

# CLALLAM COUNTY PROSECUTING ATTORNEY

**DEBORAH S. KELLY**

PROSECUTING ATTORNEY

(360) 417-2301  
FAX (360) 417-2469

Courthouse  
223 East Fourth Street, Suite 11  
Port Angeles, Washington 98362-  
3015

Toll Free:  
From Seattle (206) 464-7098  
From Forks/Clallam Bay  
(360) 374-5324

DIRECT # 4172297

Ext. 2297

November 21, 2005

Mr. Rob McKenna, Attorney General  
Mr. Brian Moran, Assistant Attorney General  
900 Fourth Avenue, Suite 2000  
Seattle, WA 98164-1012

Re: David Fontenot  
Duane Hayden

Dear Sirs:

Enclosed are copies of the investigative reports on the two sheriff's deputies I discussed with Mr. Moran. Pursuant to RCW 43.10.232 I am requesting that the Attorney General's Office utilize its concurrent jurisdiction to review the reports for purposes of charging, and prosecute, if deemed appropriate.

Clallam County will remain liable for any expert fees, costs of prosecution and defense attorney's fees associated with these cases. It is my understanding your office will cover salary and travel expenses for the assigned Attorney General.

Thank you for your assistance in handling these matters.

Very truly yours,

DEBORAH S. KELLY  
Prosecuting Attorney

DSK:els  
Enclosures



**Snohomish County  
Prosecuting Attorney  
Janice E. Ellis**

Administration  
Robert G. Lenz, Operations Manager  
Robert J. Drewel Bldg., 7<sup>th</sup> Floor, M/S 504  
3000 Rockefeller Ave  
Everett, WA 98201-4060  
(425) 388-3772  
Fax (425) 388-7172

---

## MEMORANDUM

---

TO: Commander Fred Havener, Snohomish Police Department

FROM: Janice E. Ellis, Snohomish County Prosecuting Attorney

DATE: June 17, 2008

RE: **Preliminary Potential Impeachment Disclosure Determination re  
Candidate Officer Dave Fontenot**

Officer Fontenot is a candidate for a position with the Snohomish Police Department. During the course of the application process, he provided information to you regarding two possible PID matters. The first relates to the taking of a pair of glasses or goggles from a crime scene. The second relates to improperly dating a return of service on a seizure notice. I offered to do a preliminary review the potential impeachment material and to apprise you whether or not I thought a PID Notice will likely issue if Officer Fontenot is offered a position with your Department. This memo sets forth the information I reviewed, the standard applied, and my conclusions.

### Information Reviewed

I received a referral from your Department on June 15, 2008. In the course of my evaluation of the PID matter, I reviewed the following documents:

- June 14, 2008 cover letter from Dave Fontenot to Commander Havener and Janice Ellis, 1 page;
- Clallam County Sheriff's Department (CCSD) "Complaint Against Department Member" dated 6/7/05, 1 page;
- CCSD "Employee Notification of Investigation" dated 6/8/05, 1 page;
- CCSO Memorandum to Sheriff Martin, through Chain dated 6/13/05, 2 pages;
- Investigation by Capt. Ron Cameron, including a one page cover page and:
- Interview with Det. Sgt. Fontenot dated 6/8/05, 1.5 pgs;
  - Interview with Annie Lowe dated 8/9/05, .5 pg;
  - Interview with Det. Lightfoot dated 6/10/05, .5 pg;
  - Interview with Deputy Hayden dated 6/10/05, .5 pg; and
  - Investigation Results, .75 pg.

---

Criminal Division  
Joan Cavagnaro, Chief Deputy  
Mission Building  
(425) 388-3333  
Fax (425) 388-3572

Civil Division  
Jason J. Cummings, Chief Deputy  
Robert J. Drewel Bldg., 8<sup>th</sup> Floor  
(425) 388-6330  
Fax (425) 388-6333

Family Support Division  
Marie Turk, Chief Deputy  
Robert J. Drewel Bldg., 6<sup>th</sup> Floor  
(425) 388-7280  
Fax (425) 388-7295

### Standard Applied

As you know, prosecutors have two separate requirements for disclosing potential impeachment materials. The first is under the Due Process clause of the U. S. Constitution; the second is under court rule CrR 4.7. Under the Due Process Clause, the disclosed evidence must be "material"; that is, there must be "a reasonable probability that the suppressed evidence would have produced a different verdict." Strickler v. Greene, 527 U.S. 263, 281, 119 S. Ct. 1936, 144 L. Ed. 2d 286 (1999). In contrast, CrR 4.7 requires disclosure of evidence that "tends to negate defendant's guilt," whether or not it is "material" under the Due Process definition.

### Decision

I believe that a PID Disclosure is necessary. This decision is based upon the following facts:

In a property forfeiture action, Det. Sgt. Fontenot was found to have had his signature notarized on a return of service before the seizure notice was actually served. The investigation determined that Det. Sgt. Fontenot signed the return of service before the notice was served because he was in a rush. He further asked another Deputy to serve the notice for him because he was pressed for time. The Deputy who served the notice effected service the day after Det. Sgt. Fontenot signed the return (the notice was dated 5/16/05, it was served on 5/17/05).

### Summary

The foregoing, if heard by a reasonable person (such as a judge or a juror), could lead that person to conclude that Officer Fontenot completed a document and caused it to be served in such a way that a material misstatement of fact occurred.

If Officer Fontenot is hired by Snohomish P. D., I will want to undertake some additional steps before finalizing this PID review. Such a review will likely include information related to the alleged misappropriation of a pair goggles/glasses, because information about that matter was not included in the materials I received from your Department on June 15<sup>th</sup>. I would also offer Officer Fontenot the opportunity to speak with me. It may also be appropriate to speak with additional people regarding the incident that is the subject of A36-741, including the individuals noted in Officer Fontenot's June 14, 2008 cover letter. If that review results in findings similar to the conclusions stated above, then a notice that summarizes the conclusions should be generated whenever Officer Fontenot's name appears on a witness list. A draft notice based upon the documents I reviewed on June 16<sup>th</sup> is enclosed with this correspondence for your convenience. Finally, the materials I picked up from your agency on 6/14/08 are being returned to you with this letter.

Thank you for bringing your questions and concerns to my attention. I hope this information is of some assistance to your Department as you consider Officer Fontenot's application for employment.

Enc. Materials provided by Officer Fontenot (indexed above)



**Snohomish County  
Prosecuting Attorney  
Janice E. Ellis**

Administration  
Bob Lenz, Operations Manager  
Admin East 7<sup>th</sup> Floor, M/S 504  
3000 Rockefeller Ave  
Everett, WA 98201-4060  
(425) 388-3772  
Fax (425) 388-7172

---

## POTENTIAL IMPEACHMENT DISCLOSURE NOTICE

---

**TO:** «Defendant's attorney »  
Attorney at Law

**FROM:** Janice E. Ellis, Snohomish County Prosecuting Attorney

**DATE:** <<Date when issued (when officer's name is on a witness list)>>

**RE:** **Potential Impeachment Disclosure in State v. Officer «PID Officer's Name»**

On June 17, 2008 this office made a preliminary determination that certain information, if heard by a reasonable person (such as a judge or a juror), could lead that person to conclude that Officer Fontenot, while employed by the Clallam County Sheriff's Office, completed a document and caused it to be served in such a way that a material misstatement of fact occurred. Succinctly, the facts that could lead to this conclusion are as follows:

In a property forfeiture action, Clallam County Det. Sgt. Fontenot was found to have had his signature notarized on a return of service before the seizure notice was actually served. The investigation determined that Det. Sgt. Fontenot signed the return of service before the notice was served because he was in a rush. He further asked another Deputy to serve the notice for him because he was pressed for time. The Deputy who served the notice effected service the day after Det. Sgt. Fontenot signed the return (the notice was dated 5/16/05, it was served on 5/17/05).

---

Criminal Division  
Joan Cavagnaro, Chief Deputy  
3000 Rockefeller Avenue  
(425) 388-3333  
Fax (425) 388-3572

Civil Division  
Jason J. Cummings, Chief Deputy  
Admin East / 8<sup>th</sup> Floor  
3000 Rockefeller Avenue  
(425) 388-6330  
Fax (425) 388-6333

Family Support Division  
Marie Turk, Chief Deputy  
Admin East / 6<sup>th</sup> Floor  
3000 Rockefeller Avenue  
(425) 388-7280  
Fax (425) 388-7295

FORM 6. BRIEF OF [\_\_\_\_\_]
[Rule 10.3(a)]
[See Form 5 for form of cover and title page]

TABLE OF CONTENTS

- A. Assignments of Error
B. Statement of the Case
C. Summary of Argument
D. Argument
E. Conclusion
F. Appendix A-1

TABLE OF AUTHORITIES

Table of Cases

[Here list cases, alphabetically arranged, with citations complying with rule 10.4(g), and page numbers where each case appears in the brief. Washington cases may be first listed alphabetically with other cases following and listed alphabetically.]

Constitutional Provisions

[Here list constitutional provisions in the order in which the provisions appear in the constitution with page numbers where each is referred to in the brief.]

Statutes

[Here list statutes in the order in which they appear in RCW, U.S.C., etc., with page numbers where each is referred to in the brief. Common names of statutes may be used in addition to code numbers.]

Regulations and Rules

[Here list regulations and court rules grouped in appropriate categories and listed in numerical order in each category with page numbers where each is referred to in the brief.]

Other Authorities

[Here list other authorities with page numbers where each is referred to in the brief.]
Note: For form of citations generally, see sections 71 through 76 of F. Wiener, Briefing and Arguing Federal Appeals (1967).

FILED  
COURT OF APPEALS

05 JUL 17 PM 1:14

No. 32982-4-II

STATE OF WASHINGTON

BY

IN THE COURT OF APPEALS FOR WASHINGTON

DIVISION II

---

IN RE THE PERSONAL RESTRAINT OF

JACK K. STEIN,  
Petitioner,

vs.

THE STATE OF WASHINGTON,

Respondent.

---

PERSONAL RESTRAINT PETITION  
- and -  
PETITION FOR HABEAS CORPUS RELIEF  
RCW 7.36, et seq.

---

TRAVERSE TO RESPONSE, REPLY, AND  
OBJECTION TO MOTION

---

Jack K. Stein, Petitioner  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98272-0777  
Ph. 360-794-2600

---

Jack K. Stein, Petitioner  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98277-0777

FILED  
COUNTY OF TARRANTS  
05 JUN -7 PM 1:14  
STATE OF TEXAS  
BY \_\_\_\_\_

IN THE COURT OF APPEALS FOR WASHINGTON  
DIVISION II

Jack K. Stein, )  
                  ) Petitioner, )  
                  ) vs. )  
                  ) )  
James Spalding, )  
                  ) Respondent. )  
\_\_\_\_\_ )

No. 32982-4-II  
TRAVERSE TO RESPONSE, REPLY,  
AND OBJECTION TO MOTION

**A. IDENTITY OF PETITIONER**

COMES NOW Jack K. Stein, appearing pro se and proceeding In Forma Pauperis, to file this TRAVERSE TO RESPONSE submitted by the Respondent and to publish his OBJECTION TO MOTION in response to the Respondent's May 11, 2005 motion to dismiss. Petitioner also renews his request for relief, as canted in Section B.

**B. STATEMENT OF RELIEF SOUGHT**

This Court should reject Respondent's "Answering Brief" as unresponsive, and deny her motion to dismiss. Petitioner renews his request to vacate the conviction, or, in the alternative, release Petitioner on recognizance and refer this matter to the Superior Court for a hearing, as provided by RCW 7.35 et seq.



### III. FACTS RELEVANT TO MOTION

Petitioner filed a Petition for Habeas Corpus relief in the Snohomish County Superior Court. A COA Commissioner ruled the State Habeas should be transferred to the Court of Appeals and converted to a Personal Restraint Petition. Thereafter, the COA Commissioner ruled the converted Personal Restraint Petition should be consolidated with Stein's appeal, No. 31980-2-II.

Stein filed timely objections to the Commissioner's rulings, asserting the Commissioner attempted to subvert the Constitution and RCW 7.36, which guaranty the right to habeas corpus review.

Further, Stein has asserted the Commissioner's action abets a history of malevolent judicial misconduct in the Superior Court and Court of Appeals, et al., which has sabotaged, delayed, and thwarted his past requests for post-conviction review and relief.

Regretfully, as Stein's pleadings show, corrupt attorneys and miscreant court officials have conspired to deceive the record and sabotage appropriate relief to Jack Stein, an innocent person. The history of judicial misconduct at issue has been proven in Federal District Court and was presented below. This Court has been previously advised of egregious misconduct already proven in Federal District Court, so there seems no need to repeat a litany of already proven judicial misconduct.

The Attorney General filed a Response and Answering Brief, dated May 11, 2005. Additionally, she also filed some thirteen Appendix, labeled: Appendix A through Appendix M. However, her "Brief" has **nothing whatsoever** to do with Petitioner's issues.

Regretfully, the Respondent's Response and Answer has nothing whatsoever to do with claims presented by Petitioner. ABSOLUTELY NOTHING. Moreover, none of Respondent's appendix have anything to do with the Petitioner's claims either. Presumably, Respondent is attempting to confuse the Court of Appeals with pseudo-argument, there being no defense to the claims and issues.

Respondent admits Stein filed a Personal Restraint Petition in the State Supreme Court, in March 2004. The Supreme Court transferred that petition to the Court of Appeals. Thereafter, Stein amended his petition, twice, to present his nine claims::

1. Counsel of Choice;
2. Speedy Trial;
3. Due Process;
4. Judicial Misconduct;
5. Mismanagement;
6. Prosecutorial Misconduct;
7. Excessive Delay;
8. Egregious Misconduct by Court Officials; and,
9. Vindictive Prosecution.

In addition to the above "abbreviated listing" of claims, Stein also filed a detailed Memorandum In Support, showing facts and legal argument in support of his nine claims and issues. Although, not required by the rules, the Memorandum In Support provided facts and argument in support of his petition.

Also, Stein provided the Court with three documents titled Exceptional Circumstances, which justify the requested relief.

#### IV. GROUNDS FOR RELIEF AND ARGUMENT

If the claims and issues raised in the PRP are not frivolous, as was the case in COA No. 31993-4-II, RAP 16.11 provides that the Chief Judge must refer the PRP to a panel of judges for determination on the merits or to the Superior Court for a hearing. However, in either case, appellate rules and PRP policy intend the Chief Judge's initial consideration be prompt.

Moreover, PRP 16.11 provides that; if the petition can not be determined solely on the record, the Chief Judge will transfer the petition to Superior Court for determination on the merits or for a reference hearing. However, that did not happen either.

Respondent asserts Stein's State Habeas, COA No. 32982-4-II, (recently transferred from the Snohomish County Superior Court to the Court of Appeals and converted to a PRP) should be dismissed, under RCW 10.73.140, and/or by the abuse of the writ doctrine, because Stein previously filed a Personal Restraint Petition in Supreme Court, April 9, 2004, transferred to Court of Appeals, May 14, 2004, which PRP the Chief Judge dismissed during initial consideration, by Order Dismissing Petition, November 17, 2004.

However, Respondent's argument in support of dismissal of this petition for post-conviction relief has misrepresented relevant facts and post-conviction procedural history. Moreover, Respondent has provided absolutely no facts or relevant case law in support of her argument to dismiss Stein's petition. Indeed, dismissal would constitute judicial misconduct.

Furthermore, under the circumstances and procedural history of the underlying case and appeal process, dismissal of Stein's petition for post-conviction relief by State Habeas/PRP would implicate a cover-up of wrongdoing and judicial misconduct and violate the Constitutional guarantee of habeas relief.

Moreover, the Respondent has provided nothing whatsoever, absolutely nothing whatsoever, that is truly relevant to the claims and issues presented by Stein's State Habeas/PRP petition.

Indeed, since Stein's petition for post-conviction relief was filed as a State Habeas Corpus petition, rather than a PRP, it seems both inappropriate and premature to argue either the appropriateness of RCW 10.73.140 and/or the abuse of writ doctrine, until Stein's objection to transfer of his State Habeas, and the conversion of his State Habeas in Superior Court to a PRP in the Court Of Appeals, has been resolved in the Supreme Court.

**RAP 16.4(d) DOES NOT BAR RELIEF**

A petition for post-conviction relief by State Habeas Corpus is provided for by the Washington State Constitution, Art. 4, §4, and is codified by statute at RCW 7.36. The statute provides that the Habeas petition be presented to the Superior Court serving the county in which the petitioner is unlawfully incarcerated, in Stein's case, that is Snohomish County.

