captains, Majors with the King County Sheriff’s Office. (KCSO). The Lieutenants and Captains are in one unit, and the Majors are in another bargaining unit.

1.2 Sheriff John Urquhart became the King County Sheriff in November 2012. Urquhart’s actions resulted in several lawsuits against King County, including King County Superior Court Cause No. 15-2-09687-7, a lawsuit by three former deputies who complained about Urquhart’s conduct and his retaliation against them for reporting the misconduct. Urquhart repeatedly intervened in internal investigations and used the Internal Investigations Unit (IIU) to retaliate against officers with whom he disagreed. In addition, Urquhart directed the IIU unit not to investigate rape allegations that had been presented against him.

1.3 In the years following Urquhart assuming office, PSPMA leadership became aware of various allegations against Urquhart. PSPMA leadership was concerned that Urquhart’s issues were impairing the morale and function of the entire KCSO and complicating their work as KCSO managers. They also had a concern about the ability of KCSO to advance its public safety mission. As PSPMA leadership attempted to speak with Urquhart about these issues informally, Urquhart then began to retaliate against the PSPMA leadership and interfere in PSPMA affairs. Urquhart specifically targeted union leadership and probationary members for his campaign of retaliation, intimidation, and surveillance in a manner described below. Some of these actions occurred as early as 2014, and a campaign of retaliation accelerated more recently

1 over the course of 2016 and especially in the past few months. This Complaint presents Unfair
2 Labor Practices for action by the Public Employment Relations Commission which have
3 occurred during the past six months but describes the incidents back to 2014 as relevant
4 background, especially as to Urquhart's intent and a pattern and practice of retaliation.
5

6 1.4 Captain Carl Cole is PSPMA president and a member of its Executive Board. In
7 December 2014 Urquhart began an investigation into a complaint about Cole's conduct while off
8 duty in Portland, Oregon. IIU had previously concluded that there was no basis for the off-duty
9 conduct complaint against Cole. Nonetheless, Urquhart began another investigation of Cole
10 shortly *after* Cole had given testimony in the King County Superior Court discrimination case
11 involving Urquhart.
12

13 1.5 Captain Bryan Howard is an executive board member of the PSPMA. In late 2015
14 and early 2016, Urquhart contacted Howard directly about allegations of an improper Twitter
15 posting that was apparently created through some hacking effort. Urquhart did not allow
16 Howard union representation at this initial investigatory meeting. Urquhart also did not follow
17 the IIU investigation policies or the CBA with regard to allegations against Howard. Despite
18 evidence the post was a result of outside hacking, Urquhart personally directed a criminal
19 investigation into PSPMA Board Member Howard's activities.
20

21 1.6 Captain Scott Somers is a PSPMA Board Member. In April 2016, Urquhart
22 directed that IIU conduct a "major investigation" into allegations that PSPMA Board Member
23 Scott Somers had not returned a phone call to a member of the KCSO Ombudsman's Office. A
24 "major investigation" is one that can lead to suspension or discharge. After evidence emerged
25 the Somers had done nothing wrong, Urquhart ordered yet another investigation into the matter.

1 1.7 The use of a “major investigation” to investigate an alleged unreturned phone call
2 was perceived as retaliatory by the PSPMA. The perception was fueled by various instances in
3 which it appeared that Urquhart would investigate various employees for minor events shortly
4 following their making a complaint about his conduct.
5

6 1.8 In June 2016, Urquhart attempted to transfer PSPMA member Rodney Chinnick
7 to manage the IIU section. Rodney Chinnick was a recently promoted Probationary Captain and
8 member of the PSMMPA prior to June 2016. Captain Chinnick had significant ethical concerns
9 with Urquhart and how he had interfered in the past IIU proceedings. These included what would
10 be later reported as the Sheriff’s attempts to manipulate complaints that had been lodged against
11 Urquhart. Chinnick attempted to decline the assignment. Urquhart still insisted on the transfer.
12 In response, Chinnick reluctantly requested a voluntary demotion to Sergeant rather than accept
13 the transfer. Sherriff Urquhart accepted the voluntary demotion.
14

15 1.9 A few days later, after consulting with the PSPMA about his situation, Chinnick
16 asked to rescind his voluntary demotion which had not yet taken place. He learned that there
17 was language in the CBA that permitted him to have his request for a different assignment given
18 due consideration and it appeared that Urquhart had not followed that CBA requirement.
19 Urquhart refused to rescind the demotion even though it had not yet taken place. The PSPMA
20 then filed a grievance on behalf of Chinnick regarding both the transfer and refusal to rescind the
21 voluntary demotion. That grievance is currently pending and awaiting arbitration.
22

23 1.10 In the summer of 2016, the PSMMPA and KCSO engaged in contract negotiations.
24 During the negotiations, the PSMMPA officers heard rumors that Urquhart was considering
25 implementing a Watch Commander system. This system would significantly change the working

1 conditions of a number of PSPMA members. These changes include changes in working hours
2 and duties. The PSPMA specifically asked the KCSO negotiators whether such a system was
3 being considered. The KCSO specifically told the PSPMA that no such system was being
4 considered for the duration of the next contract. Contract negotiations reached an impasse and
5 were later certified to mediation.
6

7 1.11 On January 27, 2017, after contract negotiations had reached an impasse, Sheriff
8 Urquhart released a General Information Bulletin which announced that “[W]e will be starting a
9 Watch Commander system.” See Attachment 1 to this Complaint. This bulletin was directly
10 released to the general membership of the PSPMA. By then Urquhart had not conveyed to the
11 PSPMA his intention to adopt such a program and, in fact, had denied it. A Watch Commander
12 program inherently involves a change in working hours for the members of PSPMA, although
13 those details were not identified in Urquhart’s Bulletin.
14

15 1.12 On February 21, 2017, the PSPMA sent a letter to Urquhart regarding what it felt
16 were ethical problems Urquhart faced. See Attachment 2 to this Complaint. Those problems
17 included rape accusations that were reported by the Seattle Times in December 2016. Urquhart
18 denied both rape and consensual sex allegations involving a female employee that had been his
19 subordinate at the time of some of the alleged conduct. The PSPMA continued to be concerned
20 about the impact of Urquhart’s problems on KCSO morale. The PSPMA later learned that the
21 former Chief of Police for the City of Bellevue had identified the same problems with the way
22 Sheriff Urquhart had conducted IIU investigations and the way Urquhart handled allegations into
23 his own misconduct as the PSPMA had previously been concerned. See Attachment 3 to this
24 Complaint.
25

1 1.13 Immediately after the letter went to Urquhart, Chris Barringer, Chief of Staff for
2 Urquhart, interrogated Probationary Captain and PSPMA member Rick Bridges about the letter.
3 Chief of Staff Barringer told PSPMA member Bridges that the letter was a “declaration of war”
4 between the PSPMA and Urquhart.
5

6 1.14 On March 1, 2017, PSPMA Board Member Scott Somers placed a call to King
7 County Councilmember Kathy Lambert’s office asking to discuss PSPMA matters with the
8 Councilmember. Within minutes of receiving a call back from the Council Member’s staff,
9 Somers received a phone call from Chief of Staff Barringer. Barringer angrily asked Somers
10 “Why are the Captains are calling the County Council,” or words to that effect.
11

12 1.15 By early 2017, the Chinnick grievance had worked its way through the grievance
13 steps and the PSPMA had announced its intentions to arbitrate.
14

15 1.16 In March 2017, Urquhart told Rodney Chinnick’s new supervisor that Chinnick
16 would be “sergeant for a very long time,” or words to that effect. In April 2017, Chinnick had
17 the highest score on the test to be promoted to Captain. In May 2017, Urquhart announced he
18 was passing over Chinnick to promote someone to Captain who scored lower on the promotion
19 exam. Urquhart’s statements and actions were inconsistent with statements he had made before
20 Chinnick filed his grievances. When the Association initially discussed this issue with Urquhart
21 in 2016, he had relayed that Chinnick would be eligible to test and reapply for Captain and would
22 be promoted if successful in testing. On May 30, 2016 personnel orders were distributed
23 announcing Sergeant Marengo would be promoted to Captain, confirming Urquhart’s statement
24 he would be skipping Chinnick.
25

1 1.17 On April 5, 2017, Urquhart appeared on the “Ron and Don” radio program.
2 Urquhart attacked the union during his appearance. He claimed that some PSPMA members are
3 part of the “old guard” and did not want to held “accountable.” He implied that the PSPMA had
4 leaked information to the press. Urquhart also stated that current contract negotiations were the
5 reason for the tension between the PSPMA and Urquhart’s office. Urquhart knows or should
6 know that all these allegations are false and were intended to disparage the PSPMA.
7

8 1.18 PSPMA members are all salaried exempt employees under wage and hour laws.
9 As a result, they work flexible hours. Article 19 of their CBA specifically grants PSPMA
10 flexibility to conduct union business during daytime hours.
11

12 1.19 On April 20, 2017, the PSPMA held one of its regularly scheduled meetings. The
13 PSPMA has routinely held monthly union meetings during the day without incident from 2008
14 until April 2017.

15 1.20 By April 2017, the union had learned that Urquhart’s Chief of Staff, Chris
16 Barringer had failed his background and polygraph examinations. Cole had previously asked
17 Urquhart whether the rumors regarding Barringer’s background check were true and Urquhart
18 denied it. Some members of the PSPMA knew this was not true as apparently physical copies
19 of failed results were circulating.
20

21 1.21 At the April 20 PSPMA meeting, one of the topics of conversation was Urquhart’s
22 deliberate lie to PSPMA President Cole regarding whether or not Barringer had failed his
23 background polygraph examination. Specifically, the rumors were that Barringer had failed to
24 disclose past drug use on his background information and Barringer has not passed a polygraph
25 question regarding being involved in bribery.

1 1.22 Urquhart told Cole when asked that Barringer had passed his polygraph “with
2 flying colors” or words to that effect. Sometime later, a summary of Barringer’s first polygraph
3 exam was widely disseminated within Urquhart’s office. It confirmed that Barringer had not
4 passed the exam. PSPMA President Cole felt it was important to share this information with the
5 union membership at the April 20 meeting.
6

7 1.23 On the day after the union meeting discussing Urquhart’s credibility, April 21,
8 2017, the PSPMA received a letter from Patti Cole-Tindal, Chief of Technical Services in
9 Urquhart’s office. See Attachment 4 to this Complaint. The letter stated the KCSO would issue
10 an order directing PSPMA members not to attend the regular monthly PSPMA meetings during
11 “core working hours.” Cole-Tindal’s letter claimed that KCSO Majors are not bargaining unit
12 members and therefore not entitled to attend union meetings. Contrary to Cole-Tindall’s letter,
13 in January 2017, the Majors in the KCSO had petitioned and joined the PSPMA. The day time
14 union meetings were a long established practice. The County had always accommodated the
15 ability of union members to attend these meetings. PSPMA members had long flexed their
16 exempt work hours around this meeting and their other KCSO duties. The Sheriff and senior
17 command officials had on occasion attended the meetings. Tindall later partially retracted
18 portions of her letter. See Attachment 5 to this Complaint.
19
20

21 1.24 By late April rumors were circulating that Urquhart would have an opponent in
22 his 2017 re-election effort. On or about May 1, 2017, Chief of Staff Barringer tried to schedule
23 a meeting with Major and PSPMA executive board member, Mitzi Johanknecht. Major
24 Johanknecht made it clear she was busy that day and would need to see him some other time. A
25 short time later, Barringer arrived uninvited at Major Johanknecht’s office and closed the door.