On the other hand, Court of Appeals rules (RAP 16.4 et seq.) govern post-conviction relief by Personal Restraint Petition.

Accordingly, RAP 16.4(d) does not bar a State prisoner's petition for post-conviction relief by State Habeas, as here.

Stein's PRP, COA No. 31993-4-II, shows the following:

<u>Date</u>	<u>Document or Action</u>
4- 9-04	PRP filed in Supreme Court
5- 0-04	Supplemental Memorandum In Support (9 claims)
5-14-04	PRP is transferred to COA
7-30-04	PRP receives expedited consideration/clerk
8-18-04	Amended Brief In Support (nine claims)
11- 2-04	Supp to Amended Supplement In Support
11-15-04	Amended Memorandum In Support (9 claims)
11-17-04	Order Dismissing PRP - by Chief Judge
11-30-04	Motion For Reconsideration - by Stein

On November 17, 2004, COA Chief Judge Quinn-Brinall issued an Order Dismissing Petition. Text of her Order Dismissing Petition asserts that Stein's PRP makes only four challenges.

However, the docket record shows Stein filed several supplemental pleadings - which expanded his list of challenges to nine PRP claims. Consequently, it appears, the Chief Judge failed to even consider several of Mr. Stein's PRP claims, despite that they were presented by way of supplemental pleadings filed in the Supreme Court and/or COA, several months earlier.

Presumably, no judge read and considered the "overlooked" claims Stein presented. However, the COA docket record shows his documents were properly filed. Certainly, the nine claims should have been considered by the Chief Judge. One can only speculate as to what relief Stein would have received if the Chief Judge had actually considered all nine claims Stein's PRP presented.

Regretfully, the Chief Judge of Div. II, Court of Appeals, provided a delayed, superficial, and clearly inadequate review of Stein's PRP, failing to satisfy the requirements of RAP 16.11.

Accordingly, Stein's present Habeas/PRP issues will also, hereafter, incorporate past PRP delay and assert misconduct by the COA Chief Judge, in failing to provide timely and/or proper PRP consideration, constitutes malevolent judicial misconduct intended to cover-up wrongdoing by corrupt court officials, and/or to thwart post-conviction relief and/or to abet a ploy to exploit Stein's estate through criminal abuse of process.

Be that as it may, after Chief Judge Quinn-Brinall issued her November 11 Order Dismissing Petition, Stein filed a timely Motion for Reconsideration, dated November 23, 2005. Furthermore, Stein filed a Motion For Discretionary Review in Supreme Court.

Indeed, once Stein filed his Motion for Reconsideration in the Court of Appeals, and/or his Motion for Discretionary Review in the Supreme Court, his pleadings and argument once again put the Court on notice of the nine PRP claims in COA No. 32993-4-II.

Each incorporated Stein's earlier Memorandum In Support, thereby once again presenting both the Court of Appeals and the Supreme Court with the nine claims Stein had presented in his April 2004 PRP, which had been transferred to Court of Appeals, as cause No. 32993-4-II. Presumably, the Division II Chief Judge may now attempt to assert she was unaware of Stein's nine claims, by alleging her staff failed to file Stein's pleadings properly or to call Stein's amended pleadings to her attention. Bogus!

Be that as it may, it can not be disputed that Stein filed a PRP in the State Supreme Court, requesting post-conviction relief from unlawful incarceration, and presenting the Supreme Court with nine claims and issues. Stein's PRP was assigned SC cause No. 75331-C. Stein's PRP presented nine claims and issues showing egregious Constitutional violations. Thereafter, May 14, 2004, the Supreme Court transferred Stein's PRP to Division II.

Insert  
Text  
from  
Line 1-10  
of 22

Some six months later, Stein's PRP was finally reviewed by the Chief Judge for her "initial consideration" as provided by RAP 16.11. However, RAP 16.11 provides: Chief Judge will consider petition promptly after the time has expired to file Petitioner's reply brief. The reply brief was due June 14, 2004.

At the initial consideration, the Chief Judge determines if the petition will be retained by the appellate court for determination on the merits or transferred to a superior court for determination on the merits or for a reference hearing. ... The Chief Judge may enter other orders necessary to obtain prompt determination of petition on merits.

Clearly, in Stein's case, the Chief Judge did not provide initial consideration for over six months. Such delay violated Stein's right to prompt review. Indeed, RAP 16.11 and appellate policy contemplate the initial consideration shall be prompt. Despite COA policy and the requirement of RAP 16.11, in Stein's case, the initial consideration was anything but prompt. Furthermore, during that sham initial consideration, 11-17-04, the Chief Judge improperly ignored Stein's nine PRP claims.

The Chief judge's conduct - by first failing to provide a prompt initial consideration, as required by RAP 16.11, and then by ignoring Stein's nine PRP claims, and then by asserting, falsely, that Stein only presented four claims, and furthermore, by conducting a malevolent analysis of Stein's claims and issues, - seems to constitute, nonfeasance, misfeasance, and malfeasance.

Based on the foregoing facts, procedural history, and argument, RAP 16.4(d) does NOT bar relief for several reasons:

1. Stein's pending petition for relief was filed as State Habeas under RCW 7.36. Accordingly, RAP rules are not applicable.

2. Even though Stein's former PRP did present the same nine claims and issues presented in the pending habeas petition, the Court of Appeals did not even consider Stein's nine claims. Indeed, it is as if Stein's claims were never presented!

3. Each of Stein's claims will require a habeas hearing and development of a record. Accordingly, the merits of neither of the nine claims can be determined on the record below. Therefore, there can be NO other remedy available that would be adequate to review Stein's nine RCW 7.36 habeas claims.

4. Stein's petition for Habeas relief should not be construed as a second or successive petition for similar relief, because any similar claims that might have been presented in a prior petition were, in effect, "overlooked" by the Chief Judge.

Accordingly, Stein has shown GOOD CAUSE to entertain his claims, because, in effect, the claims have not been previously entertained, and, because, the Court failed to address the nine Constitutional claims now presented by Stein's RCW 7.36 petition.



Furthermore, RCW 10.73.140 does NOT preclude consideration of the nine claims and issues Stein's Habeas presented, because:

1. The nine claims are serious Constitutional violations, accordingly, the pending Habeas/PRP petition is not frivolous.

2. Petitioner has demonstrated that the failure of the Court to consider the nine grounds presented in the PRP was not the fault of Petitioner. Indeed, Petitioner is entirely innocent of any error or oversight that may have caused the Court to ignore his claims earlier. So, in the context of RCW 10.73.140, the forgoing facts should constitute GOOD CAUSE to proceed.

Moreover, the abuse of the writ doctrine does NOT apply to this case. Indeed, simply because one has counsel representing him on a direct appeal, does not preclude him from filing a pro se PRP. If that were so, almost no person could file a PRP, because everyone is represented by counsel on direct appeal.

While, as the Respondent concedes, Stein was aware of the facts supporting his current claims when the prior petition was filed, apparently, the Respondent seeks either to misinform or confuse when she asserts that Stein did not present those facts in his earlier petition. The problem is not that Stein did not present the claims and facts, the real problem is that the Court of Appeals, for some reason not yet explained, seems to have "overlooked" Stein's PRP claims and the facts he had presented.

Certainly, in view of the procedural history of Stein's petition for post-conviction relief, where any failure was not Stein's fault, and any fault was clearly outside Stein's control, the abuse of the writ doctrine is not applicable.

### **ABUSE OF WRIT DOCTRINE NOT APPLICABLE**

Indeed, the abuse of the writ doctrine is not applicable in habeas corpus actions where the petitioner makes a showing of miscarriage of justice, as here. *Carriger v Stewart*, 132 F.3d 463 (9th Cir. 1998). Equitable principles govern habeas review.

### **MISCARRIAGE OF JUSTICE**

Habeas petitioner is not banned from raising an issue not previously raised, or from raising an issue previously presented, when to deny habeas review would abet a miscarriage of justice, as here. In *Schlup*, the U.S. Supreme Court defined a miscarriage of justice as such that "a court can not have confidence in the outcome of the trial." Washington follows *Schlup* and adopted the abuse of the writ approach used in federal courts. In *Re Cook*, 114 Wn.2d 809 (1990). Federal Courts consider the miscarriage of justice doctrine to function as a "gateway," permitting the habeas petitioner to have his claims considered on the merits. *Carriger v Stewart*, *Ibid.* at 465.

Petitioner's argument is of the type meriting habeas review because, when his assertion is correct, upholding his conviction would amount to a complete miscarriage of justice. *Cook*, *Ibid.*

### **COLLATERAL ESTOPPLE DOES NOT APPLY TO HABEAS CORPUS**

Furthermore, Collateral Estoppel does not apply to habeas actions. *Washington v Chrans*, 769 F. Supp 1045 (1991). Likewise, *Res Judica* has no application to a petition for habeas corpus relief regardless of the nature of the prior proceedings. *Calderon v United States*, 163 F.3d 530 (9th Cir. 1998).

### TRAVERSE TO RESPONSE TO PETITIONER'S CLAIMS

A perverted and deceptive statement of the facts of the underlying case is contained in opinions by the Court of Appeals and by the Supreme Court. Indeed, some 54% of the so called "facts" presented by the Supreme Court opinion, State v Stein, 144 Wn2d 236 (2001), are actually false. Moreover, over 48% of so called "facts" as alleged in the Court of Appeals' opinion, State v Stein, 94 Wn.App. 616 (1999), are actually false.

However, a true statement of facts is presented in Stein's web page, <http://www.teleport.com/~calebb/stein.html>, titled: "STEIN'S CASE SABOTAGED BY IRRESPONSIBLE COURT OFFICIALS." A copy of that document is incorporated in Stein's Habeas petition.

### PROCEDURAL HISTORY AND RELEVANT FACTS

The procedural history of Stein's case constitutes a travesty of mismanagement, official wrongdoing and judicial misconduct which has delayed, thwarted, and sabotaged Stein's efforts to secure relief from Due Process violations.

The underlying case began in Clark County Superior Court in 1986. The first trial ended in a mistrial in 1988, after the prosecution staged procedures resulting in a mistrial requested by the defense. When the prosecution stages a mistrial, as here, the Court should dismiss the prosecution with prejudice. Regretfully, my first trial was conducted by Hon. Edward Heavy. He ruled the prosecutorial misconduct was not deliberate, and therefore Judge Heavy refused to dismiss the prosecution. Failure to dismiss the case constituted judicial misconduct.

However, compelling evidence presented to the Court in my pleadings demonstrate Judge Heavy was both unethical and corrupt. Indeed, a body of compelling evidence shows that, in concert with attorneys Lee Dane and Edward Funkerly, Judge Heavy of Seattle conspired with the miscreant attorneys and court officials to have himself appointed as "visiting" trial judge in the first (November 1988) trial. Indeed, in view of the unethical conduct of Judge Heavy and the defence attorneys, coupled with the misconduct of Clark County prosecutors, the prosecution should have been dismissed with prejudice, years ago.

Regretfully, first appeal was dismissed by Court of Appeals, Division II, after my appellate attorney, Darrell Lee, and a prosecutor, Dennis Hunter, falsely advised the Court of Appeals that Stein refused to file the "missing" Langer transcripts. Although, Jack Stein had denied Lee's allegation, and asserted that Mr. Lee had a copy of the transcripts at issue, a miscreant Superior Court Judge, Hon. Philip W. Borst, had conducted a sham hearing and made fictitious findings, asserting the defendant, Jack Stein, was personally responsible for the failure to file the Langer transcripts. However, in 1996, that finding was set aside by Judge Bryan following a 28 U.S.C. §2254 habeas hearing.

Moreover, since a 1996 hearing in Federal District Court, Darrell Lee has acknowledged that he had the Langer transcripts all along. Furthermore, Darrell Lee recently acknowledged that Bethany Norberg had provided him with a set of those transcripts.

However, as Court may recall, on August 9, 1990, Lee wrote the Court of appeals, falsely asserting that he would ask Bethany Norberg to provide a copy. That was untrue and constituted a deception calculated to harm Jack Stein and the Stein family.

Based on Mr. Lee's recent admissions, coupled with the fact that Bethany Norberg delivered a set of the Langer transcripts to Darrell Lee the week prior to Mr. Lee's August 9, 1990 letter to the Court of Appeals, it is apparent that Mr. Lee lied to the Superior Court, and also lied to the Court of Appeals, Supreme Court and the Federal District Court as to who was responsible the Langer transcripts were "missing" and not filed. Presumably, the reason Mr. Lee and Dennis Hunter lied to the Court was to sabotage Stein's direct appeal and to sabotage post-conviction relief. The conspiracy to falsely convict Jack Stein and sabotage Stein's direct appeal in 1990, was to abet the prosecutors' sinister plot to control and exploit Jack Stein's valuable estate through FRAUD and criminal abuse of process.

The Court may recall, in 1988, a prosecutor boasted they had an agenda to control and exploit my estate and predicted Stein would have nothing left when the court gets through. Thereafter, corrupt prosecutors and miscreant attorneys, along with a band of corrupt court officials, including commissioners and judges, issued a series of irresponsible rulings which served the interest of the prosecutor and those evil persons who conspired to misuse the State Court System to control and exploit my estate of property currently valued in excess \$67,000,000.

#### OTHER RELIEF INADEQUATE

Respondent's Answering brief has asserted, falsely, at page 12, "He has failed to show, or even allege, those other remedies are inadequate." However, Respondent's statement is a lie.

Indeed, Stein's pro-se Petition For Writ of Habeas Corpus, at page 2, states; "... no other remedy is available." Stein's statement was true when written, and is still true.

**None** of the nine claims presented in Stein's Habeas/PRP petition now pending can be properly presented in a direct appeal, as the Respondent's brief falsely asserts. Presumably, Respondent is simply attempting to once again deceive the record, as has been her tactic since first assigned to this case.

Indeed, to the extent, that any other Court was presented claims presented in this petition for post-conviction relief, such other court, if any, completely misapprehended the claim or ignored the issue, resulting in the Court's complete and total failure to consider Stein's prior PRP claims.

Accordingly, the doctrine of res judicata and collateral estoppel have no application to claims presented by Stein's habeas/PRP at this time. Furthermore, Stein has shown, that to mediate a travesty of egregious judicial misconduct, fundamental justice requires "relitigation" of any claim or issue that may have been previously presented because the Court failed to address or resolve the issue, presumably out of misunderstanding and/or as the consequence of criminal judicial misconduct.

## A WEB OF EVIL AND WICKEDNESS

This case began after an attorney and real estate developers asserted that Nicholas Stein signed a real estate contract which the attorney had prepared. Terms of the alleged \$1,800,000. contract are suspect because no down payment was received. Initially, Nicholas asserted that the attorney, et al., had deceived him and said that he had not knowingly signed any contract to sell his real estate. After Nicholas attempted to expose fraud and set aside the contract, Nicholas received a series of threats, demanding he consent. In response to one threat, his house was destroyed by arson.

Thereafter, Nicholas Stein retained the prominent Clark County law firm, Landerholm, Memovitch, Whiteside, et al., and he also asked his ex-wife, Muriel Graham, (who had remained his best friend in life), and his son, Jack Stein, to assist his efforts to repudiate the alleged, fraudulent, real estate contract.

Regretfully, the Landerholm Law Firm was also, **secretly**, representing the alleged purchaser, Haagen. Indeed, unbeknowne to Nicholas, the law firm had represented Haagen for years.

Thereafter, Muriel and Jack received threats of violence demanding that they stop supporting Nicholas' efforts to vacate the contract. Muriel contacted the police who placed phone taps.

Also, Muriel contacted attorneys and judicial officials to expose misconduct by court officials. One day after Muriel contacted a judicial official, she was found dead in her bed.

Stein's family believe Muriel was murdered to sabotage her efforts to assist Nicholas to repudiate the "Haagen" contract.

Thereafter, without notice to Nicholas Stein's new attorney of record, the Superior Court granted a Guardianship over Nicholas Stein, as requested by the real estate developer, Haagen, and Nicholas' brother, George. This, despite the fact that Nicholas did not suffer any mental or physical limitation that would require a Guardianship. The guardian, Ned Hall, the purchaser, Haagen, and brother, George, were concerned because Jack's father, Nicholas, had assigned his interest in the property and disputed contract to Jack, and, when Haagen failed to make a scheduled payment on the assigned real estate contract, Jack retained attorney Ken Eiesland to prepare documents to foreclose and cancel the disputed contract, for nonpayment.

The guardian immediately sued Jack Stein to set aside agreements between Jack and Nick. The guardian's lawsuit was assigned to Clark County Superior Court Judge, John J. Skimis. Jack retained attorney Kenneth Eiesland to represent him.

However, almost immediately, a court clerk, acting as a confidential informant, advised Stein that Judge Lodge and a prosecutor were observed "tampering" with court files, and that Judge Lodge had requested Stein's case be assigned to himself.

Jack Stein notified his attorney, Ken Eiesland, who drafted an Affidavit of Prejudice against Judge Lodge, intending to block transfer of the case to Judge Lodge. Eiesland asserted he could not stand Lodge and would not want Lodge as the assigned judge. Recusal was also appropriate because Jack had previously broken off an intense sexual relationship with Judge Lodge's wife.



However, awhile later, Eiesland stated that Judge Lodge refused to honor the affidavit of prejudice and would not recuse himself, allegedly asserting that because the case was in equity, Jack was not entitled to recusal. Mr. Eiesland asserted Lodge's refusal to recuse would be a good issue on appeal.

Stein expected Eiesland to provide capable legal service because he had prepared the documents to foreclose on the disputed "Haagen" contract. However, after Mr. Eiesland failed to initiate appropriate discovery, Jack Stein discussed his concerns with another judge, over lunch. It was Jack's custom to have lunch with judicial officials, periodically. Stein was advised to seek independent advise, which Jack did do. Then, Jack confronted Ken Eiesland about his apparent lack of appropriate pre-trial preparation. Mr. Eiesland angrily resigned and Stein accepted his resignation.

However, when Stein requested return of all unearned retainer, Eiesland explained he was short of cash. When Jack complained, Eiesland explained he had been desperate for cash and did not think Stein would mind he had "borrowed" Stein's money. Eiesland never repaid the money! Later, Stein also discovered Mr. Eiesland had converted Jack's trust assets, to his own use.

Eventually, years later, Stein learned Eiesland had improperly taken money from his account, which was used to purchase real property with Judge Lodge, et al. This, secrete wrongdoing done at the same time Mr. Eiesland was (officially) representing Jack Stein's interests before Judge Lodge.

It seems criminal and unethical for an attorney to divert funds from a client's account for his personal use. It also seems improper to use a client's funds to purchase real property in partnership with the judge assigned to the client's case.

In retrospect, it seems Judge Lodge was vengeful toward Stein because of his past sexual relationship with Mrs. Lodge, and that Lodge had Stein's case reassigned to himself as a ploy to harm Jack Stein. Stein's attorney should not have diverted funds from a trust account without Stein's knowledge or authorization. Moreover, Stein's attorney should not have used the converted funds to purchase property with the judge assigned to his client's case. In retrospect, it appears Mr. Eiesland was manipulated to sabotage Stein's legal interest, as a quid pro quo to serve Judge Lodge's animosity, and to betray Stein's interest.

Ned Hall used the guardianship proceeding to control and exploit Nicholas Stein. Jack Stein asserted that Ned Hall was an unfit guardian and that, because there was no medical or other reason for a guardianship, the guardianship should be terminated. In response, Ned Hall conspired with a Clark County authorities to place Nicholas Stein in a convalescent center, and secured a "protection" order prohibiting Jack Stein from visiting his father, Nicholas. Both Nicholas and Jack were aggrieved and filed motions to vacate the guardianship and vacate the protection order, as abuse of process.

Nicholas sought to vacate the guardianship and retained new and independent legal counsel. His new attorney secured medical documentation showing a guardianship was not necessary or proper.

Also, the attorney recommended that Nicholas move from Clark County and establish himself as a domicile of Oregon for legal purposes. At his father's request, and in concert with Nick's doctor, Jack transported Nicholas from Washington to a Portland, Oregon medical facility. Nicholas Stein's doctor arranged for therapy and other treatment at the Oregon hospital.

Jack Stein visited Nicholas daily at the hospital. Nicholas' health showed marked improvement. Nicholas' attorney secured medical and psychological evaluations showing Nicholas did not require a guardianship and prepared pleadings to vacate the Washington guardianship. Presumably, the guardian and adverse interests feared their opportunity to control and exploit Nicholas was in jeopardy. The guardian secured a Clark County Superior Court order purporting to authorize Ned Hall to remove Nicholas Stein from his Oregon hospital facility and relocate Nicholas to a care facility located in Washington State. Furthermore, the prosecutor and Ned Hall arranged for Clark County Sheriff deputies to accompany Hall into Oregon and then to transport Nicholas "back" into Washington State.

Nicholas and Jack Stein filed a 28 U.S.C. §1331 et al., civil rights lawsuit against Ned Hall, seeking \$2,500,000.

In 1987, one or more crime was committed against Ned Hall by Stein's step-son's friend, Richard Bailey. However, Jack Stein was neither a conspirator nor accomplice and had no knowledge of the crimes against Hall. However, at request of prosecutors, Clark County authorities contrived to produce evidence to falsely implicate Jack Stein in the 1987 crimes against Mr. Hall.

### CRIMINAL JUDICIAL MISCONDUCT TO EXPLOIT JACK STEIN

In 1988, Jack Stein was arrested and charged with crimes related to the underlying convictions. At the time of Stein's arrest, Stein was a modestly wealthy man, owning real property valued in excess \$5,000,000. and holding stocks and securities valued in excess \$950,000. Jack Stein also owned other assets.

Shortly after Stein's arrest, a prosecutor confronted Stein in a lower floor of the jail, while Stein was still in handcuffs, and boasted that prosecutors had a plan to control and exploit Stein's assets through the Clark County Superior Court, where they could control everything. The prosecutor predicted; "There will be nothing left when the court gets through."

At that time, Stein considered the threat an idle boast. However, Stein was aware the prosecutor and a deputy prosecutor harbored extreme political animus against Stein.

Shortly after Stein's arrest, a prominent defense attorney, Richard Petersen, filed his appearance as defense counsel for Jack Stein. However, within 10 days, Mr. Petersen told Stein that the elected County Prosecutor, Art Curtis, wanted to force him to resign as Stein's defense counsel. Mr. Petersen explained he had once been in a financial bind and had diverted a client's funds to his personal use. He continued, "Art (Curtis) had known about it and would never have said anything, but Art was so obsessed with getting you out of his hair, he will do anything. ... Art has hated you for so long that he will stoop to anything to get you. ..."

Over Stein's objection, the Court removed Petersen, and then appointed substitute attorneys, Dane and Dunkerly, despite the fact Jack Stein did not claim to be indigent, advised the court he wished to be represented by retained counsel of choice, and previously filed a Bar complaint against Dane's law partner.

Dane and Dunkerly filed a motion to recuse Judge Morgan, without Stein's knowledge. Dane and Dunkerly conspired with Judge Heavy of Seattle to have the court appoint Judge Heavy.

It is apparent the Court of Appeals failed to protect Stein from misconduct by miscreant attorneys and also from miscreant judicial officials, such as Judge Heavy and Judge Borst.

Moreover, the Court of Appeals also failed to protect Stein from FRAUD and criminal abuse of process and/or judicial misconduct, particularly in collateral (civil) proceedings.

#### **IRREPARABLE HARM AND CATASTROPHIC DAMAGES**

Taken together, it can not be denied; my family and I have suffered from a series of corrupt attorneys, court officials, and several corrupt judges. These miscreant officials have caused irreparable harm and catastrophic damages to Stein and family.

Respondent has attempted to misrepresent the nature of Stein's Habeas/PRP claims and asserts that Stein presented but four claims. However, Stein presented nine Habeas/PRP claims:

1. Counsel of Choice,
2. Speedy Trial,
3. Due process,
4. Judicial Misconduct,
5. Mismanagement,
6. Prosecutorial Misconduct,
7. Excessive Delay,
8. Egregious Misconduct by Court Official,
9. Vindictive Prosecution.

*This text belongs on page 8 of line 8*

The State's official PRP form specifically provides that the petitioner not show case law or great detail in the petition.

The Petitioner is simply to present his claims and issues. Thereafter, the Chief Judge is to make an initial consideration of the issues raised. However, in this case, over 11 months passed from the time Stein filed his PRP until the Chief Judge issued her initial consideration. Regretfully, her initial consideration dismissed Stein's PRP. However, RAP 16.11 provides a PRP should not be dismissed at the initial consideration stage, unless the PRP is frivolous. Stein's claims were NOT frivolous!

Each of those nine claims has merit and is supported by the facts and argument presented in Stein's Memorandum in Support.

A summary of issues and facts supporting Stein's habeas/PRP claims can be extracted from Stein's November 15, 2004, Memorandum in Support, as follows:

**ISSUES**

**DOES IT VIOLATE** the Sixth Amendment right to counsel of choice for a Court to force a defendant to accept defense counsel hired by his relatives without his knowledge or consent, when the defendant can afford to pay for private counsel, objects to the attorney hired by relatives, and wishes to retain someone else?

**DOES IT VIOLATE** the 6th and 14th Amendments for a Court to refuse to remove retained private counsel whom the defendant claims he never hired, without ever holding an evidentiary hearing to determine whether the attorneys were in fact hired by someone other than the defendant?

**IS THE DEFENDANT ENTITLED** to reversal and dismissal of the charges against him, pursuant to Washington State Constitution, Art. 1, § 10 and/or CrR 8.3(b), where the prosecution causes a 6-½ year delay in the processing of a criminal appeal, by falsely informing a state court judge that the defendant is responsible for the failure to file transcripts, thereby causing the erroneous dismissal of the defendant's appeal, when in fact the prosecution was responsible for the delay because it had informed the Superior Court Clerk not to file the transcripts?

**DOES THE PERJURY**, suborn of perjury, judicial misconduct and Governmental Misconduct initiated or abetted by court officials in the underlying case, as canted in the Memorandum in Support, constitute such an insult to Due Process so as to require the Court of Appeals to dismiss the charges in interest of justice?

**DID COURT OF APPEALS ERR** by transferring Stein's RCW 7.36 habeas corpus petition for post-conviction relief, filed in the Snohomish County Superior Court, to the Court of Appeals for consideration as a Personal Restraint Petition?

**DOES IT VIOLATE DUE PROCESS**, or the intent for prompt review of a RCW 7.36 habeas petition, to consolidate Stein's RCW 7.36 petition for post-conviction relief with his direct appeal?

**RESPONDENT DOES NOT DISPUTE RELEVANT FACTS STEIN PRESENTED**

Respondent's Brief has not disputed any fact presented in Stein's Memorandum In Support, nor has the Respondent's Answer provided any relevant fact in rebuttal to Stein's issues.

### **PREJUDICE**

For purposes of habeas review, the law provides prejudice is assumed as to the Egregious and FUNDAMENTAL violations presented in Stein's RCW 7.36 (habeas) petition for post-conviction relief.

### **ALL CLAIMS RELATE TO VIOLATIONS FROM 1988 to 1999**

The claims and grounds for relief presented in this habeas petition have nothing to do with errors and violations in the trial ultimately conducted in July 2004. Consolidation of Stein's RCW 7.36 petition for post-conviction relief with the anticipated direct appeal of the 2004 trial would improperly thwart prompt consideration that RCW 7.36 and habeas law intend.

### **CLAIMS**

Stein's RCW 7.36 habeas claims can be summarized as follows:

#### **COUNSEL OF CHOICE**

The Court denied Stein's FUNDAMENTAL right to be represented by retained counsel of choice in the first trial and in the 1989 trial. In the first (1988) trial, the Court appointed counsel, despite the fact that Mr. Stein did not claim to be indigent.

In the second trial, the Court forced Stein to proceed with an attorney retained by adverse third parties, without Stein's knowledge, by denying Mr. Stein's pro se motion to remove Browne, so to be represented by retained counsel of choice, or pro se.

#### **DUE PROCESS**

Stein's Memorandum in Support present Egregious Due Process violations in both the first and second trial, and up to 1999.



#### **SPEEDY TRIAL**

Speedy Trial violations in the first trial and second trial, demonstrated in Stein's Memorandum in Support, were neither cured nor swept under the rug by Stein's successful direct appeal.

#### **JUDICIAL MISCONDUCT**

Egregious Judicial Misconduct occurring in the first trial, second trial, and post-conviction proceedings from 1989 to 1999.

#### **MISMANAGEMENT**

Mismanagement occurring in the first trial, second trial, and in the post-conviction proceedings from 1989 to 1999.

#### **PROSECUTORIAL MISCONDUCT**

Prosecutorial Misconduct occurring in the first trial, second trial, and post-conviction proceedings from 1989 to 1999.

#### **EXCESSIVE DELAY**

Violations of Due Process, and the Judicial Misconduct, Mismanagement, and Prosecutorial Misconduct resulted in Excessive Delay, that is not cured by Stein's successful direct appeal.

#### **EGREGIOUS MISCONDUCT BY COURT OFFICIALS**

Misconduct by Court Officials occurring in the first trial, second trial, and post-conviction proceedings from 1989 to 1999.

#### **VINDICTIVE PROSECUTION**

Animus and Vindictive Prosecution distorted the proceedings.

#### **EGREGIOUS GOVERNMENT MISCONDUCT REQUIRES DISMISSAL**

Egregious Governmental Misconduct by AAG attorneys, et al., is an independent cause for dismissal. The Attorney General, Hon. Rob McKenna, was advised of misconduct by AAG attorneys.

**SIMPLY MAKING A RECORD**

In view of the protracted history of judicial misconduct presented in the Habeas/PRP, and the apparent judicial conspiracy to cover-up wrongdoing by court officials, Stein has no realistic expectation of a favorable ruling by a COA Commissioner or Court of Appeals Judge, or the Supreme Court. Moreover, Stein would point out that the Supreme Court was presented with opportunity to mediate and correct the due process violations and judicial misconduct on several occasions, but the Court declined to act, allowing the catastrophic damages to continue escalating.

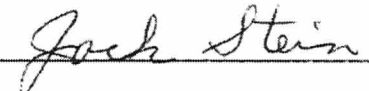
Accordingly, Stein files this pleading simply to preserve issues and document the ongoing judicial misconduct. Hopefully, at a time in the future, state/federal officials will prosecute miscreant attorneys and court officials who have precipitated and/or abetted in the underlying travesty of justice. Maybe.

**V. CONCLUSION**

This Court should refer Stein's RCW 7.36 petition for relief back to Snohomish County Superior Court with instructions to consider the Habeas claims without further delay.

In the alternative, the Court of Appeals should refer this matter to a panel of COA judges for consideration on the merits, or to the Superior Court for a hearing. Furthermore, the Court should appoint counsel to represent petitioner in this matter, as provided by case law, habeas procedures, and/or RAP \_\_\_\_.

RESPECTFULLY SUBMITTED this 6 day of June, 2005.

  
\_\_\_\_\_

Jack Stein, Petitioner

FILED  
COURT OF APPEALS

05 JUN -7 PM 1:14

IN THE COURT OF APPEALS FOR WASHINGTON

DIVISION II

ST. JAMES COURT  
BY \_\_\_\_\_  
CLERK

JACK K. STEIN, )  
                  ) Petitioner, )  
                  ) vs. )  
                  ) )  
JAMES SPALDING, )  
                  ) Respondent. )  
\_\_\_\_\_ )

No. 32982-4-II  
CERTIFICATE OF SERVICE

C E R T I F I C A T E   O F   S E R V I C E

I certify that I served the referenced pleadings, as follows:

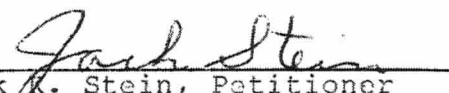
- 1. TRAVERSE TO RESPONSE, REPLY, AND OBJECTION TO MOTION

on Respondent by mailing a copy, contained in sealed envelope, with postage prepaid, addressed as follows:

Hon. Rob McKenna, Esq.  
State Attorney General  
P.O. Box 40116  
Olympia, WA 98504-0116

Nancy P. Collins  
Wash Appellate Project  
1511 3rd Ave. Ste 701  
Seattle, WA 98101-3635

DATED this 6 day of June, 2005.



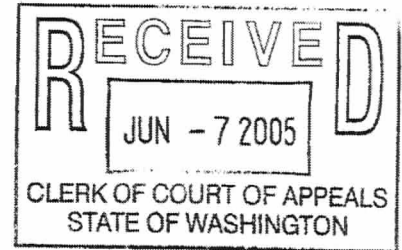
Jack K. Stein, Petitioner  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98272-0777



**JACK K. STEIN**  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98272-0777

May 19, 2005

Hon. David C. Ponzoha, Clerk  
Court of Appeals; Div. II  
950 Broadway; Suite 300  
Tacoma, WA 98402-



Re: State v Stein, COA Cause No. 31980-2-II  
Personal Restraint: Jack Stein, No. 32982-4-II  
Petition For Writ of Habeas Corpus (RCW 7.36 et seq.)