1 Barringer attempted to interrogate Major Johnknecht about her intention to run for Sheriff. Major
2 Johanknecht told him the conversation was inappropriate and refused to engage in conversation
3 about campaign activities. When Chief of Staff Barringer asked why the Major would run
4 against Urquhart, Major Johanknecht was on duty at the time in her county office. Barringer's
5 questioning violated King County policies regarding election activity in the workplace.
6

7 1.25 The IIU management had long been assigned solely to members of the Captains
8 bargaining unit. On or about May 1, 2017, Urquhart issued an order assigning work for Law
9 Enforcement Oversight and IIU to a newly promoted Major, Noel Fryberger, transferring the
10 work away from the Captains' bargaining unit. See Attachment 6 to this Complaint. Urquhart
11 took this action unilaterally without consulting or bargaining with the PSPMA. Based on
12 information and belief, the PSPMA believes that Urquhart moved this work to sow dissension
13 between the Captains' bargaining unit and the Majors' bargaining unit.
14

15 1.26 On or about May 10, 2017, PSPMA Board members Mitzi Johanknecht and Scott
16 Somers received Complaint Notification from the KCSO that they were witnesses into an IIU
17 investigation into Urquhart's Chief of Staff Barringer's conduct during the meeting with
18 Johanknecht where Barringer inquired about Johanknecht's election plans while Johanknecht
19 was on duty and in her County office-facility. Neither Johanknecht nor Somers had filed a
20 complaint with the KCSO regarding Barringer's behavior. Based on information and belief, the
21 KCSO investigation of this matter is an improper attempt to intimidate PSPMA officers.
22

23 1.27 On or about May 8, 2017, Noel Fryberger, whom Urquhart had recently promoted,
24 contacted PSPMA Vice-President Marcus Williams. Williams and Fryberger discussed PSPMA
25

1 Board member Scott Somers being interrogated by Chris Barringer about the call Somers placed
2 to King County Council Member Kathy Lambert on behalf of the PSPMA.

3 1.28 Fryberger said to Williams, "Scott Somers better be fucking careful, his days are
4 numbered." Fryberger went on to tell Williams, "You can tell all your little friends at the
5 Captains' Union that if anyone goes all in for Mitzi [Johanknecht], John [Urquhart] will destroy
6 them." Williams asked Fryberger to clarify what he meant. Fryberger responded that "If anyone
7 puts all of their chips on the table for Mitzi, they're done." Based on information and belief,
8 Fryberger was acting at Urquhart's direction in this May 8 meeting with Williams. Also based
9 on information and belief, at Urquhart's direction, Fryberger has regularly passed information
10 from PSPMA meetings to Urquhart and his agents.
11

12 1.29 On or about May 10, 2017, PSPMA President Carl Cole received a Complaint
13 Notification informing him that IIU under Urquhart and Fryberger was investigating him for
14 activities which took place at the April 20, 2017 PSPMA meeting. See Attachment 7 to this
15 Complaint. Specifically, the complaint appeared to allege that President Cole had improperly
16 shared background check information regarding Chief of Staff Barringer during a union meeting.
17

18 1.30 Under standard KCSO protocols, such allegations would be assigned to an outside
19 agency without a conflict of interest to investigate. But on May 24, 2017, the second in command
20 at Urquhart's office, Chief Deputy Jim Pugel personally participated in the IIU interview of
21 President Cole.
22

23 1.31 Prior to the interview, President Cole and PSPMA counsel warned Pugel that
24 ordering President Cole to answer questions about what happened at the union meeting
25 constituted an unfair labor practice. Despite the warning, Pugel declined the invitation to seek

1 legal counsel or postpone the interview. Pugel proceeded to order President Cole to disclose his
2 intent in sharing information with the PSPMA membership about Chief of Staff Barringer during
3 the union meeting. The order was understood by the union and Cole to be one that he had to
4 follow upon threat of termination of employment. Despite the apparent illegality of the order,
5 President Cole complied. He told Chief Deputy Pugel that the information was related to
6 Urquhart's credibility with the PSPMA. This was because the information about Barringer
7 directly contradicted what Urquhart had told President Cole about Barringer's background check.
8

9 1.32 The net effect of Urquhart and his agents harassing, retaliating against, and
10 interfering with PSPMA officers and members has been to interfere with the collective
11 bargaining rights of the PSPMA. In addition, Rodney Chinnick has suffered damages as a result
12 of being discriminated against for filing a grievance related to Urquhart's actions.
13

14 15 **II. LEGAL CLAIMS**

16 2.1 The County's subjecting PSPMA members to surveillance during union meetings
17 constitutes interference in violation of RCW 41.56.140(1).

18 2.2 The County's interrogation of PSPMA members about union meetings and
19 activities, at times under threat of termination, constitutes interference in violation of RCW
20 41.56.140(1).

21 2.3 Hours of work are a mandatory subject of bargaining. By unilaterally altering the
22 ability of PSPMA bargaining unit members to flex their time to attend union meetings, the
23 County unilaterally changed a working condition and refused to bargain in violation of RCW
24 41.56.140(4).
25

1 2.4 By unilaterally altering the ability of PSPMA bargaining unit members to flex
2 their time to attend union meetings during daytime hours, the County interfered with the PSPMA
3 and its members, in violation of RCW 41.56.140(4).

4 2.5 The County's use of the IIU process to intimidate and interrogate PSPMA
5 members is in reprisal for union activities protected by Chapter 41.56 and constitutes interference
6 in violation of RCW 41.56.140(1).

7 2.6 The County's failure to promote Rodney Chinnick is in reprisal for union
8 activities protected by Chapter 41.56, including the filing and processing of grievances, and
9 constitutes interference in violation of RCW 41.56.140(1).

10 2.7 The County's decision to unilaterally implement a watch commander system after
11 specifically telling the PSPMA that it would not be implementing the system constitutes a failure
12 to engage in collective bargaining in violation of RCW 41.56.140(4).

13 2.8 The County's decision to directly communicate a proposed watch commander
14 system after specifically telling the PSPMA that it would not be implementing the system
15 constitutes a failure to engage in collective bargaining in violation of RCW 41.56.140(4).

16 2.9 The assignment and transfer of bargaining unit work is a mandatory subject of
17 bargaining. By unilaterally removing the work from the assignment and transfer of IIU work
18 from the Captain's bargaining unit to the Major's bargaining unit, the County refused to bargain
19 in violation of RCW 41.56.140(4).
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1 **III. RELIEF REQUESTED**

2 For the foregoing violations, the Association seeks the following:

3 3.1 Findings of fact and conclusions of law consistent with the foregoing;

4 3.2 An order requiring KCSO, King County, and Urquhart cease and desist from
5 surveilling PSPMA members and meetings;

6 3.3 An order that the County cease and desist from discriminating and interfering
7 with the collective bargaining rights of the Association and its members;

8 3.4 An order requiring that the County restore Rodney Chinnick to the rank of
9 Captain and award him make-whole relief;

10 3.5 An order directing make whole relief including 12% interest;

11 3.6 An award requiring publication of the findings, including a posting of
12 notices, and publication in the Seattle Times and The Stranger, and a reading at the King
13 County Council next regular meeting;

14 3.7 An order requiring that the Employer pay the Associations' attorney fees and
15 related costs associated with this action;

16 3.8 Any other remedy deemed equitable and just.
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CERTIFICATE OF FILING & SERVICE

I certify that on June 2, 2017, I caused to be filed via electronic mail a true and correct copy of the foregoing *UNFAIR LABOR PRACTICE COMPLAINT* and this *CERTIFICATE OF FILING & SERVICE* in the above-captioned matter with:

PERC
PO Box 40919
Olympia WA 98504-0919
filing@perc.wa.gov

I further certify that on this same date, I caused to be served via electronic mail true and accurate copies of the same above-referenced documents on the party below:

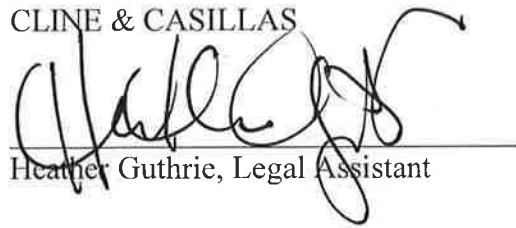
John Urquhart, Sheriff
King County Sheriff
516 Third Avenue
Seattle, WA 98104
John.urquhart@kingcounty.gov

Respondent

I hereby declare under penalty of perjury under the laws of the states of Washington that the foregoing is true and correct.

DATED this 2 day of June, 2017, at Seattle, Washington.

CLINE & CASILLAS



Heather Guthrie, Legal Assistant

ATTACHMENT 1

Subject: GIB 17-019



GENERAL INFORMATION BULLETIN

GIB 17-019

Notices in this GIB:

NOTICE 17-053: Captain's Assessment

NOTICE 17-053: CAPTAIN'S ASSESSMENT

A recent GIB announcement for the upcoming Captain's test included "base pay" calculations for that rank. Unfortunately those amounts are somewhat misleading because they did not incorporate longevity or educational incentive amounts.

Of the current 22 captains working now, the top earner made \$145,208 last year. The lowest amount was \$128,192.

I hope to increase the number of captains in 2017 by two, since we will be starting a Watch Commander system. That number will likely increase by two more within the next two years after that.

Remember the closing date for applications is Monday, January 30th.

John Urquhart

Published January 27, 2017

ATTACHMENT 2



PO Box 66379 Burien, WA 98166

February 21, 2017

Sheriff John Urquhart
516 3rd Ave #W-100
Seattle, WA 98104

Dear Sheriff Urquhart:

I am writing because my Association is deeply troubled by the ongoing allegations of misconduct against you. I cannot, in good conscience, remain silent while public trust and confidence in the King County Sheriff's Office continues to erode with each new, unanswered allegation.