Dear Mr. Ponzoha,

I was aggrieved by the ruling in your March 9, letter advising:  
"A RULING SIGNED BY THE COMMISSIONER"

Accordingly, on March 28, 2005, I prepared a Motion to Modify the Commissioner's March 9 ruling, as provided by RAP 17.7. That pleading was mailed to Court of Appeals, and interested parties, on March 28, 2005. At the time, I was deathly ill.

Frankly, I had expected the Court to consider the matter on the next opportunity, and to issue a ruling long before now.

Similar facts apply to a Commissioner's March 23, 2005 ruling.

In view of my opinion the Chief Judge and Commissioner are both malevolent and corrupt, particularly as to the ploy to cover-up wrongdoing that my pleadings expose, I can appreciate that the Court may not want to do anything that would facilitate my attempts to expose criminal misconduct by court officials, as the referenced State Habeas pleadings may do, particularly if the matter can be considered in a jurisdiction that is free from judicial corruption and/or the motive to cover-up wrongdoing that has sabotaged my liberty interest and my civil issues from 1988, and before. Corrupt officials should be prosecuted.

**Please advise me when the Court will rule on my motions.**

If the Court of Appeals made any ruling on the Motion to Modify, I did not receive a copy. Please provide. I remain . . .

Respectfully yours,

*Jack Stein*  
Jack Stein

cc: Hon. Rob McKenna, Esq.  
David L. Donnan, Esq.

JACK K. STEIN  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98272-0777

June 6, 2005

Hon. David Ponzoha, Clerk  
Court of Appeals, Div. II  
950 Broadway; Suite 300  
Tacoma, WA 98402-



Re: State v Stein, COA Cause No. 31980-2-II  
Petition For Writ of Habeas Corpus (RCW 7.36 et seq.)  
Personal Restraint Petition; Jack Stein, No. 32982-4-II


TRANSMITTAL MEMORANDUM

Dear Clerk,

Please find my Pro Se pleadings enclosed for filing, as follows:

1. TRAVERSE TO RESPONSE, REPLY, AND OBJECTION TO MOTION
2. CERTIFICATE OF SERVICE

Respectfully yours,

  
\_\_\_\_\_  
Jack K. Stein, Pro Se

enclosures:

cc: Hon Rob McKenna, Esq.  
State Attorney General  
& Lana Weinmann, AAG

TRANSMITTAL MEMORANDUM



Walter Reed Army Medical Center  
P.O. Box 777 (08-505)  
Washington, D.C. 20342-0777

RECEIVED  
JUN - 7 2005  
CLERK OF COURT OF APPEALS  
STATE OF WASHINGTON

1490 U.S. POSTAGE  
4259 \$01.520  
6256 MAILED FROM ZIP CODE 98272  
PB2213890  
JUN 06 05

Hon. Donald L. Dingler, Clerk  
Court of Appeals - District II  
450 Broadway - Suite 300  
Washington, D.C. 20002

Legal Mail

# CONTENTS

FILED  
COURT OF APPEALS  
DIVISION II  
2014 JAN 31 AM 11:23  
STATE OF WASHINGTON  
BY W  
DEPUTY

- THE PERSONAL RESTRAINT PETITION MANUAL
- PERSONAL RESTRAINT PETITION-FORM (RAP 16.3)
- IN FORMA PAUPERIS GUIDE
- IN FORMA PAUPERIS MOTION AND ORDER FORM (ORPRFP)

**example**



COURT OF APPEALS  
DIVISION \_\_\_\_\_  
OF THE STATE OF WASHINGTON

In the Matter of the Application )  
For Release from Personal Restraint )  
of: )  
)  
Bobby ZIMMERLE )  
Petitioner )

45868-3

Personal Restraint Petition  
Pursuant to (RAP 16.3)

*If there is not enough room on this form, use the back of these pages, or other paper. Fill out all of this form and other papers you are attaching before you sign this form in front of a Notary.*

A. Status of Petitioner

I, Bobby ZIMMERLE # 257213 - G-E-127, WASHINGTON STATE  
PENITENTARY, 1313 N. 13 N. TA AVE, WALLA WALLA, WA 99362  
(Full name and address)

Apply for relief from confinement. I am  am not [ ] now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order:

3<sup>rd</sup> DEGREE ASSAULT.

(Identify type of order)

1. The Court in which I was sentenced is: Cowlitz County

2. I was convicted of the crime(s) of: 3<sup>rd</sup> DEGREE ASSAULT

3. I was sentenced after trial [ ], after plea of guilty  on: 4-16, 2013  
(Date of Sentence) (Year)

The judge who imposed the sentence was \_\_\_\_\_  
(Name of trial court judge)

4. My lawyer at trial was: NONE, THERE WAS A CONFLICT OF INTEREST, I DON'T KNOW HIS NAME TO THIS DAY.  
(Name and address if known; if none, write "none")

5. I did  did not [ ] appeal from the decision of the trial court (if the answer is that I did), I appealed to: Cowlitz County Superior Courts, A MOTION TO WITHDRAWEL MY PLEA, IT WAS DENIED, SEE COURT HEARING MINUTES TO SEE WHY.  
(Name of court of courts to which appeal was taken)

My lawyer on appeal was: NONE, I'M ASKIN' NOW FOR NEW COUNSEL.  
(Name and address if known; if none, write "none")

The decision of the appellant court was  was not [ ] published. If the answer is that it was published, and I have this information, the decision is published in: \_\_\_\_\_

(Volume number, Washington Appellate Reports or)

(Washington Reports and page number)

6. Since my conviction I have  have not [ ] asked the court for some relief from my sentence other than I have already written above. (If the answer is that I have asked)

The court I asked was: TO GRANT ME A WITHDRAWEL OF PLEA, DUE TO A CONFLICT OF INTEREST, AND CONFLICT WITH THE JUDGE, I DID NOT GET A FAIR HEARING, AND THE PUBLIC ATTORNEY WITHDREW FROM MY CASE AT THE HEARING.  
(Name of court or courts in which relief was sought)

Relief was denied  granted [ ] \_\_\_\_\_

## (GROUNDS OF RELIEF)

GROUND 1, ON 4-15-2013, A WOMAN JUDGE DIDN'T NOT TAKE MY PLEA TO SHE DID NOT FEEL COMFORTABLE AND TOLD MY LAWYER AND THE PROSECUTOR THAT SHE WAS GOING TO POSPONES MY PLEA AND SHE WANTED AND TOLD MY LAWYER THAT SHE WANTED HIM TO MAKE ME UNDERSTAND THAT I WAS GOING TO PLEA ~~TO~~ GUILTY TO 43 MONTHS FOR 3<sup>RD</sup> DEGREE ASSAULT DOES HE UNDERSTAND THAT, AND TOLD HIM SHE WAS GOING TO LET THE JUDGE WHO STARTED THIS CASE TO DEAL WITH IT.

GROUND 2, I ASK TO TALK AND SEE MY LAWYER AND HE CAME TO SEE ME AND I TOLD HIM THAT YOU SAID THEY WERE GOING TO DROP THE FELONY MURDER, AND I DID NOT FEEL COMFORTABLE OR UNDERSTAND WHY YOU WOULDN'T CHECK AND SEE IF I HAD LIFER POINTS, IN FACT I DO NOT WANT TO PLEA GUILTY TO THIS CHARGE YOU WOULDN'T LET ME READ THE POLICE REPORT YOU'VE DONE NOTHING BUT TRIED TO CONVICT ME AND GET ME OUT OF HERE I WANT TO WITHDRAW MY PLEA AND HE SAID I COULDN'T HE WOULDN'T HELD ME WITHDRAWEL MY PLEA, IN FACT HE FLAT RIGHT OUT SAID I COULDN'T DO IT, THEN I TOLD HIM I WOULD NOT PLEA GUILTY IN COURT FOR THIS CHARGE AND I DIDN'T I PLEADED NOT GUILTY IN COWLITZ COUNTY SUPERIOR COURT ROOM; SO WHEN I GOT TO PRISON I FILE A MOTION OF WITHDRAWEL OF PLEA TO COWLITZ COUNTY.

FILED  
COURT OF APPEALS

05 JUN -7 PM 1:14

IN THE COURT OF APPEALS FOR WASHINGTON

STATE OF WASHINGTON

DIVISION II

BY \_\_\_\_\_

JACK K. STEIN, )  
Petitioner, )  
vs. )  
JAMES SPALDING, )  
Respondent. )  
\_\_\_\_\_ )

No. 32982-4-II  
CERTIFICATE OF SERVICE

C E R T I F I C A T E O F S E R V I C E

I certify that I served the referenced pleadings, as follows:

1. TRAVERSE TO RESPONSE, REPLY, AND OBJECTION TO MOTION

on Respondent by mailing a copy, contained in sealed envelope, with postage prepaid, addressed as follows:

Hon. Rob McKenna, Esq.  
State Attorney General  
P.O. Box 40116  
Olympia, WA 98504-0116

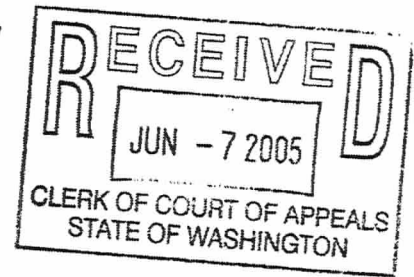
Nancy P. Collins  
Wash Appellate Project  
1511 3rd Ave. Ste 701  
Seattle, WA 98101-3635

DATED this 6 day of June, 2005.

Jack Stein  
Jack K. Stein, Petitioner  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98272-0777

JACK K. STEIN  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98272-0777

June 6, 2005



Hon. David C. Ponzoha, Clerk  
Court of Appeals; Div. II  
950 Broadway; Suite 300  
Tacoma, WA 98402-

Re: State v Stein, COA Cause No. 31980-2-II  
Personal Restraint: Jack Stein, No. 32982-4-II  
Petition For Writ of Habeas Corpus (RCW 7.36 et seq.)

Dear Mr. Ponzoha,

The enclosed June 6, 2005 Traverse will replace my preliminary Traverse dated May 20, 2005.

The enclosed pleadings consist of a Traverse (pages 1-26), and Certificate

Please be aware, the Traverse includes  
This page notation was necessary to advise  
I discovered the need to insert (an  
should be presented at page 10, rather  
argument placed out of order.

*Handwritten note:* met to st 6/20/05

andum,

10.1.  
s when  
t that  
icular

While, I do not expect to cause a moral and ethical reform among Court of Appeals officials, I trust that my pleadings will give certain officials pause to reflect on the judicial misconduct presented in my memorandum because governmental misconduct is so hurtful to innocent persons.

Indeed, my family and I have suffered irreparable harm and catastrophic damages as the consequence of judicial malfeasance and/or egregious misconduct at issue. I have advised the State Attorney General, Hon. Rob McKenna, of the pattern of ethical violations and governmental misconduct committed by attorneys and staff employed by his office. The Attorney General should initiate an investigation and prosecute both state employees and court officials responsible for egregious wrongdoing referenced in my 12/15/04 RCW 7.36 memorandum in support. I remain . . .

Respectfully yours,

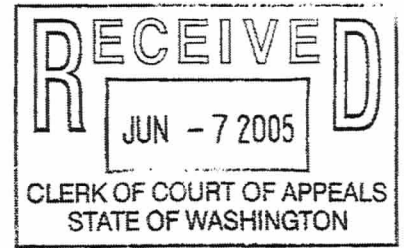
*Jack Stein*  
Jack Stein

encl: Traverse; June 6, 2005, pages 1-26. TM. CS.

cc: Hon. Rob McKenna, Esq.  
Nancy P. Collins, Esq.  
David L. Donnan, Esq.

JACK K. STEIN  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98272-0777

May 19, 2005



Hon. David C. Ponzoha, Clerk  
Court of Appeals; Div. II  
950 Broadway; Suite 300  
Tacoma, WA 98402-

Re: State v Stein, COA Cause No. 31980-2-II  
Personal Restraint: Jack Stein, No. 32982-4-II  
Petition For Writ of Habeas Corpus (RCW 7.36 et seq.)

Dear Mr. Ponzoha,

I was aggrieved by the ruling in your March 9, letter advising:  
"A RULING SIGNED BY THE COMMISSIONER"

Accordingly, on March 28, 2005, I prepared a Motion to Modify the Commissioner's March 9 ruling, as provided by RAP 17.7. That pleading was mailed to Court of Appeals, and interested parties, on March 28, 2005. At the time, I was deathly ill.

Frankly, I had expected the Court to consider the matter on the next opportunity, and to issue a ruling long before now.

Similar facts apply to a Commissioner's March 23, 2005 ruling.

In view of my opinion the Chief Judge and Commissioner are both malevolent and corrupt, particularly as to the ploy to cover-up wrongdoing that my pleadings expose, I can appreciate that the Court may not want to do anything that would facilitate my attempts to expose criminal misconduct by court officials, as the referenced State Habeas pleadings may do, particularly if the matter can be considered in a jurisdiction that is free from judicial corruption and/or the motive to cover-up wrongdoing that has sabotaged my liberty interest and my civil issues from 1988, and before. Corrupt officials should be prosecuted.

**Please advise me when the Court will rule on my motions.**

If the Court of Appeals made any ruling on the Motion to Modify, I did not receive a copy. Please provide. I remain . . .

Respectfully yours,

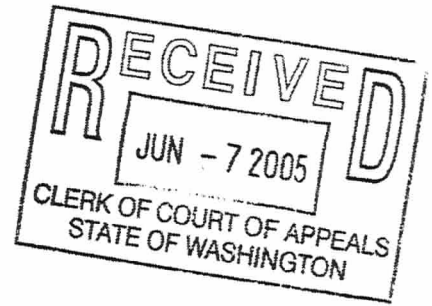
*Jack Stein*  
Jack Stein

cc: Hon. Rob McKenna, Esq.  
David L. Donnan, Esq.

JACK K. STEIN  
Monroe Correctional Complex  
P.O. Box 777 (B-305) #955827  
Monroe, WA 98272-0777

June 6, 2005

Hon. David Ponzoha, Clerk  
Court of Appeals, Div. II  
950 Broadway; Suite 300  
Tacoma, WA 98402-



Re: State v Stein, COA Cause No. 31980-2-II  
Petition For Writ of Habeas Corpus (RCW 7.36 et seq.)  
Personal Restraint Petition; Jack Stein, No. 32982-4-II


TRANSMITTAL MEMORANDUM

Dear Clerk,

Please find my Pro Se pleadings enclosed for filing, as follows:

1. TRAVERSE TO RESPONSE, REPLY, AND OBJECTION TO MOTION
2. CERTIFICATE OF SERVICE

Respectfully yours,

  
\_\_\_\_\_  
Jack K. Stein, Pro Se

enclosures:

cc: Hon Rob McKenna, Esq.  
State Attorney General  
& Lana Weinmann, AAG

TRANSMITTAL MEMORANDUM

14990 14990 14990 14990 14990

Margaret Katherine Kanyok

P.O. Box 777 (18-505)

Winnemucca, NV 89402-0777

RECEIVED  
JUN - 7 2005  
CLERK OF COURT OF APPEALS  
STATE OF WASHINGTON

14990 U.S. POSTAGE P82213890  
4259 \$01.520 JUN 06 05  
6256 MAILED FROM ZIP CODE 98272

Allen Donald L. Pennington, Clerk

Court of Appeals, Division II

950 Nevada - Suite 300

Winnemucca, NV 89402

Legal Mail





**Snohomish County Sheriff's Office  
Personal Inquiry Questionnaire**

**Confidential**

**To: Chief Criminal Deputy Cameron  
Name of Applicant: David Fontenot  
Position Applied for: Deputy Sheriff (Lateral)  
Date Mailed: 12-13-11**

The above named individual has applied for a position with the Snohomish County Sheriff's Office. The applicant supplied your name to this Office. Please take the time to answer all of the questions as completely as possible. The purpose of this form is to help us adequately assess the applicant and his/her suitability for the position. Your comments are extremely important in determining the selection of well-qualified personnel. Be assured, your answers will remain in the strictest of confidence. Thanks for your prompt response.

**Instructions:**

1. Please give detailed responses or comments to all applicable questions.
  2. When completed, please place the questionnaire in the self-addressed stamped envelope.
- 

1. What type of association do you have to the applicant?

***Association has been mainly professional. In 2005, he was under my supervision.***

2. How long have you known the applicant?

***Dave was hired by the Clallam County Sheriff's Office sometime in the mid 90's***

3. How long has it been since you last had contact with the applicant?

***I do not recall the last time I had personal contact with Dave. There has been some email correspondence.***

4. How does the applicant get along with friends, neighbors and co-workers?  
**For the most part, it seems very well. Not all co-workers warmed up to him, but those that did, worked well with him.**

5. Describe the applicant's personality?

**Very outgoing. Dave was very humorous and friendly.**

6. What is the applicant's strongest or most positive quality or character trait?

**In my association, it was his work ethic. Dave was very dedicated to his profession and worked long hours and very hard to ensure the completion of cases and tasks**

7. What is the applicant's least desirable quality or biggest weakness?  
(please do not list "none")

**At the time (consider my association with him was in 2005), the issue was maturity. The humor he instilled was sometimes not accepted by all, perhaps juvenile as he would sometimes present humor at inappropriate times.**

8. How would you describe the applicant's friends and associates?

law abiding  
 questionable  
 unknown

Comments:

**Please recall that my direct association with him ended in 2005. I do not know who he associates with today.**

9. Are you convinced the applicant is an honest person?

yes  
 no

Comments:

***This is difficult. I have been questioned for my decisions in the past regarding Dave's honesty. Dave became embroiled in an internal investigation within this agency involving the unapproved possession of evidence and the filing of a notary document. I maintain that while Dave's actions in these matters were clearly wrong, they were the result of the immaturity I have referred to and not a result of any lack of integrity.***

10. Is the applicant reliable?

yes  
 no

Comments:

11. Would you trust the applicant in confidential matters?

yes  
 no

Comments:

12. To the best of your knowledge, has the applicant ever been involved in any illegal or questionable conduct? Explain:

***The internal situations I refer to above involve an item of evidence seized as a result of a search warrant that was not entered into evidence. Some months later, it was reported that he retained possession of that item and not entered it as evidence. It was confirmed that he did indeed retain the item, leaving it in his assigned car until being asked about it.***

***The second was the filing of a return of service he signed in front of a notary that essentially acknowledged that he had served the item. He in fact had not, a deputy had.***

13. Have you ever observed the applicant display prejudice or biases based on race, gender, age, religion, sexual orientation, etc....? Explain:

**No**

14. Do you know or suspect the applicant of belonging to or affiliated with questionable associations or groups? Explain:

**No**

15. Have you ever observed or do you have knowledge of the applicant's use of illegal drugs, including marijuana? Explain the extent and usage dates:

**No**

16. Describe the applicant's financial reliability?

- lives within means
- lives beyond means
- repossessions
- bankruptcy
- unknown

Explain:

***While associated with this agency, there were no incidences of financial issues that I am aware.***

17. Does the applicant lose his/her temper easily? Explain:

***None that I have seen***

18. Is the applicant able to make decisions under stress? Please give an example:

***Yes. In 2004, Dave was a patrol sergeant when he and his team responded to what could have been an active shooter situation at a rural school in our area. Dave took control of the incident which involved not only responding deputies and other law enforcement, but kept the school under control as well. When it was discovered that the incident was an event where an 8<sup>th</sup> grader had brought a gun to school and committed suicide in front of his teacher and classmates, Dave took immediate control of that too, preserving the scene for responding detectives.***

19. What does the applicant do in his/her spare time?

***In his association with me, Dave was extremely busy. He held his own business requiring an extreme amount of energy but never seemed to allow it to interfere with his duties as a deputy.***

20. What hobbies and interests does the applicant have outside of work?

***unknown***

21. What are the applicant's goals in life?

***Unknown. However, Dave was very committed to his career in law enforcement. He was extremely proud to have been promoted while serving at this agency. I am aware that Dave continued his career in law enforcement by working at UW Police Agency and the City of Snohomish where he continued to work complicated investigations.***

22. Do you know anything else about the applicant, which should be investigated before appointment to this position? (Please consider areas such as maturity, loyalty, integrity, common sense, judgment, etc)

***Much of this I have addressed.***

23. As a personal reference you have been identified as one of a series of acquaintances that can provide information regarding the applicant and their network of friends. In light of this fact, please list at least 2 other people that may be able to furnish additional information regarding this applicant. **Please do not leave this blank or omit additional contacts:**

Name: Fred DeFrang  
Address:  
City: Port Angeles  
State: WA  
Zip Code: 98362  
Phone: 360-460-0463  
Email:  
fred@defrangexecutiveservices.com

Name: Bill Benedict  
Address: 223 E 4<sup>th</sup> St Ste. 12  
City: Pt Angeles  
State: WA  
Zip Code: 98362  
Phone: 360-417-2464  
Email:  
bbenendict@co.clallam.wa.us

24. Would you want the applicant to be a law enforcement officer/correctional officer in the community in which you live and be responsible for the safety of you and your family?

yes  
 no

Explain:

25. Do you have any other comments?

***See below***

---

**Please answer the following question if you have employed, supervised or worked with the applicant.**

26. Name of company?

***Clallam County Sheriff's Office***

27. Between what dates did the applicant work for you or with you? From ***1993 (?) to 2005***

28. Describe the applicant's position and duties?

***Dave worked through the ranks of our agency from entry level deputy to detective to sergeant to detective sergeant.***

29. How did the applicant react to company policies and procedures?

fully complied  
 usually complies  
 resisted  
 disobeyed

Comments:

***Previously addressed.***

30. Please check any problems affecting the applicant's work:

- |                                     |                             |                          |            |
|-------------------------------------|-----------------------------|--------------------------|------------|
| <input checked="" type="checkbox"/> | disciplinary                | <input type="checkbox"/> | financial  |
| <input type="checkbox"/>            | absence or tardiness        | <input type="checkbox"/> | drinking   |
| <input type="checkbox"/>            | unable to follow directions | <input type="checkbox"/> | domestic   |
| <input type="checkbox"/>            | inability to get along      | <input type="checkbox"/> | disloyalty |

Comments:

31. Did the applicant ever receive complaints from the public, supervisors or co-workers? Explain:

***Previously addressed***

32. Did the applicant demonstrate acceptable interpersonal skills and the ability to get along with a wide variety of people? Explain”:

***yes***

33. How would you rate the applicant's job performance?

- |                          |                |                                     |                   |
|--------------------------|----------------|-------------------------------------|-------------------|
| <input type="checkbox"/> | outstanding    | <input checked="" type="checkbox"/> | good              |
| <input type="checkbox"/> | satisfactory   | <input type="checkbox"/>            | needs improvement |
| <input type="checkbox"/> | unsatisfactory |                                     |                   |

Comments:

34. Why did the applicant leave this job?

***Dave was forced to resign***

35. If the decision were up to you, would you rehire this applicant? Explain:

***Dave's actions causing his departure in 2005 were part of a larger issue surrounding our department at the time. His returning to this agency would open old wounds that we have worked hard to successfully overcome.***

***However, this agency was under a different type of leadership at that time. For whatever reason, command staff insisted on placing Dave on a fast track to success giving him promotional opportunities. If you look, Dave went from a reserve deputy to detective sergeant in less than 12 years, assuming roles of detective and patrol sergeant along the way. Although some may be capable of this, Dave rose too quickly, and he really never worked with/for someone for an extended period that he could emulate and learn from. As a result of his limited experience in an important position, he made some devastating decisions.***

***While some disagree with me, I stand by my opinions regarding Dave; that his actions in 2005, while unfortunate, were the result of immaturity and poor judgment relating to his limited exposure to leadership, and not to his integrity.***

36. Please list all email accounts you know to be associated to the applicant.

***unknown***

---

Thank you for taking the time to fill out this questionnaire. Your answers will be held in the strictest of confidence. If you have any questions, please feel free to contact me at (425) 388-.7676

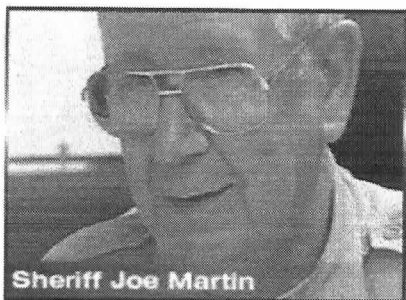
Deputy Chip Payne  
Background and Recruiting Unit  
Snohomish County Sheriff's Office



## KOMO News

# Clallam County Sheriff Investigation Results In Shakeup

Published: Nov 23, 2005 at 6:49 PM PDT (2005-11-24T1:49:0Z) | Last Updated: Aug 31, 2006 at 2:08 AM PDT (2006-08-31T9:08:26Z)



CLALLAM COUNTY - The Sheriff is shaking up Clallam County.

He's asked his undersheriff to resign and taken action against two others. The moves involve a deputy having an affair on department time, a second swiping sunglasses, and a third covering for a friend.

"I don't stand for that and I'm their leader. I don't believe in that. I have high principles and morals and I will do the right thing," said Sheriff Joe Martin. "And I've done the right thing by taking care of business. I will not stand for that."

Undersheriff Steven Snover is a veteran of the department. Just five years ago he got a special commendation following the shooting of deputy Wally Davis.

It was Snover who spent 25 hours negotiating the surrender of the shooter, Thomas Roberts.

But this time the undersheriff downplayed an action by a friend, Detective Sergeant Dave Fontenot, calling what he did just an error in judgment.

What did Fontenot do?

"He took a pair of sunglasses from a warrant search that were not in the scope of the warrant," said Martin. "They were a pair of old aviator sunglasses that he just took from the scene."

You might wonder 'what's the big deal of antique sunglasses?'

The big deal is it happened during an official search. Now the detectives credibility is in question and the prosecutor has put several criminal cases on hold.

KOMO 4 News has learned that ten cases including two assaults and eight drug cases have already been dismissed or pleaded down.

The other incident involving deputy Dwane Hayden is a matter of sex on the job. It does not threaten any cases.

Long time members of the department are applauding the sheriff's action

"If we have to clean our house to do that, that's what we have to do," said Det. Sgt. Monty Martin.

Asked if he felt better now that the sheriff has acted Martin responded, "Yes. I do."

All the findings of the Sheriff's investigation are being forwarded to the prosecutor's office for possible charges.

Number	File	Employee	Reporting Person	Policy Violation or Allegation	Formal Complaint	Informal Complaint	Date of Incident	Date Investigator Assigned	Date Employee Notified	Date of Disposition	Disposition	Action Taken	Complainant Notified
646	Y	Fontenot	Snover	Improper release of evidence	Y		4/25/1998	7/6/2000	7/6/2000	10/23/2000	Sustained	Verbal counseling	Retained All
704	Y	Keegan & Fontenot	Snover	Use of Force Viol	Y		3/11/2003	Snover 3/12/03	10/20/2003	1/22/2003	Sustained	Verbal Reprimand	Retn summary 10/23/07
722	Y	Fontenot (exempt)	Chad Stansland	Unprofessional conduct	Y		12/1/2003	Snover 12/9/2003	12/19/2003	12/22/2003	Exonerated	Retained per US Pergrin	
730	Y	Fontenot (exempt)	Turner	Sexual Harassment	Y		6/7/2004	Sheriff Martin		6/15/04	Not Sustained	Employee Resigned	Retained
740	Y	Dave Fontenot	Ron Cameron	Policy Violation, 5.1.7 et al	Y		2005 January	6/7/2005	6/22/2005	6/14/2005	Sustained	10 d suspension w/5 unpaid.	Dest 10/12/16
741	Y	Dave Fontenot	Ron Cameron	Policy Violation, 5.1.7 et al	Y		2005 May	6/7/2005	6/22/2005	6/14/2005	Sustained	Combined w/740	Dest 10/12/16
743	Y	Dave Fontenot	Cameron	Sexual Harassment	Y		8/22/2005	Outside 8/22/05	8/23/2005				Dest 10/12/16

Please take note that the #730 turned into #743 after investigations.



# CLALLAM COUNTY SHERIFF'S DEPARTMENT



## COMPLAINT AGAINST DEPARTMENT MEMBER

A36 File No.: 646

Complaint Receiver <u>JUDY DAWSON</u>	Date of Complaint <u>6-29-00</u>	Date of Incident <u>4-25-98</u>	Formal Complaint <u>X</u>	Informal Complaint
--	-------------------------------------	------------------------------------	------------------------------	--------------------

Member Complaint Directed Against <u>DAVID FONTENOT</u>	Nature of Complaint (P&P Violation) <u>10.02.2(C) AUTH. TO RELEASE EVIDENCE.</u>
--	---

Complainant's Name <u>CHUCK MARUNDS</u>	Complainant's Address <u>971 WARD RD. SEQUIM</u>	Telephone <u>683-1652</u>
--	---	------------------------------

OTHER INVOLVED PERSONS			
Status	Name	Address	Telephone
O	<u>GEORGE FARREN</u>	<u>971 WARD RD. SEQ</u>	<u>681-7904</u>
AJ	<u>JESSE MARUNDS</u>	<u>971 WARD RD. SEQ</u>	<u>683-1652</u>

Investigation and Recommendations: (Attach Additional Sheets As Necessary)

THIS COMPLAINT IS VALID BUT WAS CLEARLY THE RESULT OF A MIX-UP IN INCIDENT NUMBERS COUPLED WITH DEPUTY FONTENOT'S FAILURE TO VERIFY FACTS BEFORE ISSUING A RELEASE. FONTENOT ASSISTED TWO ANIMAL CONTROL OFFICERS WITH THEIR ANIMAL ABUSE CASES. FONTENOT WAS ORIGINALLY GIVEN THE WRONG CFS # BY OFC. HARKINS. THE SUSPECT'S FIREARMS WERE PLACED INTO EVIDENCE UNDER THE WRONG CFS # OF 950 9206. THE MISTAKE WAS FOUND BY THE RECORDS SECTION AND THE CORRECT CFS # 9509203 WAS PUT ON ALL THE REPORTS EXCEPT FOR FONTENOT'S PROPERTY REPORT. WHEN FONTENOT REVIEWED HIS ANNUAL PROPERTY LIST HE CONSULTED THE COMPUTER AND FOUND THAT CFS # 9509206 LISTED JOHN SPURRIER AS "OWNER" IN AN ANIMAL COMPLAINT. FONTENOT ASSUMED SPURRIER OWNED THE GUNS AND KNEW SPURRIER TO BE A CONVICTED FELON ON THE RUN FROM LAW ENFORCEMENT. FONTENOT COMPLETED THE PROPERTY RELEASE AUTHORIZING AUCTION OF THE GUNS. FONTENOT'S MISTAKE WAS EQUALLY CAUSED BY THE PAPER WORK ERROR AND HIS FAILURE TO VERIFY THE GUNS OWNERSHIP. FONTENOT HAS BEEN COUNSELED BY THIS SUPERVISOR AS TO THE PROPER METHOD OF REVIEWING ANNUAL PROPERTY LISTS. NO OTHER ACTION NEEDED.

Investigator Assigned (Printed) <u>Sgt. SNOVER</u>	Date <u>10-23-00</u>	Division Head Approval <u>[Signature]</u>	Date <u>10-24-00</u>
Investigation Completed (Signature) <u>[Signature]</u>	Date <u>10-23-00</u>	Complaint Disposition: <input type="checkbox"/> Unfounded <input type="checkbox"/> Not Sustained <input checked="" type="checkbox"/> Exonerated <input type="checkbox"/> Sustained	Date Member Notified <u>10-23-00</u>

---

# MEMORANDUM

---

FROM JUDY DAWSON - Records Specialist *JF*

FILE: L28.C009509203/9509206

DATE: July 3, 2000

TO: Support Services Supervisor Alice Hoffman

SUBJECT: Case C009509203/C009509206



On the afternoon of June 29, 2000 I received a call from a Mr. Marunde. He explained to me that a few years ago his son was arrested for shooting a donkey at the Olympic Game Farm. The gun belonged to Mr. Marunde's father, George Farren. Mr. Marunde said that he was present when a deputy (whose name he couldn't remember) came to talk to his dad just after the incident. The deputy told his dad that they would need to take the gun. Mr. Farren was reluctant to release the gun, but finally did to the deputy. Mr. Marunde states that the deputy promised over and over that the gun would be returned to him. Mr. Marunde advised that his dad, Mr. Farren, does not have any "love" for the Sheriff's Department and simply did not pursue getting his gun back. Mr. Marunde felt it should be looked into and that is why he is calling. Mr. Marunde is an attorney and he felt the gun should be returned.

I checked in global name search and found Mr. Farren's name under case C009509203. I pulled up the case on the computer and went to the evidence screen. The gun is listed in the computer but says it is not on hand and was returned to George Farren. There are no dates so I couldn't tell Mr. Marunde a date. He was adamant that the gun was not returned and we still had it. I put him on hold and went to the files and got the hard evidence card. The evidence card for case C009509203 was originally written up as C009509206 but Annie Lowe had written over that number and corrected it to C009509203. There is only one evidence card on this case and there are no guns. The only evidence on the hard card evidence sheet, listed under this case, is "bullet fragments" and "Polaroid photos of burro". I do not know why the computer shows guns when there is no evidence sheet under 9509203 to substantiate that entry. I asked for Mr. Marunde's phone number and told him I would have to go pull the original case file and see what was going on and would call him back.