Since your election, the Sheriff's Office has endeavored to become a more accountable and transparent agency; misconduct, where discovered, has been swiftly remedied. Members of the Sheriff's Office routinely endure difficult, thorough examinations of their actions for any and all allegations of misconduct. We are held accountable to this very high standard because it is critical for this agency to retain its legitimacy in the eyes of the community we swore to serve. We do this because it is necessary to sustain public trust and confidence and because it is necessary to eliminate corruption, misconduct and abuse of authority.

How can a Sheriff who insists all members of his agency are held to these high standards forsake this responsibility for himself? How can citizens remain confident in a Sheriff's Office when its highest officer and most visible member abdicates any obligation to this standard of conduct? You have stated, "I am accountable only to the voters of King County." I must respectfully disagree with this statement; your actions reflect directly on each member of this agency. Your conduct creates consequences for every member of this office and has the potential to make the job more difficult and potentially more dangerous.

We share the same desire to have a professional and accountable Sheriff's Office of which we can all be proud. You have over 500 years of police and management experience available to help you in the membership of the PSPMA. I speak for my members when I say that we want to assist you in returning the focus of the Sheriff's Office to issues of public safety. I strongly encourage you to take steps to see these allegations thoroughly and transparently investigated by an independent authority.

I am eager to help clear your name and willingly offer earnest advice and assistance to that end. I am available, at your convenience, to meet on this topic with the goal of working to restore public trust and confidence in the Office of King County Sheriff.

Sincerely,

Carl Cole
President, PSPMA

ATTACHMENT 3

The Honorable Mariane C. Spearman
Date of Hearing: December 9, 2016, 9:00 a.m.

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

AMY SHOBLUM, individually, DIANA
NEFF, individually, and LOU CABALLERO,
individually,

Plaintiffs,

v.

KING COUNTY, a political subdivision of
Washington State

Defendant.

NO. 15-2-09687-7 SEA

DECLARATION OF D.P. VAN
BLARICOM

D. P. VAN BLARICOM, and hereby declares the following under penalty of perjury:

1. My name is D.P. Van Blaricom, and I have been retained as an expert by the Plaintiffs in this matter, Diana Neff, Amy Shoblom and Lou Caballero. I have been asked to provide my opinions on issues related to liability and damages.

2. A true and correct copy of my CV is attached hereto as **Exhibit A**.

3. In brief, my qualifications as an expert in this matter are as follows: I am a graduate of the University of Washington with a Bachelor of Arts degree. I have a Masters in Public Administration from Seattle University. I am a graduate of the FBI's National Academy and Law Enforcement Executive Development programs. I am a 29 year veteran of law enforcement. I was the Chief of Police for the City of Bellevue for 11 years. In my capacity as Chief of Police for the Bellevue Police Department I was instrumental in the hiring of women to serve as patrol officers. In my capacity as the Chief of Police I was responsible for handling all personnel matters, including hiring and firing, disciplinary proceedings, reviewing EEO investigations, and reviewing internal affairs investigations. I have extensive training, education and experience in the field of police administration and police practices. I am the co-author of the Washington State Standards on Internal Discipline

1 of Law Enforcement Agencies. I regularly attend training offered to law enforcement Chiefs
2 and officers to stay current and up to date on recent developments in all aspects of law
enforcement.

3 4. To date, I have reviewed the following materials provided to me: the Third
4 Amended Complaint, and attachments thereto; KCSO General Orders Manual provisions
5 regarding the Internal Investigations Unit, EEO investigations, internal discipline procedures,
6 and other relevant policies; deposition transcripts, and exhibits attached thereto, of Amy
7 Shoblom, Lou Caballero, Diana Neff, Katie Larson, Sheriff Urquhart, Captain Jesse
8 Anderson, Captain DJ Nesel, Sergeant Mike Mullinax, Chris Barringer, Anne Kirkpatrick,
9 and Dan Pingrey. I have reviewed two declarations authored by DJ Nesel regarding the threats
10 that he was subjected to by the Sheriff's attorney, Mark Stockdale. I have reviewed two
pages of notes authored by Captain Jesse Anderson documenting various conversations he
had with Sheriff Urquhart during Anderson's tenure as IIU Commander; Chris Barringer's
first polygraph examination and the memo of Tiffany Atwood that summarizes the results of
that polygraph; KCSO Backgrounding Unit Standard Operating procedures, and IIU Standard
Operating Procedures; RCW 49.60.010-040; RCW 49.60.021;

11 Dewey Burns arbitration testimony
12 Urquhart arbitration testimony
13 Jessie Anderson arbitration testimony
14 Deposition of Diana Neff
15 Deposition of Amy Shoblom
16 Deposition of Lou Caballero
17 Deposition of Dewey Burns
18 KCSO General Orders Manual, current edition
19 Burns IIU investigation summary (author McSwain)
20 9/17/13 Memo from Urquhart to Nesel – KC_AS033465-70
21 Inquiry IIU2104-177 – KC_AS033506-539
22 Preliminary IIU – Received 4/14/15 – KC_AS033140, KC_AS033147
23 Inquiry IIU# IIU2015-129 – KC_AS026341-348
24 10/17/14 Memo from Pugel to Anderson – KC_AS034082-85
25 6/1/14 Memo from Anderson to Urquhart – KC_AS034480-83; KC_AS034465-79
26 Supervisor Action Log IIU# SAL2014-0287 – KC_AS034205-11; KC_AS034227
3/2/15 Memo from Pugel to Anderson – KC_AS029844-845; KC_AS029720-22
Requests for Admission to Defendant King County, and answers thereto
McSwain follow up report – KC_AS010549-601
Jutilla Burns Loudermill Memo
Letter to Burns post Loudermill (indicating termination)
Letter to Caballero post Loudermill (indicating termination)
Letter to Shoblom post Loudermill (indicating termination)
Defendant's response to RFP 3 (two page document)
WPI 33000, 33001, 33005, 33022, 33023, 3300101

5. I have reviewed the declarations of Diana Neff, Lou Caballero, Amy Shoblom,
and Katie Larson, that I understand are to be attached to

1 Plaintiffs' Response in Opposition to Defendant's Motion for Summary Judgment.

2 6. I have reviewed the tort claims filed by Neff on 9/8/14, Shoblom on 10/17/14,
3 and Caballero on 8/6/15, indicating their respective intent to file suit.

4 7. My opinions are offered on a more probable than not basis, and to a reasonable
5 degree of certainty in my stated fields of expertise: Police executive administration and
6 operations, Police Administration and practices, and law enforcement generally. My opinions
7 are based upon the aforementioned materials I have reviewed, as well as my knowledge,
8 training, education and experience in the field of police executive administration and
9 operations, police administration and practices and law enforcement generally.

8 **Loudermill Chief and Loudermill hearings:**

9 8. As the Chief of Police for the City of Bellevue, I was responsible for
10 administering discipline, where appropriate, against members of the department who were
11 found to be in violation of policies, procedures, or laws. Prior to imposing any discipline, I
12 was required to conduct a Loudermill hearing. The purpose, in part, of a Loudermill hearing
13 is to give the accused employee due process. The Loudermill hearing is required so that the
14 accused employee can present their side of the story, present any mitigating factors, or
15 materials. As Loudermill chief, it is the standard of care of a reasonably prudent police
16 executive to listen in an open, fair and impartial manner to the evidence presented by the
17 accused employee, and to review any investigation file into the alleged acts of misconduct.

15 8a. It is a violation of the standard of care for a reasonably prudent police
16 executive: to make up his/her mind prior to the Loudermill hearing; to make public statements
17 about a pending investigation into alleged acts of misconduct by an employee prior to
18 imposing discipline; to involve himself/herself in the investigation into the alleged acts of
19 misconduct; to solicit or encourage an individual to file a complaint against an employee; and
20 to use the internal investigations process as a means to target or retaliate against an employee.

19 8b. It is highly improper, and a violation of the standard of care for a reasonably
20 prudent police executive to engage in any of the foregoing acts because such actions: violate
21 the accused employee's right to due process; violate the employees right to a fair hearing;
22 give rise to the appearance of, and the opportunity for, actual abuse/misuse of the internal
23 investigations process by the police executive; subject the police executive to claims that
24 he/she is using the internal investigations process to retaliate against accused employees.

23 8c. The Loudermill hearing is important. As the Loudermill chief, I could not go
24 into the hearing with my mind made up about the outcome of the hearing. As the Loudermill
25 chief, I certainly could not have participated in the investigation into the accused employee
26 by: contacting the investigator, or contacting the complaining witness, or receiving updates on
the incomplete investigation. In fact, to do any of these things would be, in my professional
experience, training and opinion, a violation of an accused employee's due process rights, and

1 thereby result in unfairness, bias, and give rise to real claims of retaliation.

2 **Sheriff Urquhart abuses IIU investigation process to retaliate against employees:**

3 9. It is my opinion, based upon my training, experience and education on the field
4 of police executive administration and police practices, and based upon my review of the
5 materials provided to me, that Sheriff Urquhart more probably than not used the IIU process
6 to retaliate against plaintiff employees who came forward with complaints about
7 mistreatment, and in so doing would have violated the standard of care of a reasonably
8 prudent police executive, and would have violated the standard of care for reasonably prudent
9 police administration and practices. My opinion is based upon the following, and the excerpts
10 of testimony attached hereto as **Exhibit 2 to Kays Dec.**

11 9a. Captain Jesse Anderson testified that as Commander of IIU, he witnessed at
12 least five different instances in which Urquhart became so involved in a pending IIU
13 investigation into an employee that Sheriff Urquhart was shaping the outcome of the case, and
14 provided examples. Several of the examples given by Captain Anderson shared common
15 elements – that Sheriff Urquhart held a grudge against the accused employee or that the
16 accused employee had exposed a problem within the KCSO – and the Sheriff was using the
17 IIU investigation to get back at the employee, to retaliate or settle a score. It is my opinion
18 that such actions by the Sheriff would violate the standard of care of a reasonably prudent
19 police executive, and indicate a retaliatory motive and “score settling” on the part of the
20 Sheriff.

21 9b. Captain Anderson and Captain Nesel stated that Urquhart ordered them to take
22 certain actions, or not take certain actions, in IIU investigations. Such actions (orders by the
23 Sheriff cannot be ignored by subordinates) by a police executive undermines the integrity of
24 an investigation, and gives rise to claims of misuse of internal investigations to retaliate
25 against employees. These actions by the Sheriff would violate the standard of care of a
26 reasonably prudent police executive.