I went across the hall to the records section and physically pulled the original report on case C009509203. In this case there are two property room reports dated 04-12-96 by Deputy Fontenot which are receipts to George Farren and Sherri Cobb for seizing a Smith Police Special and an Interarms Rifle. These property room reports are listed for Case C009509203. There is also an property room report (evidence sheet) for the bullet fragments and Polaroid photos of burro listed for case 9509206 by Deputy Harkins dated 08-18-95. This is the evidence sheet that was changed to read 9509203 in the evidence room. No corrections of case numbers were made on records copy original evidence sheets but it is filed in with the 9509203 case. Lastly, there is an evidence sheet dated 04-12-96 by Deputy Fontenot for the two guns he entered into evidence and his property room report sheet says 9509206. No changes were made on this evidence sheet and the evidence WAS listed under case 9509206. The originals of these evidence sheets, however, are all filed with the 9509203 case.


In looking in the computer under case 9509206 the guns are listed there. In 1998, I sent the deputies their list of "evidence by officer" that was on hand. It is their duty to go through the list and advise what items can be destroyed, returned, or auctioned. On April 25, 1998 Deputy Fontenot gave me Authorization for Release of Property Form ("026") on case 9509206. He authorized me to auction both the Smith & Wesson Revolver as well as the Interarms Rifle. He added a statement on the bottom of the "026" form which reads, "Owner out of area - unknown location". On February 26, 1999 both of these firearms were traded to Territorial Supplies.

On June 29<sup>th</sup>, I called Territorial Supplies to ask them if they could tell me the disposition of the Smith & Wesson 38 Special. He advised me that I would need to make this request in writing. I wrote up a memo requesting this information and faxed it to them on June 29, 2000. Territorial advised me that they would be closed for the holidays until July 5<sup>th</sup>, but they would respond on that date.

---

# MEMORANDUM

---

*FROM JUDY DAWSON - Records Specialist* 

FILE: L28.C009509203

DATE: June 29, 2000

TO: Territorial Supplies, Inc.

SUBJECT: Gun Traded



On February 26, 1999 we traded some firearms with your company. We would like to know the disposition of the following gun traded to you:

Smith Wesson 38 Special Revolver, Serial #J382192

Please reply to Judy or Alice at the Clallam County Sheriff's Department. Our fax number is 360-417-2498, phone number 360-417-2268.

Thank you.

# MEMORANDUM

*FROM JUDY DAWSON - Records Specialist*

FILE: L28.C009509203

DATE: June 29, 2000

TO: Territorial Supplies, Inc.

SUBJECT: Gun Traded



On February 26, 1999 we traded some firearms with your company. We would like to know the disposition of the following gun traded to you:

Smith Wesson 38 Special Revolver, Serial #J382192

Please reply to Judy or Alice at the Clallam County Sheriff's Department. Our fax number is 360-417-2498, phone number 360-417-2268.

Thank you.

*1-6-00*

*Re. gun case (A36)  
Please find you  
here in case  
any more gun  
from Territorial  
Judy*

*Sold 3/31/99 to.*

*Seligman Distributing Inc.  
SDI  
1 Flowerfield Ste 7  
St. James, N.Y.  
11780-1503*

*Robert Seligman  
Phone 516-862-8861  
FAX 516-862-8854*



---

# MEMORANDUM

---

*FROM ALICE HOFFMAN-Support Services Supervisor*



**FILE:** A36.646

**DATE:** July 6, 2000

**TO:** Sergeant Steve Snover

**SUBJECT:** Improper Authorization to Release Firearms



Steve, attached is a packet of information gathered from Evidence Officer Judy Dawson involving firearms taken as evidence in case report #9509203.

Dave Fontenot put the two firearms in evidence under an incorrect case number. As a result of this error, Dave authorized release of the firearms according to the information contained in the incorrect case report. The firearms were both traded in 1999 to Territorial Supply instead of being returned to their rightful owners.

This error was not known at all until the owner of one of the firearms called on 06-29-00 to retrieve it from evidence. The owner has been informed that his gun was mistakenly traded. He has been informed that he can contact the new owner, as provided by Territorial Supply, and try to retrieve his gun and/or he can file a claim against the county for the value of the gun.

The second owner does not know of the situation and will not be contacted by this department. If that owner does contact us, a second claim will probably be filed against the county as a result of this mistake.

As per department procedure, in this type of situation an A36 investigation is completed. I am referring this matter to you, as you are Dave Fontenot's immediate supervisor at this time.

Feel free to contact Judy or me if you need additional information.

9509208

INCIDENT NO. 9509208

CLALLAM COUNTY SHERIFF'S DEPT.  
PROPERTY ROOM REPORT

Page 1 of 1

STATUS: D-Damaged Property E-Evidence F-Found Property R-Recovered Property SF-Safeskeeping O-Other L-Lost S-Stolen

REPORT 8-18-95

STATUS	ITEM NO.	TAG NO.	QTY	DESCRIPTION: Make / Model / Color / Size / Where Found (DRUGS: Type, Quantity, Type Measurement)	SERIAL NUMBER	VALUE:	T.E.
E	1	27827		BULLET FRAGMENT		NIL	PD

E	2	27828	2	POLAROID PHOTOS OF BURN		NIL	PD
---	---	-------	---	-------------------------	--	-----	----

				Copy of			
				Original evidence			
				Shot gun			
				0909509208			
				(Plate paid 9206 had was changed)			

EVIDENCE DEPUTY	REPORTING DEPUTY	DATE	TIME	PROPERTY DEPUTY	LOCATION OF STORAGE	DATE	TIME
	D. Hawkins	8-18-95	1530	Jamie Howe	2091	081895	1530

The above inventory was conducted in my presence and completely and accurately describes property seized from my possession or premises to which I acknowledge receipt thereof.

















# CLALLAM COUNTY SHERIFF'S DEPARTMENT



## Authorization for Release of Property

Case Number: 9509206

The following described items are authorized for AUCTION:

SMITH & WESSON REVOLVER J382992

INTERARM RIFLE NO 22362

The following described items are authorized for DESTRUCTION:

The following described items may be RETURNED TO THE OWNER, whose name and address is:

NAME:	PHONE:
COMPLETE ADDRESS: (Street/PO Box/City/State/Zip Code)	

COMMENTS: OWNER OUT OF AREA - UNKNOWN LOCATION

AUTHORIZED BY: D. Zandt

DATE: 042598



# CLALLAM COUNTY SHERIFF'S DEPARTMENT



## COMPLAINT AGAINST DEPARTMENT MEMBER

A36 File No.: 704

Complaint Receiver <u>CAPT. SNOVER</u>	Date of Complaint <u>3-12-03</u>	Date of Incident <u>3-11-03</u>	Formal Complaint <input checked="" type="checkbox"/>	Informal Complaint <input type="checkbox"/>
---	-------------------------------------	------------------------------------	---	--

Member Complaint Directed Against <u>JOHN KEEGAN / DAVE FONTENOT</u>	Nature of Complaint (P&P Violation) <u>VIOLATION OF USE OF FORCE POLICY CH. 7</u>
---	--

Complainant's Name <u>CAPT. SNOVER</u>	Complainant's Address	Telephone
---	-----------------------	-----------

OTHER INVOLVED PERSONS			
Status	Name	Address	Telephone
<u>ARA</u>	<u>TROY ROMERO</u>	<u>791 N. RHODEFER, SEQUIM</u>	

Investigation and Recommendations: (Attach Additional Sheets As Necessary)

SEE ATTACHED REPORT.

Investigator Assigned (Printed) <u>CAPT. SNOVER</u>	Date <u>3-12-03</u>	Division Head Approval <u>[Signature]</u>	Date <u>8-28-03</u>
Investigation Completed (Signature) <u>[Signature]</u>	Date <u>7-22-03</u>	Complaint Disposition: <input type="checkbox"/> Unfounded <input type="checkbox"/> Not Sustained <input checked="" type="checkbox"/> Exonerated <input type="checkbox"/> Sustained	Date Member Notified <u>10-20-03</u>



# CLALLAM COUNTY SHERIFF'S DEPARTMENT



## Employee Notification of Investigation

TO: <u>DAVID FONTENOT</u>	FROM: <u>CAPT. SNOVER</u>
---------------------------	---------------------------

Assigned Investigator

This memo is to advise you that a complaint has been issued against you or that you are the subject of an investigation. Specifically, the allegations are:

1. VIOLATION OF P&P CHAPTER 7 / USE OF FORCE, ORDERED THE USE OF A TRAP ON A HAND CUFFED & SHACKLED PRISONER.

2. \_\_\_\_\_

3. \_\_\_\_\_

COMMENTS: \_\_\_\_\_

You have specific rights and responsibilities during the investigation. These rights and responsibilities include the right to have a union representative present during questioning, and the responsibility to cooperate and answer questions. Other rights and responsibilities are outlined in chapter 6 of the Policy & Procedures Manual and in the current Labor Contract.

Remember: This is not a disciplinary action. It is an investigation of a complaint or allegation filed against you.

INVESTIGATOR'S SIGNATURE: <u><i>Steve Snover</i></u>	DATE: <u>3-12-03</u>
--	----------------------



# CLALLAM COUNTY SHERIFF'S DEPARTMENT



## Employee Notification of Investigation

TO: <span style="font-size: 1.2em;">JOHN KEEGAN</span>	FROM: <span style="font-size: 1.2em;">CAPT. SNOVER</span>
---	--

Assigned Investigator

This memo is to advise you that a complaint has been issued against you or that you are the subject of an investigation. Specifically, the allegations are:

1. VIOLATION OF P&P CHAPTER 7 / USE OF FORCE, DEPLOYED A TASER INTO THE TORSO OF A HANDCUFFED & SHACKLED PRISONER.
2. \_\_\_\_\_
3. \_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

You have specific rights and responsibilities during the investigation. These rights and responsibilities include the right to have a union representative present during questioning, and the responsibility to cooperate and answer questions. Other rights and responsibilities are outlined in chapter 6 of the Policy & Procedures Manual and in the current Labor Contract.

Remember: This is not a disciplinary action. It is an investigation of a complaint or allegation filed against you.

INVESTIGATOR'S SIGNATURE:

DATE:

6-19-03

## Narrative Report

RUN DATE: 07/25/2003

Page 1

Investigation by Captain Steve Snover

On 3/12/03, I reviewed a "Use of Force", A35, report reference the arrest of Troy Romero as documented in incident report # 2003-2414. This report was submitted by Deputy John Keegan and approved by Sgt. Dave Fontenot. A copy of this report is attached for reference. The A35 was submitted to document that a taser had been activated and deployed during the arrest of Romero. After reviewing the report I determined that a violation of Department P&P Chapter 7 might have occurred.

The arrest report states that Deputies Keegan and Moores had contacted Romero at the scene of a one-vehicle accident on Happy Valley Road. It was determined that Romero had driven his pick-up truck into the roadside ditch on the wrong side of the road. The accident had occurred at about 1945 hours well after nightfall. Romero smelled of intoxicants and his actions were consistent with those of a highly intoxicated person. Romero was requested to perform Field Sobriety Tests, which he failed. During this time Deputy Kirst and Sgt. Fontenot arrived at the scene. Deputy Moores advised Romero that he was under arrest for DUI at which time Romero became uncooperative. Romero physically struggled with the deputies and resisted their efforts to handcuff him. Romero shouted threats that he intended to harm the deputies. Romero and the deputies went to the ground where they continued to struggle with a resisting Romero. Failing to gain control of Romero, Sgt. Fontenot authorized Deputy Keegan to use the taser to gain Romero's compliance. The taser malfunctioned and was not deployed. Kirst and Moores next successfully handcuffed Romero in the hands rear position. Romero continued to struggle by kicking at the deputies and by shouting threats. Romero was held down to the ground and ankle shackles were applied. The deputies next attempted to place Romero into the rear seat of Moores' patrol car but Romero resisted their efforts by kicking, twisting, and pushing himself away from the car. Romero continues to verbally threaten harm to the deputies. Sgt. Fontenot then requested that Keegan deploy the taser to gain Romero's compliance and to prevent any injuries that could have occurred to any of them including Romero if the struggle had been allowed to continue. Keegan deployed the taser into Romero's back after which they were able to gain compliance from Romero and secure him in the patrol car.

This incident raised the question of whether it was a violation of Chapter 7 to deploy a taser into an uncooperative, combatant subject that was handcuffed and ankle shackled. As a precautionary measure, all tasers were recalled from the field and their use restricted.

Interview of Sgt. Fontenot: 3/12/03.

Fontenot stated that when he arrived on the scene, Deputy Keegan and Deputy Moores were attempting to run FST's on Romero. Fontenot had responded to the scene due to a radio call from Keegan requesting assistance. Deputy Kirst arrived at about the same time as Fontenot. Keegan came to Fontenot and explained that he had found Romero in the driver's seat of the truck that was in the ditch and that they were in the process of arresting him for DUI. Keegan explained that he has had prior contact and experience with Romero and believed that he would be uncooperative and combative when arrested. Romero is a bodybuilder and is extremely powerful. This is why he had requested additional deputies to the scene. When told he was under arrest, Romero started to verbally threaten the deputies and resisted their attempts to take him into custody. He pulled away from their grasps and would not follow orders to cooperate. Three of them tried to physically restrain Romero but he pulled through all their holds. Romero kicked at the deputies and threatened to harm them taking a fighter's stance. Fontenot requested Keegan to apply the taser to Romero.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Approval: \_\_\_\_\_

Date: 8/20/03

## Narrative Report

RUN DATE: 07/25/2003

Page 2

The taser malfunctioned and failed to deploy. The deputies then successfully put Romero to the ground where they used their combined weight to hold him down. After several moments of struggling they were able to handcuff Romero in the hands rear position. They also placed ankle shackles on his legs. They next attempted to place Romero into the rear seat of Dep. Moores' patrol car. Romero continued to physically resist and to shout threats of violence. Though handcuffed and shackled, Romero successfully prevented his placement into the patrol car by stiffing his body, violently shrugging off the deputies attempts to hold onto him, and by kicking his legs at the deputies. Fontenot decided that this struggle could result in injury to Romero and the deputies so he authorized Keegan to deploy the taser into Romero. Keegan deployed the taser and both probes entered Romero's back. He instantly relaxed and slumped. Romero then stated he would cooperate and he was safely placed into the patrol car with no further resistance.

I asked Sgt. Fontenot if he believed he had correctly authorized the use of the taser within Department policy. He stated he was not sure and based his uncertainty on several factors. They include that he has not received training on the taser's use or how it functions. Also, he is not sure exactly where the taser fits within the guidelines of our current use of force policy. I asked if he had considered other reasonable alternatives and stated that at the time he believed the taser was an appropriate use of force in this incident. On hindsight he agreed that other alternatives could have been considered and that retraining on proper taser procedures should be considered for all operations personnel.

I next reviewed training materials provided by Taser International and compared their research and suggestions to our use of force policy. It appeared to me that our policy addressed the taser under the electrical stun device category though it did not address the taser specifically. I am also aware that there had been recent discussion among our Defensive Tactics instructors that the taser needed to be specifically addressed in policy and that our use of force continuum should be reviewed. Our Department had no certified Taser instructor so I arranged for Det. Sgt. Turner to attend taser instructor training and to then review our policy and make suggest appropriate improvements.

Sgt. Turner completed both tasks and I reviewed the proposed amended policy. The new proposed policy presents clear language on the taser's use and clearly defines its level of force.

**Interview of Deputy Keegan: 6/19/03**

The incident began when Keegan responded to a report of a truck in the ditch on Happy Valley Road. He and Deputy Moores arrived on scene at near the same time. They found Troy Romero sitting in the driver's seat of his pick up truck which was partially off the road in the drainage ditch facing the wrong direction into oncoming traffic. Keegan knows Romero due to prior contacts with him both in the field and in the county jail during Keegan's employment as a corrections officer. Romero is a bodybuilder and an extremely powerful person. When intoxicated, he is known to resist and fight with law enforcement. Keegan smelled alcohol on Romero and immediately radioed for more assistance. Moores attempted to run Romero through some FST's. Romero was advised that he was under arrest for DUI. He became uncooperative and verbally abusive towards the deputies threatening them with physical harm. Romero took a fighter's stance and threatened physical violence. Keegan warned Romero of possible taser use and pointed the taser at him. Romero continued to be uncooperative so Keegan attempted to deploy the taser. The taser cartridge failed to

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Approval:  \_\_\_\_\_

Date: 8/20/03



Narrative Report

RUN DATE: 07/25/2003

Page 4

of the taser to gain Romero's compliance. Dep. Keegan obeyed Fontenot's request and made the decision to deploy the taser into Romero's back torso. This action was an escalation in the level of force from Level 4/Physical Control to Level 5/Serious Physical Control without considering reasonable alternatives available at the present level of force. A reasonable alternative such as the use of a hobble should have been considered and its use would have ended the combative situation while maintaining the incident at its present level of force.