9c. Captain Anderson and Captain Nesel both testified that Urquhart had weekly
meetings requesting updates on particular IIU investigations. In my training and experience
as police executive, it is my opinion that this conduct by the Sheriff would violate the
standard of care of a reasonably prudent police executive and would violate basic principles
of fairness for the accused employee who must be afforded a fair and impartial Loudermill
hearing. The Loudermill chief cannot be fair and neutral if he/she is involved in, and receiving
updates for input on incomplete investigations.

9d. Urquhart allowed for a civilian employee, Chris Barringer, to have access to
pending IIU investigations, and to have input on ongoing investigations. Urquhart allowed a
civilian employee to review evidence on pending IIU investigations and to file complaints
against an employee (Shoblom). In my opinion such actions by Urquhart would violate the
standard of care for a reasonably prudent police executive, and the standard of care for
reasonably prudent police administration. To permit a civilian to have access to pending
internal investigations and to cull through evidence looking

1 for violations of policy by employees undermines the integrity of the IIU process, and gives
2 rise to claims of retaliation. In this case, Barringer reviewed evidence concerning Shoblom's
3 sexual harassment complaint, and lodged an IIU complaint against Shoblom. It is my opinion
4 that such actions by Barringer were highly improper, would violate the standard of care for a
reasonably prudent police executive and were more probably than not acts of retaliation
against Shoblom for coming forward with a complaint of sexual harassment.

5 9e. Sheriff Urquhart more probably than not took actions to intimidate Detective
6 Sergeant Katie Larson while she was investigating an IIU case. Captain Nesel testified that
7 Urquhart would scream and yell at IIU investigators. Captain Nesel testified that Urquhart had
8 to be repeatedly asked to stay out of IIU investigations but he ignored those requests. Captain
9 Nesel and Sgt. Larson testified that Urquhart referred to IIU as "his rat squad." It is my
10 opinion that such conduct by the Sheriff directed at IIU investigators would be a violation of
the standard of care for a reasonably prudent police executive, and would violate the standard
of care for reasonably prudent police practices and administration. The aforementioned
conduct of the Sheriff would be an abuse of the internal investigations process.

11 9f. Urquhart ordered Captain Nesel to not investigate Major Sean Ledford for
12 making false statements/telling lies to IIU investigators. Captain Nesel was required to follow
13 that order, and Major Ledford was not investigated nor was he fired for telling lies to IIU
14 investigators. It is my opinion that the conduct of Sheriff Urquhart in ordering IIU not to
15 investigate Major Ledford making false statements to IIU would be a violation of the standard
16 of care for a reasonably prudent police executive. This "order" by the Sheriff would be
improper because it evidences favoritism to Major Ledford, and a discriminatory application
of the rules and policies of the department. The conclusion would be that Urquhart's friends
do not get investigated but those he holds a grudge against, or wants to target, do get
investigated.

17 9g. Major Ledford and Captain Nesel testified that Sheriff Urquhart was aware of
18 an "off the books" 7-month long investigation into Sgt. Diana Neff. Major Ledford
19 supervised this "off the books" investigation, with Urquhart's approval. The "off the books"
20 investigation into Sgt. Neff was commenced after she reported to Human Resources that
21 Ledford had engaged in discrimination against Neff and other women. It is my opinion that
22 the "off the books" investigation into Sgt. Neff, supervised by the very person she accused of
23 discriminatory conduct, would be an act of retaliation for Neff lodging a complaint against
24 him. It is my opinion that the "off the books" investigation into Neff, which was condoned by
25 the Sheriff, would be a violation of the standard of care for a reasonably prudent police
executive. There is no reason for an "off the books" investigation. A prudent police
executive would have never approved of the "off the books" investigation because it violates
basic police practices, and creates the opportunity for command staff to retaliate against
subordinates. It also violates the collective bargaining rights of the individual being
investigated "off the books."

26 9h. At the conclusion of the "off the books" investigation, Urquhart and Nesel
were informed of the results, and Urquhart reportedly stated "oh good we've got something
on her [Neff]." Dec. Neff. A formal IIU investigation was

1 then commenced into Sgt. Neff, with the complainant being the Sheriff. It is my opinion, that
2 this statement by Sheriff Urquhart is evidence that he was using the "off the books"
3 investigation and the IIU investigation into Neff to more probably than not retaliate against
4 her for bringing the discrimination complaint against Ledford. It is my opinion that the
5 Sheriff's conduct in bringing a complaint against Sgt. Neff would be a violation of the
6 standard of care for a reasonably prudent police executive. There is no fair way for a police
7 executive to both be the complainant and then later the Loudermill chief for the accused
8 employee.

9 9i. Captain Nesel was threatened by Sheriff's attorney, Mark Stockdale, if Nesel
10 were to testify truthfully concerning statements made by the Sheriff during the time Nesel was
11 the commander of IIU. Captain Nesel was threatened with termination if he testified
12 truthfully. Captain Nesel testified that he feared retaliation from the Sheriff for testifying
13 truthfully in this case. Captain Anderson fears retaliation from the department for providing
14 truthful testimony concerning his time as Captain of IIU. It is my opinion that, if the Sheriff
15 uses fear and intimidation and abuse of the IIU investigation unit as a means to intimidate,
16 bully, and retaliate against individuals, those actions would be a violation of the standard of
17 care for a reasonably prudent police executive, and of police administration.

18 9j. Sheriff Urquhart ordered Captain Anderson not to document or investigate a rape
19 allegation made against Urquhart by a former employee. Sheriff Urquhart ordered Captain
20 Anderson not to investigate or document a complaint that Urquhart engaged in sexual
21 harassment of a subordinate. Sgt. Larson and Captain Anderson testified that Sheriff
22 Urquhart stated the "rules don't apply to me" as it relates to the policies and procedures of the
23 KCSO. It is my opinion that the actions of Sheriff Urquhart in ordering that IIU not
24 document or investigate a rape allegation made against him and not document or investigate
25 the sexual harassment allegation made against him, would violate the standard of care for a
26 reasonably prudent police executive. The Sheriff's statements that the "rules don't apply to
27 him" would violate the same standard of care. A police executive cannot hold himself above
28 the law or the policies and procedures of the department. The Sheriff's actions in telling IIU
29 Captain Anderson and Sgt. Mullinax to not document and to not investigate a rape allegation
30 lodged against him appears to be an effort to circumvent Washington State's Public
31 Disclosure law, in that, if the allegation is not documented and not investigated, it can't be
32 subject to public disclosure. Public officials in Washington State have an obligation to
33 comply with and not circumvent public disclosure laws.

34 9k. The Sheriff was not investigated when serious allegations of sexual harassment
35 and criminal sexual assault were made against him. Major Ledford was not investigated for
36 lying to IIU. It is a violation of the standard of care for a reasonably prudent police executive
37 to apply the rules of the department in a discriminatory manner.

38 10. Sgt. Neff was subjected to an "off the books" investigation and an IIU
39 investigation after she complained about Major Ledford's discriminatory behaviors. It is my
40 opinion that the Sheriff's knowledge of the "off the books" investigation, his reported remark
41 of, "Oh good we've got something on her [Neff]", and his personal filing of a formal IIU
42 complaint against Neff were more probably than not acts of

1 retaliation by the Sheriff and would violate the standard of care for a reasonably prudent
2 police executive.

3 11. Amy Shoblom (a female) was subjected to an IIU investigation based upon the
4 complaint of the Sheriff's Chief of Staff, Barringer, after she had reported sexual harassment.
5 Amy Shoblom was subjected to yet another IIU investigation after the Sheriff contacted the
6 complaining witness. The Sheriff ordered IIU to not investigate Major Sean Ledford (a male)
7 for lying in an IIU investigation, and yet fired Shoblom for allegedly doing the same thing. It
8 is my opinion that the actions of the Chief of Staff Barringer and the Sheriff were more
9 probably than not done in retaliation for Shoblom reporting sexual harassment and would
10 violate the standard of care of a reasonably prudent police executive.

11 12. Lou Caballero was subjected to repeated IIU investigations after he reported
12 sexual harassment complaint on behalf of Amy Shoblom. Caballero was subjected to an IIU
13 investigation after the Sheriff contacted the complaining witness. The Sheriff ordered IIU to
14 NOT investigate Major Sean Ledford for lying in an IIU investigation, and yet fired Caballero
15 for allegedly doing the same thing. It is my opinion that the actions of the Sheriff were more
16 probably than not done in retaliation for Caballero reporting sexual harassment and would
17 violate the standard of care of a reasonably prudent police executive.

18 13. Based upon my review of the aforementioned evidence, it is my opinion that
19 Sheriff Urquhart has more probably than not repeatedly violated the standard of care for a
20 reasonably prudent police executive, if he uses and abuses the IIU investigation process as a
21 means to retaliate against employees who have reported violations of the law (sexual
22 harassment, discrimination, retaliation).

23 **Sheriff Urquhart's statements about women:**

24 14. I have reviewed the testimony of Sgt. Katie Larson, and Captain Nesel, as well
25 as the summary of the investigation conducted into then Sergeant Urquhart for creating a
26 hostile work environment for women. Captain Nesel testified that it was common place for
the Sheriff to make disparaging remarks about women on a regular basis and Nesel said it
happened so often he lost count of the times. Sgt. Larson testified that the Sheriff referred to
former Sheriff Sue Rahr as a "bitch", and the woman who counseled him following the hostile
work environment allegation as a "lazy fat slob." The Sheriff admitted that he referred to the
three female SAU detectives (who brought a successful lawsuit against the department
alleging sexual harassment, discrimination and retaliation) as "those women." The Sheriff
reduced the recommendation of eight days suspension and only imposed one day off without
pay for the primary sexual harasser of the three SAU detectives. The Sheriff did not terminate
Sgt. Burns for sexual harassment of Amy Shoblom. See **Exhibit B** attached hereto.

14a. It is my opinion that the conduct of Sheriff Urquhart in making crude,
disparaging and sexist remarks about women in front of his employees would be a violation
of the standard of care for a reasonably prudent police executive. It is also a violation of the
standard of care for reasonably prudent police

1 administration. I was the first Chief of Police in the State of Washington to hire women as
2 police officers. There is absolutely no place for the language the Sheriff has reportedly used
3 to describe and disparage women. It is my opinion that an open practice of disparaging
4 women, over a period of decades, can only create a culture of disrespect and hostility towards
5 women in the department.

6 I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF
7 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

8 Signed this 27th day of November, 2016, at Seattle, Washington.

9 By 
10 D. P. VAN BLARICOM

EXHIBIT A

EXHIBIT "A"

D. P. VAN BLARICOM, INC.

MPA, FBI-NA, CLS, CHIEF OF POLICE (RET.)

POLICE PRACTICES EXPERT

835 - 91ST LANE N.E.

BELLEVUE, WASHINGTON 98004-4811

(425) 453-0082 FAX (425) 453-3263 E-Mail dvbinc@aol.com

SUMMARY of QUALIFICATIONS

- A. Retained as a police practices expert by both plaintiffs and defendants in over **1,900+** lawsuits alleging police liability throughout the United States: AK, AL, AZ, CA, CO, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TX, UT, VA, WA, WI and WY.
- B. Testified in several hundred depositions, federal court trials, state court trials and arbitrations.
- C. Prevailing parties' police practices expert in appellate decisions from the United States 1st, 6th, 7th, 8th, 9th and 10th Circuits; State Supreme Courts of AK, AZ, CO, ID, MT, MS, OR and WA; Appeals Courts of AZ, CA, CO, FL, GA, NM and WA – **total of 69**.
- D. Recognized as an expert on the following issues and **all of the cited appellate court decisions were decided in favor of my client:**
- POLICE ADMINISTRATION, POLICY, PRACTICES, PROCEDURES and STANDARDS of CARE** (9th Cir. Gulliford v. Pierce County 1998, 6th Cir. Carter v. City of Detroit 2005, 9th Cir. Hall v. Hughes 2007, 7th Cir. Montano v. City of Chicago 2008, 9th Cir. Tensley v. City of Spokane 2008, 9th Cir. Howell v. Yavapai County Attorney 2008, 9th Cir. DeLew v. Adamson 2008, 9th Cir. Tennison v. City & County of San Francisco 2009, 9th Cir. Rosenbaum v. Washoe County 2011, 9th Cir. Hartrim v. City of Las Vegas 2015, 9th Cir. Bradford v. City of Yakima 2015);
 - POLICE INTERNAL INVESTIGATION and DISCIPLINE;**
 - POLICE USE of FORCE – Including 400+ Officer-Involved Shootings and 70+ TASER Deployments** (quoted in *Deadly Force: What We Know* 1992, 9th Cir. Davis v. City of Ellensburg 1989, 9th Cir. Reed v. Hoy 1989, 9th Cir. Davis v. Mason County 1991, a consultant to federal prosecution task force in United States v. Koon, et al. 1993, Rodney King v. City of Los Angeles 1994, 1st Cir. Roy v. City of Lewiston 1994, ID S.Ct. Kessler v. Payette County and State of ID 1997, WA App. Lee v. City of Spokane 2000, 9th Cir. & US S.Ct. Haugen v. City of Puyallup 2003/2004, 9th Cir. Wilkins v. City of Oakland 2003, 9th Cir. Marsall v. City of Portland 2004, 8th Cir. Craighead v. City of St. Paul 2005, 9th Cir. Davis v. City of Las Vegas 2007, 9th Cir./US S.Ct./9th Cir. Lehman v. City of Reno 2007/2009, 9th Cir. Kiles v. City of North Las Vegas 2008, 9th Cir. Tubar v. City of Kent 2008, AZ App. Celaya v. City of Phoenix 2008, 10th Cir. Rhoads v. Big Horn County 2009, Bryan v. City of Las Vegas 2009, 6th Cir. Jefferson v. City of Flint 2010, 6th Cir. Bletz v. Ionia County 2011, AK S.Ct. Russell v. City of Kotzebue 2011, 9th Cir. Glenn v.

Washington County 2011, 6th Cir. *Haley v. City of Elsmere* 2011, 9th Cir. *Kita v. City of Seattle* 2012, 9th Cir. & US S.Ct. denied cert. *Rutherford v. City of Seattle* 2013, 6th Cir. *Jones v. Sandusky County* 2013, 6th Cir. *Peatross v. City of Memphis* 2016, 9th Cir. *Petersen v. Lewis County* 2016);

4. **CONTROL of POLICE VEHICULAR PURSUIT and EMERGENCY DRIVING – Including 250+ Accidents** (my policy was recommended by the Public Risk and Insurance Management Association of Washington, D.C. as being among the 4 best in the United States 1984, quoted by 2 CA App. *Payne v. City of Perris* 1993 and *Berman v. City of Daly City* 1993, OR S.Ct. *Lowrimore v. Marion County* 1990, MS S.Ct. *Mosby v. Jeffries* 1998, CO S.Ct. *Tidwell v. City & County of Denver* 2003, WA App. *Brooks v. City of Washougal* 2007, CO App. *Meyer v. City of Evans* 2008 and GA App. *McCobb v. Clayton County* 2011);
 5. **SPECIAL DUTIES to PROTECT and 911 RESPONSES** (WA S.Ct. *Bailey v. Town of Forks* 1987, 9th Cir. *Wood v. Ostrander* 1988, WA S.Ct. *Roy v. City of Everett* 1992, AZ S.Ct. *Hutcherson v. City of Phoenix* 1998, MT S.Ct. *Nelson v. Driscoll* 1999, 9th Cir. *Kennedy v. City of Ridgefield* 2005, 9th Cir. *Tamas v. WA DSHS* 2010, AK S.Ct. *City of Hooper Bay v. Judy* 2015).
 6. **DOMESTIC VIOLENCE** (quoted by the National Law Enforcement Policy Center in their model policy 1991, 9th Cir. *Beier v. City of Lewiston* 2004, WA App. *Osborne v. Seymour* 2011, WA S.Ct. *Washburn v. City of Federal Way* 2013);
 7. **POLICE RESPONSE to the MENTALLY ILL** (listed in the FBI Academy's Subject Bibliography, 9th Cir. *Gibson v. Washoe County* 2002, US MD PA *Schorr v. Borough of Lemoyne* 2003, 9th Cir. *Herrera v. City of Las Vegas* 2004);
 8. **EXCITED DELIRIUM and RESTRAINT ASPHYXIA – Including 50+ Deaths** (10th Cir. *Cruz v. City of Laramie* 2001, AZ App. *Oscielowski v. City of Benson* 2003, 9th Cir. *Arce v. City of North Las Vegas* 2008 and 10th Cir. *Weigle v. State of WY* 2008, NM App. *Bustos v. City of Clovis* 2015);
 9. **AMERICANS with DISABILITIES ACT** (10th Cir. *Davoll v. City of Denver* 1996, 9th Cir. *Cripe v. City of San Jose* 2001, US PA *Schorr v. Borough of Lemoyne* 2003);
 10. **DISCRIMINATORY ENFORCEMENT or EMPLOYMENT PRACTICES** (6th Cir. *Muniz-Muniz v. US Border Patrol* 2013).
- D. Served 29 years in municipal policing with the last 11 as Chief of Police (until retirement and election to the City Council) in Bellevue, Washington - the State's then fourth largest and fastest growing city.
- E. Directed development of a progressive police department and created several model programs, including: control of vehicular pursuits, alternatives to deadly force, fully integrated emergency response team operations, domestic violence reduction, affirmative action employment of minorities and women, comprehensive crime prevention, lateral recruitment of experienced officers, police canine operations, multi-city narcotics unit and others. Additionally, co-authored the Washington State Standards on Internal Discipline of Law Enforcement agencies.
- F. Served on many professional commissions and committees, including: Washington Criminal Justice Education & Training Center Steering Committee, Bellevue Community College Local Advisory Council and Chairman Law Enforcement Program Advisory Board, Washington Attorney General's Committee on Security and Privacy, consultant to U.S. Department of Justice

Community Relations Service, consultant to the National Consultation on Safety and Force, intern with 94th Congress, Governor's appointee to Community Task Force for Corrections Development, Washington State Council on Crime & Delinquency's Adult Criminal Policy Committee and Ad Hoc Committee on Board of Prison Terms/Paroles, Youth Eastside Services Board of Trustees, Eastside Community Mental Health Center Advisory Board, King County Executive's appointee to E911 Task Force, U.S. Attorney's Law Enforcement Coordinating Committee, Governor's appointee to Select Committee for Police/Fire Pension Review, IACP's Education & Training Committee, IACP's Organized Crime Committee, Assessor Team Leader for 1 of 5 Pilot Projects of the Commission on Accreditation for Law Enforcement Agencies, Governor's appointee to the Emergency Commission on Prison Overcrowding, IACP book reviewer, Suburban Cities Association's Jail Advisory Committee, Governor's Advisory Group on Personal Harassment, Portland, Oregon Chief's Committee on Police Use of Force. Assisted the appointing authorities at various times in selecting Chiefs of Police for Cities of Longview, Everett, Bellingham, Richland, Bremerton, Kirkland, Redmond, Clyde Hill, Kent (1991), Bellevue (1996) a Sheriff of King County and the Security Administrator of Seattle City Light (all in the State of Washington), King County Regional Justice Center Citizens Site Advisory Committee, Solutions To Tragedies of Police Pursuits Advisory Board, Superintendent of Public Instruction's Washington State Safe Schools Advisory Committee, King County Civil Rights Commission, Bellevue College Criminal Justice Program Advisory Board, Voices Insisting on Pursuit Safety.

- G. Hold a Secret security clearance from the U. S. Government.
- H. Maintain an extensive and current library of standards, policies, procedures, references, and information on other experts, with subscription services to update professional/legal developments in my areas of expertise.

EDUCATION and CERTIFICATION

University of Washington - Bachelor of Arts degree with magna cum laude honors 1973
 Seattle University - Master of Public Administration degree 1976
 Graduate of the FBI's National Academy and Law Enforcement Executive Development programs
University of Washington – Certificate in Forensics 2000
Americans for Effective Law Enforcement – Certified Litigation Specialist (Police Practices) 2003/2008/2011/2015

CONTINUING TRAINING

Police Civil Liability AELE 1987, Deadly Force and the Police Officer NWU 1987, Police Liability for Policies and Practices AELE 1988, PR-24 Side Handle Baton BPD 1988, Police Civil Liability AELE 1989, Sexual Harassment and the Consequences FS 1989, Wrongful Discharge RIMS 1989, Police Practices and Use of Expert Witnesses AELE 1989, Expert Witnesses, Litigation Consultants and Attorneys NFS 1989, Police Discipline and Labor Problems AELE 1990, Assessment Center Selection Process HRA 1991, Rodney King Incident and Policing SWLEI 1992, Role of Expert Witnesses in the 1990's SEAK 1992, Critical Liability Issues AELE 1992, Pursuit Driving and Managing Use of Force ILM 1992, AFIS Live ID HP 1993, Police/Medical Investigation of Death IACP 1993, Medical Records Review for the Legal Professional PES 1994, Developing Policies,