FINDINGS:

This incident will be sustained as a violation of the Use of Force policy as it stood as of the date of the incident.

MITIGATING CIRCUMSTANCES:

The use of the taser was not specifically addressed in the present continuum although electrical stun gun was addressed. It can be argued that there are significant differences between the stun gun and the taser and the two are not interchangeable within the continuum. The major difference is that the stun gun uses pain for compliance and the taser uses nervous system electrical disruption for compliance.

Taser training addresses this difference and this information may have resulted in some confusion as to the proper use of the taser within our force continuum.

This incident has resulted in a review of the Use of Force policy and a revised Force Continuum has been prepared and recommended by Detective Sergeant Turner and Detective Lightfoot. This revised continuum and policy was prepared after reviewing training material from Taser International and a model continuum endorsed by the Washington State Criminal Justice Training Commission. Under the revised continuum, the use of the taser is authorized under Impedance Tactics at the level of Active Resistance.

RECOMMENDED DISCIPLINE:

Verbal Reprimand and review of Use of Force policy. Sgt. Fontenot and Dep. Keegan shall both be given a verbal reprimand for improper use of force and they shall be required to review the Use of Force policy and discuss their understanding of the policy with a representative of Department administration.

RECOMMENDED DEPARTMENT ACTION:

The revised Use of Force Continuum and policy should be reviewed by administration and either adopted or rejected. All commissioned personnel should review Use of Force policy as adopted and should be retrained in proper taser use by Det. Sgt. Turner. Tasers should be reissued for general use by personnel completing the retraining with Det. Sgt. Turner.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: [Signature]

Date: 9-2-03

Supervisor Approval: [Signature]

Date: \_\_\_\_\_







# CLALLAM COUNTY SHERIFF'S DEPARTMENT



## Employee Notification of Investigation

TO: [REDACTED]	FROM: <i>Capt. Svober</i>
Assigned	Investigator
<p>This memo is to advise you that a complaint has been issued against you or that you are the subject of an investigation. Specifically, the allegations are:</p>	
<p>1. <u>CONDUCT UNBECOMING A DEPUTY, SPECIFICALLY, THAT YOU USED UNNEEDED VOCAL AND PHYSICAL CONTROL OF A SUSPECT IN ORDER TO EMBARRASS AND HUMILIATE THE SUSPECT.</u></p>	
<p>2. _____</p>	
<p>3. _____</p>	
<p>COMMENTS: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p><u>You have specific rights and responsibilities during the investigation.</u> These rights and responsibilities include the right to have a union representative present during questioning, and the responsibility to cooperate and answer questions. Other rights and responsibilities are outlined in chapter 6 of the Policy &amp; Procedures Manual and in the current Labor Contract. Remember: This is not a disciplinary action. It is an investigation of a complaint or allegation filed against you.</p>	
<p>INVESTIGATOR'S SIGNATURE:   <i>[Signature]</i></p>	<p>DATE:   <i>12-19-03</i></p>

Narrative Report

RUN DATE: 12/22/03

Page 1

A36-722 Investigation Conducted by Captain Steve Snover

On 12-1-03, [redacted] came to my office to report an arrest situation that may become the source of an A36 complaint. He told me that he had been asked by PAPD Officer McFall to go to Costco to arrest Chad Stensland on probable cause for domestic violence assault 4. [redacted] made prior notification to the manager of Costco of his intend to arrest Stensland at the store. [redacted] located Stensland at the store and advised him that he was under arrest. Stensland became resistive and argumentative and did not follow [redacted] directions. [redacted] used an arm technique to escort Stensland to the parking lot then placed him in his patrol car. [redacted] next phoned PAPD to check Stensland statement that he had just left the PAPD station house. PAPD Officer Bergeron told [redacted] that he had just interviewed Stensland and had issued him a criminal citation. Bergeron said he had not notified PENCOM that the arrest PC was canceled. [redacted] immediately released Stensland. Stensland was very upset and vowed to take legal action against [redacted]

Interview of Complainant Chad Stensland, 12/9/03

On 12/9/03, Michael Chad Stensland came to CCSD and asked to meet with me to report unbecoming behavior by [redacted] Stensland gave me a typed statement that had been prepared by him as well as two handwritten statements prepared by his wife, Tracy Stensland, and by a Costco coworker, Sherry Hathaway. The statements contained Stensland's version of the arrest situation with [redacted] I reviewed the statements and found everything to be consistent with what had been related to me by [redacted] The only additional complaint was that [redacted] may have shared information concerning the incident with [redacted] girlfriend, Cassie Hardin and that Hardin may have shared information with other Costco workers, specifically, Phil Oard who works with Hardin in the Costco bakery.

I explained to Stensland that [redacted] had arrested him at the request of PAPD and that they had failed to withdraw the request. I told him that [redacted] was working under good faith with the best information available to him at the time. Stensland then wanted to press forward with the complaint that [redacted] demeanor and tactics we unnecessary and designed to embarrass and demean Stensland in front of his co-workers and customers. Also, he complained that [redacted] acted inappropriately by sharing information with Ms Hardin also in an attempt to further embarrass Stensland.

I had asked Stensland if had had questioned Phil Oard as to whether Cassie Hardin had been the source of the information Oard had shared with others. Stensland told me that he could not speak to Oard due to a temporary restraining order between he and Oard. I went to the District Court Office and secured a copy of the application for restraining order filed by Phil Oard against Stensland. I also got a copy of the PAPD DV report documenting the assault between Chad Stensland and his wife. Thus I was able to learn that Phil Oard and Tracy Stensland had been involved in an extra-marital affair that has caused conflicts between Oard and Stensland and put a severe strain on the Stensland marriage. This information became relevant when I interviewed [redacted]

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Approval: \_\_\_\_\_

Date: 12-22-03

3

Narrative Report

RUN DATE: 12/22/03

Page 2

Interview of [REDACTED] 12/19/03

[REDACTED] told me that he had had prior contacts with Chad Stensland and believes him to be a bit of a hot head. He also was aware that Stensland was suspected of slitting Oard's truck tires and of harassing him over an affair Oard had had with Stensland's wife. [REDACTED] is aware of this information because Oard works with Cassie Hardin, [REDACTED] girlfriend. Since Stensland was wanted by PAPD for DV assault and PAPD had not been able to locate him, [REDACTED] was prepared for problems with Stensland if he located him at Costco. [REDACTED] phoned the Costco store manger to advise him of his intend to arrest Stensland at the store.

When he arrived at the store, he had intended to meet first with the store manger to arrange the arrest out sight of witnesses. When he arrived and met with employees at the relations booth, he requested to meet with the manager. As he waited, he spotted Stensland working at checkout just a few feet away. [REDACTED] approached Stensland and asked him to come outside the store. Stensland refused and physically stiffened which [REDACTED] recognized as normal for a person who is considering fight or flight. [REDACTED] gave more verbal commands and Stensland remained uncooperative and argumentative. Stensland did state that the arrest was unnecessary because he had just met with PAPD. [REDACTED] told him that he still needed to come with him and that this information would be checked out. [REDACTED] escorted Stensland to his patrol car using an authorized wrist hold technique. Stensland was not handcuffed and any embarrassment or confrontation within the store would have been avoided if Stensland had cooperated with [REDACTED] commands. [REDACTED] justified the actions he took based upon his belief that Stensland was a possible assault or flight risk.

After securing Stensland in his patrol car [REDACTED] phoned PENCOCM and was told that the PC arrest alert for Stensland was still active. He then requested the PAPD supervisor and was put into contact with Officer Bergeron. Bergeron told [REDACTED] that Stensland had been into PAPD earlier that morning and had been cited for assault and released. Bergeron had not thought to cancel the PC arrest alert. [REDACTED] immediately released Stensland and tried to explain the cause for the mix-up. Stensland was not receptive to any explanation and vowed to take legal action and to get even with [REDACTED]. [REDACTED] left Costco but did phone the store manager to explain the results of the incident. [REDACTED] also phoned his girlfriend, Hardin, out of concern for her safety and the safety of Phil Oard. [REDACTED] considered Stensland's threat as viable based on his suspected past behavior of revenge towards Oard. [REDACTED] felt it was prudent to warn Hardin who he felt could become a convenient target of Stensland's anger since she was working and present in Costco at that time. [REDACTED] provided a written statement of the incident.

Findings and Disposition

Based on all the information provided, there are no policy violations. [REDACTED] authoritative demeanor appears proper for this type of arrest situation. He was acting in good faith when he took Chad Stensland into custody and his release from custody was immediate upon consulting with PAPD. Under normal circumstances it would not be proper to disclose SO business with a girlfriend or family member but in this case it was proper and prudent of [REDACTED] to warn Ms Hardin of Stensland's threats.

[REDACTED] actions were proper and he is Exonerated of any unbecoming conduct in this incident.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Approval: [Signature]

Date: 12-22-03

4

---

# MEMORANDUM

---

**FROM:** [REDACTED]

**FILE:** A-36

**DATE:** December 20, 2003

**TO:** Captain Snover

**SUBJECT:** Michael "Chad" Stensland



Captain Snover,

At your request the following is a complete report of the incident involving the arrest and subsequent un-arrest of Michael "Chad" Stensland. I have included to assist you the email messages from PAPD, and my replies. This also includes an email to you from me advising of the potential problem.

On Monday 12/01/2003 about 0830 Hrs. (my Friday) I checked my departmental email and voicemail per policy. I found in my email a request from PAPD Officer McFall. Officer Mcfall's email described probable cause for the arrest of Michael "Chad" Stensland for Assault IV Domestic Violence which had occurred in the City of Port Angeles overnight. Officer McFall attempted contact with Stensland after the report was made, she was unable to locate him. Deputy Cannon made attempts to contact Stensland at another address without success. Deputy Cannon advised Stensland's parents that Stensland needed to contact PAPD or he would be contacted at his place of employment, Costco in Sequim. At the time the email was sent by Officer McFall (0659 Hrs.) Stensland had not made contact.

I left the office (Port Angeles) at 0859 Hrs. went to the county shop for vehicle repair, cleared the shop at 0908 Hrs., checked out at OPNET for case conference at 0914 Hrs. and cleared 0931 Hrs. I then made an arrest for another agency, and arrived at the jail at 0950 Hrs. I was out at the Sheriff's Office from 1010 Hrs to 1023 Hrs. At that time I checked my voicemail and email, no cancellation of the PC for Stensland's arrest was found. I cleared the office at 1023 Hrs. arrived at the Sequim Detachment Office at 1057 Hrs. I briefed Deputy Keegan on the arrest situation at Costco and he was assigned to cover me during the contact from a distance. At that time no cancellation of the probable cause was made, the belief was that PC still existed for Stensland's arrest.

It should be noted that I called the manager of Costco and spoke to him about the situation. I told "Larry" that I needed to talk to Stensland and that I was planning on arresting him for the City of Port Angeles for Assault IV Domestic Violence. The manager advised that Stensland had called in sick the day before, and was expected to be sick on 12/01/2003 but called and said he was feeling better and would be at work (about 1030 Hrs.). No mention of the police issue was made to the manager by Stensland. "Larry" requested the lowest key approach, I assured him that was

the plan but I also advised him that I would not allow Stensland to act out of control, he agreed. I called another employee that I have personal knowledge with and was told that Stensland had arrived and it was told to them from other employees that Stensland beat up his wife and was going to get arrested. I confirmed my intention to arrest him.

At 1114 Hrs. I called out at Costco for an agency assist arrest. PenCom acknowledged and no advisement was given about any change in the probable cause for Stensland's arrest.

I parked in front, went in the front door to the customer service desk. My intent was to contact the manager, have him pull Stensland off the floor and effect the arrest in a quiet "low key" way. I have personal knowledge of Stensland and felt that I could use that personal knowledge to my advantage in making the arrest without incident.

As I stood at the counter waiting for the manager, I saw Stensland working at a stand very near to my location. I walked to him and touched his back, and quietly said "I need you to come with me, I have something we need to discuss". Stensland straightened up and faced me quickly. He said "no I'm working". I placed my hand on his arm and felt him flex, tighten his muscle and look around quickly. I told him that I was going to need him to walk calmly outside to discuss a matter. He again said "no" and flexed. He then said "I took care of this, this morning". I said I would check that out, but he needed to come with me. He continued to quickly glance around, his fists balled and released, his muscles flexed. I guided him to a location away from the check stand because, based on my experience and training I felt Stensland was posturing to resist, or possibly flee. I kept a hand on his arm to maintain control. As I guided him to the area away from the stands I told him he was under arrest for Domestic Assault and I was going to take him to Port Angeles. He turned and faced me in a very confrontational way, his eyes narrowed, I felt his pulse jump and he shifted his weight back and forth on his feet. He tried to remove his arm from my grip. I tightened my hold and moved to a position that would allow me to use a wrist lock if the situation escalated. I could see Stensland rocking on his feet, his fists balled, I observed him shift his shoulders in a posture consistent with pre attack indicators. He raised his voice and told me that he was not going with me, that he had taken care of the problem prior to work and was not under arrest. I advised him that I would check on his story, but at this time he was in my custody. I also told him in stern verbal commands that he needed to calm down and stop being resistive, I told him that I respected his position, that I wanted him to "go with the flow" until I could work the problem out. I said that I did not wish to restrain him in his workplace but if forced I would handcuff him. I advised that I had other Deputies near by that would be responding if he did not calm himself and allow me to escort him outside. He again attempted to pull away from my grip. I locked his arm in a standard wrist lock, moved into a position to take him to the floor for control. I scanned that area for any weapons or citizens that may be to near if the resistance escalated to combative. We remained standing, at the point of handcuff, another employee rushed up and said "please don't do this Chad, not here". I told them it was not my choice it was up to Stensland. Stensland, breathing rapidly, arm flexed, looking around quickly, relaxed some and said he would walk out with me. I eased my wrist lock but maintained control. I escorted him outside, and placed him in my patrol vehicle after a search for weapons.

Stensland said he had been issued a ticket by PAPD and was not wanted for arrest. I told him I was going to move my vehicle to draw less attention to him, and check on the probable cause. He wanted me to allow him to his vehicle, to get the ticket. For officer safety reasons I denied his being able to go to his vehicle. I drove to the far end of the parking lot. With Stensland in the my vehicle I called PenCom. No cancellation of probable cause had been given to PenCom. I requested to talk to the shift supervisor to make sure the arrest was still to take place. I was

connected with PAPD Officer Bergeron. When I explained the arrest, he laughed and said he had issued a ticket to Stensland about 1030 Hrs. and had not yet cancelled the probable cause confirming Stensland's assertion. Officer Bergeron told me his supervisor had overridden the request by Officer McFall for arrest and booking, and decided to issue a citation. Officer Bergeron told me PAPD no longer wanted Stensland arrested and that he would cancel the PC via voicemail.

I removed Stensland from my vehicle and told him he was free to return to work. He was very angry and insulting. He threatened to sue me and "everybody" because he had been embarrassed at work. I calmly explained the situation and mix up, he was not satisfied, he demanded that I explain to him why I didn't know about the cancellation. I again explained the situation and the communication gap between when he was cited and my coming for his arrest. He was angry and verbally insulting. He accused me of doing this to him on purpose, based on my personal knowledge of Costco and my personal knowledge of problems he is currently having with other employees. I told him that I was doing my job and if he was unsatisfied with my efforts he could make a formal complaint to my Captain. I provided Stensland a business card with agency information. Stensland stomped off and again called me stupid.

I immediately informed other Deputies of the cancellation of probable cause and returned to the Sheriff's Office.

While driving to the office I called the manager of Costco and explained the situation and the mix up. I also advised that I was far more respectful of Stensland and Costco during the arrest and went out of my way to assure the lowest key response. I said Stensland was the one that escalated the situation to near combative resistance. I apologized to the manager for any inconvenience.

Upon my return to the office I contacted Captain Snover and advised him of the potential problem. I checked my voicemail and found the cancellation of probable cause for Stensland's arrest. The message was left after my contact with Stensland.