Procedures and Rules NLEPC 1994, Civil Rights Trial Advocacy ATLA 1994, Family Violence and Police Policy SLEI 1995, Investigation of Excessive Force Incidents IACP 1995, Police Civil Liability and Defense of Misconduct Complaints AELE 1996, Use of Force and Pursuit Driving Policies SLEI 1996, Critical Incident Dispatching NWU 1996, Police Officer Survival Tactics NWU 1997, Police Civil Liability AELE 1998, Criminal Justice WSBA 1999, Critical Incident Trauma and Legal Survival CP 1999, Traffic Stops and Racial Profiling PI 2001, Racial Profiling NWU 2001, Police Liability LES 2002, Cap-Stun ZARC 2002, Masters in Trial ABOTA 2002, Discipline and Internal Investigations AELE 2003, Critical Incident Response Management and Liability AELE 2003, Police Civil Liability AELE 2003, Police-Involved Shooting Reconstruction NWU 2004, Police Liability AELE 2005, Shooting Reconstruction AAFS 2005, Police Misconduct Litigation SULLS 2005, Use of Force TASER 2006, Lethal and Less-Lethal Force AELE 2006, TASER AAFS 2006, Excited Delirium SPD 2007, Winning Extreme Encounters from Street to Court FSRC 2007, Sudden Death, Excited Delirium & In-Custody Death IPICD 2007, Discipline & Internal Investigation AELE 2008, Police Liability LES 2009, Legal, Psychological and Biomechanical Aspects of Officer-Involved Lethal and Less-Lethal Force AELE 2009, Use of Force / Domestic Violence / Community Policing / Emotional Intelligence IACP-PCN 2009, Gunshot Residue / Gunshot Wounds AAFS 2010, Active Shooter / Bloodborne Pathogens / Applied Ethics / Ethnic and Sexual Harassment IACP-PCN 2010, Arrest-Related Excited Delirium Sudden Death IPICD 2010, Discipline and Internal Investigations AELE 2010, ECD Forensic Analyst IPICD 2010, Police Liability LES 2011, Police Pursuit Policy Instructor IADLEST/ALERT 2011, Police De-Escalation Strategies for Veterans in Crisis FBINA 2012, Federal Training Resources IADLEST 2012, Brady v. Maryland and Giglio v. USA FLETC 2012, Pursuit Policy Course IADLEST/NHTSA 2012, How to be a Good Expert Witness NIJ 2012, Dealing with Persons with Mental Illness NWUCPS 2012, Active Shooter: Issues and Updates NTOA 2013, Management, Oversight and Monitoring of Use of Force (emphasis on TASER) AELE 2013, Less-Lethal: Current Trends and Initiatives NTOA 2013, Negotiations: Understanding the Incident Assessment Process NTOA 2013, Connecting: CIT and SWAT Crisis Negotiation CIT 2013, Searches Incident to Arrest and Cell Phones FLETC 2014, Use of Force (Legal Aspects) FLETC 2014, Developing Legally Defensible Policies for Effective and Constitutional Policing / Use of Force / Internal Affairs and Investigating Misconduct / Force of Weapons – Parts 1 and 2 DLG 2014, Shooting Reconstruction: The 4 Elements of Trajectory RTI 2014, Meaning and History of the U.S. Constitution HC 2014, Lethal and Less-Lethal Force AELE 2014, Death Investigation UND/NIJ 2015, 21st Century Policing IACP 2015, Discipline and Internal Investigation AELE 2015, Agitated Chaotic Events and Arrest-Related Deaths IPICD 2015, Recognizing Agonal Breathing Instructor IPICD 2015, Total Appendage Restraint Instructor IPICD 2015, Brady v. Maryland Disclosure JC 2016.

TEACHING and TRAINING EXPERIENCE

Washington State Vocational Education Certificate for teaching Police Supervision, taught law enforcement courses at the Bellevue Police Academy, Washington Criminal Justice Education and Training Center, Bellevue Community College, Seattle University, Northwestern University's Traffic Institute and International City Management Association's Training Institute. Lectured on police-related issues before the University of Washington School of Law and Graduate School of Public Affairs, Simon Fraser University, American Civil Liberties Union, Washington State Bar, Seattle-King County Bar, Washington State Court Administrators, Washington Association of Legal Secretaries, American G. I. Forum, United States Justice Department Community Relations Service, National Institute of Law Enforcement and Criminal Justice, U. S. Attorney General's Task Force on Family

Violence, Montana Department of Social and Rehabilitation Services, Washington Advisory Committee to the U.S. Commission on Civil Rights, American Society of Criminology, debated California Highway Patrol Commissioner on police pursuit before National Association of Police Planners and International Association of Police Planning and Research Officers in 1990, Labor Relations Information System, City of Bellevue's Management Certificate Training Program, lectured for Association of Trial Lawyers of America's Civil Rights Section and the National College of Advocacy on excessive force from the expert's perspective in 1994 and domestic violence litigation liability arising from failure of prevention and response in 1995, lectured on loss prevention civil liability to Nordstrom Washington/Alaska Region in 1997, demonstrated expert witness testimony to the American Board of Trial Advocates in 2002. Additionally, served on the Law Enforcement Education Advisory Committee to the Washington State Board for Community College Education in developing their statewide curriculum, achieved the first college accreditation of a Basic Law Enforcement Academy in the State of Washington, testified before the California State Senate on police vehicular pursuit in 2005, testified before the City of Oakland Citizens' Police Review Board on police vehicular pursuit policy in 2007, lectured at the Henry C. Lee Institute of Forensic Science on Investigation of Officer-Involved Shootings in 2010, lectured at the Crisis Intervention Team International Conference of Prevention of Police-Involved Deaths of the Mentally Ill in 2013.

PUBLICATIONS

"Recruitment and Retention of Minority Race Persons as Police Officers" in September 1976 issue of The Police Chief magazine, "An Overview of Police Service Today" in the April 18th and May 2nd, 1978 issues of Law Enforcement News, "Kids Meet Cops Through Basketball Trading Card Program" in the July 9th, 1979 issue of Law Enforcement News, "A Police Chief's View of Deadly Force" in the National Institute of Law Enforcement & Criminal Justice January 1979 booklet on Police Use of Deadly Force, "Career Development: The Next Step to Police Professionalism" in the November 1979 issue of The Police Chief magazine, "Crime Prevention Cuts Insurance Cost" in the August 1980 issue of Center City Report, "A Sensible Alternative to Those High-Speed Chases" in the November 25, 1980 issue of The Seattle Times, "Chiefs Should Chase Sane Pursuit Driving Guidelines" in the December 22, 1980 issue of Law Enforcement News, "Commercial Crime Prevention Can Earn Discounts" in the February 1981 issue of the FBI Law Enforcement Bulletin, "Enforcing Malicious Harassment Laws" in the January 1983 edition of Washington Council on Crime and Delinquency News, "Reducing Crime, Traffic Accidents - Bellevue Shows It Can Be Done" in the May 10, 1983 issue of The Seattle Times and the June 27, 1983 issue of Law Enforcement News, "Carrying A Gun - It Depends On You" in the February 3, 1985 issue of the Journal-American, "When To Use Deadly Force" in the Winter 1985 issue of the Washington Law Enforcement Executive Journal, "Domestic Violence - A New Approach to an Old Problem" in the June 1985 issue of The Police Chief magazine, "It's Time for Police To Re-Examine Their Role In Society" in the October 1, 1989 issue of The Seattle Times, "Shaking The Pillars of Police Tradition" in the October 31, 1989 issue of Law Enforcement News, "Training-The First Hundred Years" in Law Enforcement In Washington State: The First Hundred Years 1889-1989, "K-9 Use of Force: A Biting Example of Questionable Policy" in the July/August 1992 issue of Law Enforcement News, "Police Pursuit: Uncontrolled Deadly Force" in the February 28, 1993 issue of Law Enforcement News, Bulletin Alert on a "Hair-raising Comb" in the June 1994 issue of the FBI Law Enforcement Bulletin, "Excessive Force - The Expert's Perspective" in the Association of Trial Lawyers of America July 1994 Annual Convention Reference Materials Volume I, "Domestic Violence Litigation: Liability Arising from Failure

of Prevention and Response" in the Association of Trial Lawyers of America July 1995 Annual Convention Reference Materials Volume I, "Shades of Blue: What White Police Officers Can - and Must - Learn from Minority Officers" in the January/February 1996 of the Police Executive Research Forum's Subject to Debate, "Doing Something About Excessive Force" in the January 15, 1998 issue of Law Enforcement News (republished by San Diego State University 2003), "The Consistent Law Enforcement Expert" in the November/December 1998 issue of The Forensic Examiner, "To Pursue or Not to Pursue: THAT is the Question" in the November 1998 issue of Police, "Handling the Mentally Ill" in the March 2000 issue of Police, "Building a Bridge" in the September 30, 2000 (25th Anniversary) issue of Law Enforcement News, "The Media: Enemies of Allies?" in the April 2001 issue of The Police Chief, "Control of Police Vehicular Pursuit" in the 2004 (1) issue of the Law Enforcement Executive Forum, "Preventing Officer-Involved Deaths of the Mentally Ill" in the Third Quarter 2004 issue of The Law Enforcement Trainer, "Suicide-by-Cop" in the September-October 2006 issue of American Cop, "Police Response to Excited Delirium" in the January 2008 issue of the IADLEST Newsletter (republished by Americans for Effective Law Enforcement 2008), "Policing in the 1950's" in the January-February 2009 issue of National Academy Associate, "Investigation of Officer-Involved Shootings" in the 19th Annual Markle Symposium program guide September 27-28, 2010 program, **Co-Author (with Dr. Cyril Wecht, Dr. Henry Lee and Chief Mel Tucker) of INVESTIGATION and PREVENTION of OFFICER-INVOLVED DEATHS © 2011 CRC Press**, "Implementing Change" in Fall 2012 issue of Seattle University Magazine, "Letter of the Month" in December 2015 issue of Leatherneck, "Bellevue Sniper" in Summer 2016 issue Off the Cuff.

NATIONAL TELEVISION and RADIO APPEARANCES

NBC Nightly News special report on the dangers of police vehicular pursuit.

NBC Today Show:

1. Personal protection against criminal attack;
2. Misuse of pepper spray to punish;
3. Police use of force (opposite Rev. Al Sharpton),
4. Officer-involved shooting.

NBC "*You Be The Judge*" on the dangers of police vehicular pursuit.

NPR "*Cops and the Mentally Ill*".

CKNW World Today:

1. TASER;
2. Restraint asphyxia.

KOGO Clear Channel on police vehicular pursuit.

KHOU-TV (CBS) on police vehicular pursuit.

QUOTED in MAJOR NEWSPAPERS

USA Today, Wall Street Journal, The New York Times, The Baltimore Sun, Los Angeles Times, San Francisco Chronicle, The Seattle Times, The Oregonian, Toronto Sun, The Virgin Island Daily News ("Deadly Force" won ABA's 2004 Silver Gavel Award), The Tennessean, Christian Science Monitor, Milwaukee Journal Sentinel, Vancouver (B.C.) Sun, Ottawa Citizen., Louisville Courier-Journal, Chicago Tribune.

PROFESSIONAL MEMBERSHIPS

American Academy of Forensic Sciences (AAFS), International Association of Chiefs of Police (IACP) - Life Member, Police Executive Research Forum (PERF), Americans for Effective Law Enforcement (AELE), Association of Certified Litigation Specialists (ACLS), FBI National Academy Associates, Washington Association of Sheriffs & Police Chiefs (WASPC) - Life Member, International Association of Directors of Law Enforcement Standards and Training (IADLEST), National Tactical Officers Association (NTOA), Association of Professional Law Enforcement Emergency Vehicle Response Trainers International (ALERT), CIT (Crisis Intervention Team) International.

AWARDS

USMC Expert Rifleman, FBI "Possible Club" (of the 19,130 police officers who attended the FBI National Academy during the 50 years from when it started to the year of my retirement, I was 1 of only 165/.0086% who fired a perfect score on the PPC or TRC), Appreciation from the Drug Enforcement Administration, Outstanding Community Service from Bellevue Jaycees, Human Rights (Implementing Law and Order with Justice) from Baha'i Communities of Bellevue and Eastside, Youth Service from the Chief Seattle Council of the Boy Scouts of America, Program Innovation from the King County Domestic Violence Coalition, Support and Service from Bellevue Cadet Squadron Auxiliary USAF, Law Enforcement Appreciation from the Puget Sound Chapter of the American Society for Industrial Security (presented by the Governor of the State of Washington), Outstanding Volunteer Service from the Salvation Army, Outstanding Service as a Public Official Citizenship Award from the Bellevue Kiwanis Club, Appreciation from the United States Secret Service, **Award for Public Service from The U.S. Department of Justice**, Recognition for 30 Years of Public Service from the City of Bellevue, Recognition and Commendation Resolution by the Municipality of Metropolitan Seattle, Appreciation for Service from the Woodland Park Zoo Bond Oversight Committee, Appreciation for Service from the King County Executive, Appreciation for Personal Contribution to Developing Bellevue Convention Center from the City of Bellevue, Outstanding Support of the Arts (jointly with wife) from the City of Bellevue Arts Commission, Commendation for Outstanding Service from the City of Bellevue.

CURRENT PHOTOGRAPH

D.P. Van Blaricom - November 28, 2012



EXHIBIT B



Memorandum

Date: May 24, 2013
To: Sergeant Anthony Provenzo **Via:** Direct
From: Captain D.J. Nesel, IIU Commander
Re: LOUDERMILL NOTIFICATION IIU FILE IIU2013-021

(64 HRS) [Signature]

As a result of a sustained finding in an internal investigation, a recommendation has been made to the Sheriff from your Chain of Command that you receive an eight (8) day suspension without pay along with being placed on a one-year performance improvement plan and permanently removed from the SAU. Furthermore, you shall receive training in "Emotional Intelligence and workplace sensitivity, as well as training for sexual harassment / hostile workplace and basic supervision.

Allegation #1: Rules of Conduct, Serious Misconduct, Discrimination, Incivility, and Bigotry: Members while on-duty shall not engage in discussion or conduct that belittles others or discriminates against others on the basis of race, color, age, sex, sexual orientation, religion, national origin or the presence of any sensory, mental or physical disability. GOM 3.00.015(1)(g) **Non-Sustained**

Allegation #2: Rules of Conduct, Serious Misconduct, Harassment based on race, ethnicity, gender, religion, disability or sexual orientation. GOM 3.00.015(1)(h) **Non-Sustained**

Allegation #3: Rules of Conduct, Misconduct, Ridicule: Members shall not ridicule or make remarks that would tend to jeopardize working relationships with members, members of other King County departments, or other public or private agencies. GOM 3.00.015(2)(h) **Sustained**

Allegation #4: Rules of Conduct, Misconduct, Conduct Unbecoming GOM 3.00.015(2)(k) **Sustained**

You are entitled to a Loudermill hearing with Sheriff Urquhart to respond to this recommendation and provide any information you would like him to consider before making a final decision in this matter. Sheriff Urquhart may impose no discipline, or discipline up to and including termination of employment for sustained findings.

Your Loudermill has been scheduled for **June 26, 2013 at 3:00pm**. If you cannot attend on this date, or do not wish to attend, please contact **Kim Johnson at 206-263-2555 no later than June 5, 2013**.

A copy of the investigation will be provided to the King County Police Officer's Guild. You are entitled to bring a representative of your choosing to the hearing. A copy of the file can be provided to you if you choose to bring another representative to the hearing.

I acknowledge receipt of this document

[Signature]
(Anthony Provenzo)

05/24/13
(Date)

SERVED 5/24/13 11:00HRS [Signature]
KCSO A-118 (10/99) From: Captain D.J. Nesel, IIU Commander, LOUDERMILL NOTIFICATION IIU FILE IIU2013-021, 05/24/13

ORIGINAL



Memorandum

Date: May 24, 2013
To: Sergeant Paul Mahlum **Via:** Direct
From: Captain D.J. Nesel, IIU Commander
Re: LOUDERMILL NOTIFICATION IIU FILE IIU2013-021

As a result of a sustained finding in an internal investigation, a recommendation has been made to the Sheriff from your Chain of Command that you receive an eight (2) day suspension without pay along with being placed on a one-year performance improvement plan and permanently removed from the SAU. Furthermore, you shall receive training in "Emotional Intelligence and workplace sensitivity, as well as training for sexual harassment / hostile workplace and basic supervision.

Allegation #1: Rules of Conduct, Serious Misconduct, Discrimination, Incivility, and Bigotry: Members while on-duty shall not engage in discussion or conduct that belittles others or discriminates against others on the basis of race, color, age, sex, sexual orientation, religion, national origin or the presence of any sensory, mental or physical disability. GOM 3.00.015(1)(g) **Non-Sustained**

Allegation #2: Rules of Conduct, Serious Misconduct, Harassment based on race, ethnicity, gender, religion, disability or sexual orientation. GOM 3.00.015(1)(h) **Non-Sustained**

Allegation # 3: Rules of Conduct, Misconduct, Ridicule: Members shall not ridicule or make remarks that would tend to jeopardize working relationships with members, members of other King County departments, or other public or private agencies. GOM 3.00.015(2)(h) **Sustained**

Allegation # 4: Rules of Conduct, Misconduct, Conduct Unbecoming GOM 3.00.015(2)(k) **Sustained**

You are entitled to a Loudermill hearing with Sheriff Urquhart to respond to this recommendation and provide any information you would like him to consider before making a final decision in this matter. Sheriff Urquhart may impose no discipline, or discipline up to and including termination of employment for sustained findings.

Your Loudermill has been scheduled for **June 26, 2013 at 2:00pm**. If you cannot attend on this date, or do not wish to attend, please contact **Kim Johnson at 206-263-2555 no later than June 5, 2013**.

A copy of the investigation will be provided to the King County Police Officer's Guild. You are entitled to bring a representative of your choosing to the hearing. A copy of the file can be provided to you if you choose to bring another representative to the hearing.

I acknowledge receipt of this document

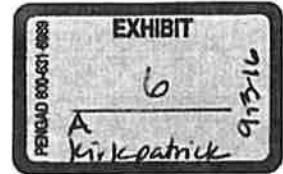
[Signature]
(Paul Mahlum)

5/24/13
(Date)

served 5/24/13

1410475 Sheriff Jk

ORIGINAL



SHERIFF

KING COUNTY

Memorandum

Date: May 20, 2013
To: Chief Deputy Anne Kirkpatrick
From: Major Ted J. Stensland, CID
Re: FINDINGS AND RECOMMENDATIONS: IIU #2013-021

I have reviewed the case file prepared by IIU Capt. DJ Nesel regarding the above referenced IIU investigation, and make the following findings and recommendations:

Allegation #1, Personnel Conduct: Rules of Conduct: Misconduct: Ridicule: GOM 3.00.015 (2) (h) Sgt. Provenzo and Sgt. Mahlum over a period of time and in many corroborated incidents made comments that would tend to jeopardize working relationships with subordinates. Therefore I recommend that the allegation be **SUSTAINED** against both.

Allegation #2, Personnel Conduct: Rules of Conduct: Misconduct: Conduct Unbecoming: GOM 3.00.015 (2)(k). Sgt. Provenzo and Sgt. Mahlum over a period of time and in various incidents and conversations engaged in behavior and allowed a culture to develop that tended to diminish respect for individual members of the unit and the Sheriff's Office, diminish confidence in the operation of the Sheriff's Office, and adversely affect or impair the efficiency, morale and discipline of the SAU Unit. I recommend that the allegation be **SUSTAINED** against both.

As to my recommendation for discipline, both Sgt. Provenzo and Sgt. Mahlum were removed from the SAU Unit, and have since voluntarily transferred to other assignments. I recommend that they both receive training in 'Emotional intelligence' and workplace sensitivity. For Sgt. Mahlum, as this is his first sustained complaint of this nature, I recommend a **Written Reprimand**. For Sgt. Provenzo, as this is the second sustained complaint in a short period of time regarding relationships with subordinates, I recommend a **one day suspension without pay**.

I concur with the Sustained findings on both Sgt. MAHLUM and Sgt. Provenzo, I recommend a 1 day suspension for Sgt. MAHLUM and a 5 day suspension for Sgt. Provenzo. Both should be placed on a one year performance improvement plan and both permanently removed from SAU. I also concur with the Training Recommendations but would add Training for Sexual Harassment/Hostile work environment and Bias Supervisors.

5/27/2013 *(Signature)*



Memorandum

Date: May 23, 2013
To: Chief Deputy Anne Kirkpatrick
From: *tljst*
Major Ted Stensland, CID
Re: FINDINGS AND RECOMMENDATIONS: IIU #2013-021 EEO INVESTIGATION

Conrad
Via: Direct 5-24-2013

I have reviewed the case file prepared by Attorney Patty Eakes regarding the above referenced IIU Investigation, whereby her portion of this joint investigation dealt specifically with the accusations of discrimination and sexual harassment by the accused Sergeants, Anthony Provenzo and Paul Mahlum. I have made the following findings and recommendations:

Allegation #1: Rules of Conduct, Serious Misconduct, Discrimination, Incivility, and Bigotry: Members while on-duty shall not engage in discussion or conduct that belittles others or discriminates against others on the basis of race, color, age, sex, sexual orientation, religion, national origin or the presence of any sensory, mental or physical disability. GOM 3.00.015(1)(g) Non-Sustained for both Sergeants.

Allegation #2: Rules of Conduct, Serious Misconduct, Harassment based on race, ethnicity, gender, religion, disability or sexual orientation. GOM 3.00.015(1)(h) Non-Sustained for both Sergeants.

Please refer to my earlier memo dated May 20, 2013 for my findings and recommendations of the two Misconduct Allegations of Ridicule and Conduct Unbecoming.

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Seattle/Tacoma, Washington

SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR KING COUNTY

AMY SHOBLUM, individually, DIANA)
NEFF, individually, LOU CABALLERO,)
individually,)
)
Plaintiffs,) No. 15-2-09687-7 SEA
)
vs.)
)
KING COUNTY, a political subdivision)
of Washington State,)
)
Defendant.)

VIDEOTAPED DEPOSITION OF SHERIFF JOHN W. URQUHART

October 3, 2016

Seattle, Washington

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Sheriff John W. Urquhart
October 3, 2016

1 APPEARANCES

2 For the Plaintiffs:

3 Julie A. Kays
4 Evan T. Fuller
5 Connelly Law Offices
6 2301 North 30th Street
7 Tacoma, WA 98403
8 253.593.5100
9 253.593.0380 Fax
10 Jkays@connelly-law.com

11 For the Defendant:

12 Steven H. Winterbauer
13 Winterbauer & Diamond PLLC
14 1200 5th Avenue
15 Suite 1700
16 Seattle, WA 98101
17 206.676.8440
18 206.676.8441 Fax
19 Steven@winterbauerdiamond.com

20 Also present: Diana Neff
21 Patty Shelledy,
22 King County Sheriff's Office
23 Lincoln Beauregard
24 Michael Hehenkamp
25 Videographer, Byers & Anderson, Inc.
Court Reporters & Video

1 A Apparently.

2 Q He talked about the size of his penis in the workplace?

3 A Yes.

4 Q He had a picture of his young son or sons with Hooters
5 waitresses displayed in his office?

6 A Yes.

7 Q He commented on the size of Belinda Ferguson's thighs and
8 rear end in the workplace?

9 A Yes.

10 Q He commented on the size of Belinda Ferguson's breasts as
11 well as the size of Janette Luitgaarden's breasts in the
12 workplace?

13 A Yes.

14 Q He engaged in acts of retaliation against the women after
15 they came forward with their complaints?

16 A I don't know if that's true or not.

17 Q He was founded for committing an act of retaliation
18 against Marylisa Priebe-Olson by IIU.

19 Do you recall that?

20 A No.

21 Q If the records bear that out, would you have any reason
22 to disagree with that?

23 A No.

24 Q And for the totality of this conduct, the punishment that
25 you imposed against Mr. Provenzo was what?

1 A Day off and a transfer. Is that it?

2 Q It was one day off without pay?

3 A Uh-huh.

4 Q Is that a yes?

5 A Yes. That's a yes. I'm sorry. Uh-huh.

6 Q And he was transferred from SAU during the course of the
7 investigation?

8 A Let me back up, if I could, on my answer. You said for
9 the -- your question was for the totality of the
10 circumstances, he received a day off without pay, and I
11 am paraphrasing slightly, and that's not correct.

12 He received a day off for the conduct during the
13 180 days that we could prove, not for the totality of the
14 circumstances. I was exceedingly limited as to what I
15 could do by the guild contract and the investigations
16 that came before me.

17 One of the first things within the first two or
18 three months that I did when I became sheriff was
19 transfer him out of that unit, and Paul Mahlum as well,
20 because that hadn't happened.

21 So when it finally came to me for a -- in a
22 Loudermill for discipline, I did the best I could to set
23 the precedent for him, for the both of them going
24 forward, but I was handcuffed by what had happened
25 before.

ATTACHMENT 4



KING COUNTY SHERIFF'S OFFICE
516 Third Avenue, W-116
Seattle, WA 98104

John Urquhart
Sheriff

April 21, 2017

Carl Cole, President
Puget Sound Professional Management Association
PO Box 66379
Burien, WA 98198

I am communicating with you as the representative of the Sheriff on labor relations matters.

On April 20th, there was a critical incident in Seattle involving a barricaded suspect in the downtown federal building with another suspect at large in the downtown core. Three Seattle Police Officers were shot and another injured during this incident. King County had deputies on scene immediately and a command post was established. Numerous King County resources were deployed. The Chief Deputy and the Communications Center were monitoring the event. King County had no one above the rank of sergeant on site as all Captains and Majors were at the Communication's Center at a union meeting. The commissioned Chiefs were in all day training in Issaquah. No command staff were available to respond promptly except for the Sheriff and Chief Deputy. As a result, a sergeant had to be assigned as the incident commander instead of a command level person.

The Captains bargaining unit's collective bargaining agreement states:

ARTICLE 11: MISCELLANEOUS

Section 5. The County and Sheriff Department recognize that Association members may from time to time need to conduct Association business related to collective bargaining matters during their core hours of work. This time must not create undue interference with normally assigned duties. (Emphasis, added.)

No person could argue that the union meetings as conducted during core business hours do not create an undue interference with your normally assigned duties. PSPMA has been conducting two hour union meetings during the workday. Furthermore, some commanders spend considerable work time commuting to and from the meeting. Yesterday was a good example of how these meetings are interfering with the performance of important duties of your positions.

In regards to the majors who attend these meetings, the above cited contract language is inapplicable to them. As such, majors have no contractual right to conduct union business during their core hours of work.

Through the appropriate Chief, the captains and majors will be notified individually that these mid-work day offsite meetings unduly interfere with normally scheduled assigned duties and are no longer to occur during the normal core hours of the work day.

If you have questions or wish to discuss, please let me know.

A handwritten signature in cursive script that reads "P. Cole-Tindall".

Patti Cole-Tindall
Chief, Technical Services Division

Cc: Sheriff John Urquhart
Chief Deputy Pugel
Chief Daniel Pingrey
Chief Robin Fenton
Diane Taylor

ATTACHMENT 5



KING COUNTY SHERIFF'S OFFICE
516 Third Avenue, W-116
Seattle, WA 98104

John Urquhart
Sheriff

April 28, 2017

Carl Cole, President
Puget Sound Professional Management Association
PO Box 66379
Burien, WA 98198

Dear Carl,

Given the amount of confusion and questions that have arisen from my letter to you dated April 21, 2017, I thought I would clarify some important points.

The intent of my letter was not to prohibit or restrict the discussion of union business during the work day. The scope of the letter was intended to address general union membership meetings that include a large majority of your membership during the daytime core work hours.

We've had a couple of conversations about PSPMA meetings during core work hours, the first after I had heard a rumor about a 4-hour meeting. I conveyed to you some concern about that much time taken from the middle of a business day, and you assured me that the meeting was not scheduled for 4 hours. Then we had an Assist/Mutual Aid situation in the City of Seattle during the meeting you had convened that included (or invited) all Captains and all Majors, which placed a large number of command staff in one location, which in this particular circumstance, unfortunately happened to be some distance from the shooting event in downtown Seattle. In this particular case, the scope and timing of your meeting interfered with your normally assigned duties.

When we talked on Wednesday, April 26th, you advised us that you have held these meetings for 20 years, and that sergeants often take on the role of incident commander (as occurred in this case until Major Jutilla arrived). You also indicated that the KCPOG holds similar meetings during work time. In addition, you said that the meetings you hold include discussions of operations and could be characterized as "work" meetings.

We appreciate the additional information, and are clarifying our instruction regarding Article 11.5 of the Captain's contract. We expect you to be mindful when you plan future meetings of whether the scope and timing of such meetings creates undue interference with normally assigned duties. We appreciate your attention to our concerns, which arose at this time due to a shooting incident that resulted in injury to Seattle police officers and KCSO responded to assist. Our initial directive clearly caused some confusion, but it is our hope that you will be mindful of Article 11.5 in your planning going forward.



There won't be any specific directives sent out to Command Staff. I believe this communication to you as the President of the PSPMA is sufficient in providing notice that the prohibition is in regards to the large-scale general membership meetings during core work hours, and any other union business that complies with (as referenced in) your contract is permitted.

As we indicated earlier this week, we are happy to discuss this further with you, so please let us know if you have changed your mind about that. Please let me know if you have questions or need further clarification.

Thank you.

A handwritten signature in cursive script that reads "Patti Cole-Tindall".

Patti Cole-Tindall
Chief, Technical Services Division

Cc: Sheriff John Urquhart
Chief Deputy Jim Pugel
Chief Daniel Pingrey
Chief Robin Fenton
Diane Taylor
Lance King

ATTACHMENT 6

NOTICE 17-191: CONGRATULATIONS TO OUR NEW MAJOR

Noel Fryberger has been promoted to the rank of Major, effective May 1, 2017.

Major Fryberger is assigned to Sheriff's Office Administration, working with the Office of Law Enforcement Oversight and IUU, among other duties.

My congratulations to Noel on his promotion and new assignment!

John Urquhart, Sheriff

ATTACHMENT 7



Internal Investigations Unit Complaint Notification

Date	Time	SUBJECT	IIU Number
05/10/17	11:45		2017-050

Employee(s), PeopleSoft #(s)
Captain Carl C. Cole #71261

Date of Incident	Time	Case Number
04/20/17	o/a 1230	

Location	District
RCECC	

Complainant Name
Chief of Staff Christopher R. Barringer

Summary
You are the SUBJECT employee of an internal investigation.

It is alleged the following occurred:
Chief of Staff Barringer alleges that on the above date you distributed portions of his employment background investigation file to attendees of a Puget Sound Police Managers Association meeting.

Attached you will find a copy of your Garrity rights, and for Commissioned employees, a copy of the "Police Officer Bill of Rights." This is an official notification of those rights. Additionally, you have the right to consult with your Labor Representative before providing a written or recorded statement or before discussing this matter with the investigator. It is the member's responsibility to confirm representation is present during any interview on this matter.

GOM 3.03.100 requires all Department members to fully cooperate in Department investigations. Failure to cooperate in an internal investigation may result in discipline up to and including termination. GOM 3.03.090 requires you to maintain the confidentiality of this investigation. Disclosure of any information, prior to the completion of the investigation, may result in disciplinary action.

You are directed to report to IIU for an interview on 05/17/17 at 9:00

If you have a schedule conflict or you have any questions contact me at: via email

PeopleSoft Number	Rank	Assigned Officer's Signature	Timothy S. Gillette <small>Digitally signed by Timothy S. Gillette DN: cn=Timothy S. Gillette, o=King County Sheriff's Office, email=timothy.gillette@kingcounty.gov, c=US Date: 2017.05.10 11:49:17 -07'00'</small>
71700	Sergeant		