I emailed Officer Mcfall and told her the situation. She replied in two emails dated 12/01/2003 2313 Hrs. and 12/02/2003 0036 Hrs. In both she admits the fault of PAPD for not canceling the request to arrest prior to my contact.

On my next duty day, 12/04/2003 (my Monday) I forwarded the emails for information to Captain Snover. The email messages were saved and are attached for reference.

In summation to your request, I respectfully submit that I acted in an appropriate manner, took investigative steps to assure success and when confronted with a resistive subject took proper steps to ensure a lawful arrest. At the time of arrest I acted in good faith that probable cause was in effect, it had been requested that Stensland be arrested and booked and I was following Clallam County Sheriff's Office Policy and Procedure. If any mistake was made it was that I allowed the situation to escalate to near combat without stepping up sooner, although I was confident in my actions that I could allow some leeway to Stensland but was presented with no alternative and the amount of force I used was necessary to effect the lawful purpose intended.

12/20/2003

[REDACTED]

---

**From:** Barbara McFall [Bmcfall@cityofpa.us]  
**Sent:** Monday, December 01, 2003 6:59 AM  
**To:** [REDACTED]@co.clallam.wa.us  
**Subject:** Michael "Chad" Stensland

Hi [REDACTED]

We had a DV Assault in the city w/Stensland as suspect. We were unable to contact him, he is apparently living with his parents in Gales. Bob Cannon attempted contact there, he wasn't home. Stensland parents (Colleen Lemker) were advised Saturday evening he needed to contact PAPD or he would be contacted at his place of employment.

We've not heard from Stensland and haven't seen him around town. Do you think one of you could contact Stensland at Costco where he works?  
We have a good Assault IV and I'd like him booked if you contact him.  
The report is completed, the PAPD case number is #03-15042.

I'm working graveyard, if you do contact him, could you send me an email?

Thanks -

Barb McFall



**From:** Barbara McFall [Bmcfall@cityofpa.us]  
**Sent:** Monday, December 01, 2003 11:13 PM  
**To:** [REDACTED]@co.clallam.wa.us  
**Subject:** RE: Michael "Chad" Stensland

I am SO SORRY . . . .

Dayshift was not asked to do this, and in fact it is not standard practice for us to send someone out that far. I talked to my supervisor this morning, Tyler Peninger, in the presence of dayshift, confirming that I should request County help on this.

So, it's definitely our bad, I'm not sure how it happened. I'm sorry to put you in that position.

Barb McFall

>>> "[REDACTED]@co.clallam.wa.us > 12/01/03 12:13PM >>>  
Well, that didn't go so well, I went to his work, he became... resistive to my effort to be calm and I had to persuade him to exit the business, only to find out moments later Bergeron had talked to him prior to my contact and issued him a cite and release, oh boy, he was less than pleased at that point, so I let him go but I am SURE he will have more to say, something about an attorney... I talked to Bergeron and found out the PC had been cancelled about 10 minutes prior to my contact with him, ho hum, he was peeved.... I did apologize to the management of Costco for any stress... [REDACTED]

-----Original Message-----

From: Barbara McFall [mailto:Bmcfall@cityofpa.us]  
Sent: Monday, December 01, 2003 6:59 AM  
To: [REDACTED]@co.clallam.wa.us  
Subject: Michael "Chad" Stensland

Hi [REDACTED]-

We had a DV Assault in the city w/Stensland as suspect. We were unable to contact him, he is apparently living with his parents in Gales. Bob Cannon attempted contact there, he wasn't home. Stensland parents (Colleen Lemker) were advised Saturday evening he needed to contact PAPD or he would be contacted at his place of employment.

We've not heard from Stensland and haven't seen him around town. Do you think one of you could contact Stensland at Costco where he works?  
We have a good Assault IV and I'd like him booked if you contact him.  
The report is completed, the PAPD case number is #03-15042.

I'm working graveyard, if you do contact him, could you send me an email?

Thanks -

Barb McFall

**From:**  
**Sent:**  
**To:**  
**Subject:**

Barbara McFall [Bmcfall@cityofpa.us]  
Tuesday, December 02, 2003 12:36 AM  
[REDACTED]@co.clallam.wa.us  
RE: Michael "Chad" Stensland

Hi [REDACTED] -

I figured out what happened on this. Apparently Stensland came to PAPD just prior to going to work and gave a written statement and was cited. It was my intention to book him as its not his first offense, but the officer decided to cite and release. You should have been contacted at that point and advised PC was cancelled. Again, I'm sorry we put you in that position . . . .

Barb

[REDACTED]

**From:** [REDACTED]  
**Sent:** Thursday, December 04, 2003 8:49 AM  
**To:** Snover, Steve  
**Subject:** FW: Michael "Chad" Stensland

FYI...

-----Original Message-----  
From: Barbara McFall [mailto:Bmcfall@cityofpa.us]  
Sent: Monday, December 01, 2003 11:13 PM  
To: [REDACTED]@co.clallam.wa.us  
Subject: RE: Michael "Chad" Stensland

[REDACTED] I am SO SORRY . . . .

Dayshift was not asked to do this, and in fact it is not standard practice for us to send someone out that far. I talked to my supervisor this morning, Tyler Peninger, in the presence of dayshift, confirming that I should request County help on this.

So, it's definitely our bad, I'm not sure how it happened. I'm sorry to put you in that position.

Barb McFall

>>> [REDACTED]@co.clallam.wa.us> 12/01/03 12:13PM >>>  
Well, that didn't go so well, I went to his work, he became... resistive to my effort to be calm and I had to persuade him to exit the business, only to find out moments later Bergeron had talked to him prior to my contact and issued him a cite and release, oh boy, he was less than pleased at that point, so I let him go but I am SURE he will have more to say, something about an attorney... I talked to Bergeron and found out the PC had been cancelled about 10 minutes prior to my contact with him, ho hum, he was peeved.... I did apologize to the management of Costco for any stress... [REDACTED]

-----Original Message-----  
From: Barbara McFall [mailto:Bmcfall@cityofpa.us]  
Sent: Monday, December 01, 2003 6:59 AM  
To: [REDACTED]@co.clallam.wa.us  
Subject: Michael "Chad" Stensland

Hi [REDACTED] -

We had a DV Assault in the city w/Stensland as suspect. We were unable to contact him, he is apparently living with his parents in Gales. Bob Cannon attempted contact there, he wasn't home. Stensland parents (Colleen Lemker) were advised Saturday evening he needed to contact PAPD or he would be contacted at his place of employment.

We've not heard from Stensland and haven't seen him around town. Do you think one of you could contact Stensland at Costco where he works?  
We have a good Assault IV and I'd like him booked if you contact him.  
The report is completed, the PAPD case number is #03-15042.

I'm working graveyard, if you do contact him, could you send me an email?

Thanks -

Barb McFall

December 5, 2003

To Whom It May Concern:

I am writing this letter in regards to an incident that occurred on 12/03/03, when Deputy Sheriff [REDACTED] came to my place of employment. Mr. [REDACTED] approached me while I was supervising on the Front End and stated to me "you're in big trouble". I asked him what for and informed him I had been to the court house this morning to take care of a situation. I also told him not only that I had received a court date of Dec. 15<sup>th</sup> but I also had all of the appropriate paper work in my car. He then stated to me "don't even think about trying something because I have another Deputy outside ready to role". I asked him what that was suppose to mean I certainly had no intentions of causing any trouble, I was just trying to explain that I thought I knew why he was here and that I had already taken care of it. Mr. [REDACTED] then told me that he didn't like the way this was going and was just going to put the hand cuffs on me. This statement also caught me by surprise because he was acting as though I was some sort of threat. I politely asked him if that was necessary, I offered to walk with him to my car and show him the documents I had received this morning. It was only after my fellow co-worker also pleaded with him not to further embarrass me that he allowed me to walk out of the building without handcuffs, although he did feel it was necessary to restrain me by holding my arm behind my back. My co-worker Sherry Hathaway walked with us out the front door assuring him that I was not a threat. I again asked him if we could just walk over to my car so I could prove to him I had taken care of this. He responded "that paper work had better be in your car, or you're in big trouble". He escorted me to his car and made me sit in the back even though my vehicle was only a few yards away. He told me he needed to make a phone call and whoever he had talked to had informed him that I had in fact been to the court house and took care of this situation earlier that morning. He then allowed me to get back out of the car, I asked him why he had not made that phone call before he came into my work place and embarrassed me. He did not respond.

In my opinion it seemed as though he had an agenda when he walked into the building, and had intended on making a scene. His actions and the intimidating tone in his voice were not only humiliating and embarrassing to me but also to those that I work with. I gave him absolutely no indication that I was a threat to him or anyone else. But he did in fact treat me as though he was looking for an opportunity to physically subdue me. I have been employed by Costco for ten years and take a lot of pride in my job; it's unfortunate that a situation like this had to happen.

Later that day I spoke to my wife and was surprised to hear that she had received a phone call from the wife of someone I work with, that had told her what had happened to me at work. Since this had occurred in a public place I knew there would be talk, but did not expect her to tell my wife what the deputy said to me word for word. Clearly only Mr. [REDACTED] and myself were involved with the conversation outside of the building. I later found out that Mr. [REDACTED] girlfriend works in the bakery with the husband of the women that talked to my wife. Mr. [REDACTED] had told his girlfriend, which in turn she shared with Phillip Oard, and his wife is the person that called my wife. All of this happened shortly after the deputy had left, which could only mean he had reported this to her almost immediately.

I think, not only is this a disgrace to the departments that are sworn to serve and protect the public, but an outright attempt to harass me and attempt to discredit me at my place of employment. I take full responsibility for my actions. My question is do you sir, expect those under you to take responsibility for their own actions?

I appreciate your time and if you have any further questions about this situation, I would be happy to speak with you.

Sincerely,

Michael C Stensland

12

12-5-03

On 12-3-03 around 1:30 pm. I Tracy Stensland had a phone conversation with Beth Oard, which is Phil Oard's wife.

Phil works at Costco with Cassie, [REDACTED] girlfriend. Phil and Beth are good friends with Cassie and officer [REDACTED]

When Beth and I first started our conversation, she says, Did you hear what went on out at work with Chad, I just got off the phone with [REDACTED]

She wanted to me everything that went on in detail.

I told her that was so wrong of [REDACTED] to do that at Chad's work. He had already took care of everything before he left for work.

I also feel that what officer [REDACTED] did was very wrong and ~~was~~ unprofessional.

Thank you,  
Tracy Stensland

12/2/03

Written by Sherry Hoberday  
FE Supervisor - Costco Wholesale

I was at memberships yesterday when a County Sheriff came in and asked Angie for honey. Since I was there I asked if I could help him. He stated again why he was here and I offered to get honey for him. We started walking towards the store and had only gone a few feet when he spotted Chad Stensland and said "I need to talk to Chad". This was done in a slightly raised and nervous voice. He then approached Chad and stood over him. Chad turned and jumped as he was so close and talking in his face. The sheriff then said something like I need to talk to you as your really in trouble. Chad asked him what this was about and they started walking towards the podium. I then turned so as not to embarrass Chad and walked towards the door. By the time I turned back to go towards the podium the sheriff had a hold of Chad's head and was trying to hand cuff him. I then walked over

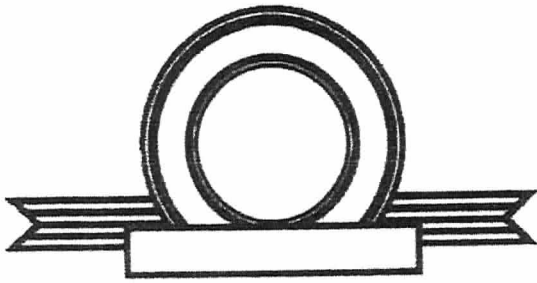
to them and asked the sheriff to please not do this here. The sheriff then stated that "He didn't like the way this was going and that's why he was proceeding in this manner (His voice was very macho tough guy (like he was trying to prove himself)). I then asked him again to please not do this here. He then agreed not to but would keep hold of Chad's hand as they walked to his car. I agreed to walk out with him assuring him that Chad was not going to do anything. In the meantime Chad was telling him that he had already taken care of it and the papers were in his car. The sheriff told him that the papers had better be there or he was really in trouble. He said all of this in the same manner and tone as before. He gave Chad no benefit of the doubt and treated him as if he was guilty of something horrible.

When we got outside I asked Chad if he was ~~was~~ alright and he said yes, he had everything in his car.

I never saw the Sheriff again but feel this was handled very inappropriately. It could have been done very discreetly without members and employees to say nothing of Chad being upset by the action taken.

What happened to innocent until proven guilty.





# Clallam County Sheriff's Office

J. A. Martin  
Sheriff

223 East 4<sup>th</sup> Street, Suite 12  
Port Angeles, WA 98362-3015  
[www.clallam.net/lawenforcement](http://www.clallam.net/lawenforcement)  
Administration: (360)417-2262  
Fax: (360)417-2494

FILE: A36.722

December 26, 2003

To: Michael C. Stensland  
221 W. 7<sup>th</sup> Street  
Port Angeles, WA 98362

Re: Your Complaint

Dear Mr. Stensland,

We have conducted an internal inquiry into the complaint you filed alleging heavy-handed conduct and dissemination of confidential information by [REDACTED]. Details of this inquiry are privileged information and can not be shared with you. I will report that [REDACTED] has been exonerated of any misconduct in his actions with you on December 1, 2003. [REDACTED] was acting lawfully upon an official request by the Port Angeles Police Department that probable cause existed for your arrest. Had you simply walked out to [REDACTED] vehicle with him upon his initial request, your information would have been verified and this entire incident avoided.

Respectfully,

Steve Snover, Captain

CITY OF



# PORT ANGELES

WASHINGTON, U. S. A.

POLICE DEPARTMENT

WASHINGTON STATE ACCREDITED LAW ENFORCEMENT AGENCY

December 24, 2003

Captain Steve Snover  
Clallam County Sheriff's Department  
223 East 4<sup>th</sup> Street, Suite 12  
Port Angeles, WA 98362

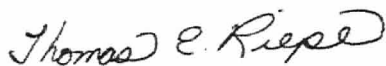
**Re: PAPD Incident #2003-1504**

Dear Steve,

Thank you for your letter advising me of the situation wherein CCSO [REDACTED] arrested a suspect based on a request by the PAPD that should have been rescinded. Please tell [REDACTED] that I greatly appreciate his willingness to assist the PAPD and I apologize for this occurrence.

My staff and I are continually working to improve our services and we will investigate this incident and take action to see that a similar situation doesn't happen in the future. Thank you again for writing the letter and your continued support of the PAPD.

Sincerely,



Thomas E. Riepe  
Chief of Police

101-03-46

321 EAST FIFTH STREET • PORT ANGELES, WA 98362-3206

PHONE: 360-452-4545 • E-MAIL: PAPOLICE@CI.PORT-ANGELES.WA.US

FAX: OPERATIONS/COMMUNICATIONS: 360-417-4909 • RECORDS: 360-417-4537 • ADMINISTRATION: 360-417-4551

18



# CLALLAM COUNTY SHERIFF'S DEPARTMENT



## COMPLAINT AGAINST DEPARTMENT MEMBER

A36 File No.: **730**

Complaint Receiver	Date of Complaint <i>6-20-04</i>	Date of Incident	Formal Complaint <input checked="" type="checkbox"/>	Informal Complaint
Member Complaint Directed Against [REDACTED]		Nature of Complaint (P&P Violation)		
Complainant's Name <i>Capt Cameron</i>	Complainant's Address [REDACTED]		Telephone	
OTHER INVOLVED PERSONS				
Status	Name	Address	Telephone	
Investigation and Recommendations: (Attach Additional Sheets As Necessary)				
<p><i>Under Sheriff DeFrang became aware that [REDACTED] had contacted County Personnel regarding guidance on potential complaint of sexual harassment. DeFrang instructed Cameron to instruct [REDACTED] to follow policy and document up the chain what occurred. On 6-30-04 Cameron submitted a summary document DeFrang turned on the same day <sup>from</sup> Sheriff Martin that he had <sup>already</sup> learned of the information, notified [REDACTED] and had "handled it." Martin advised DeFrang that no further investigation or action was needed, [REDACTED] had been admonished to be aware of his actions as offensive to some people.</i></p>				
Investigator Assigned (Printed) <i>Cameron</i>	Date <i>6-20-04</i>	Division Head Approval <i>[Signature]</i>		Date <i>9-14-04</i>
Investigation Completed (Signature)	Date	Complaint Disposition: <input checked="" type="checkbox"/> Unfounded <input type="checkbox"/> Exonerated <input type="checkbox"/> Not Sustained <input type="checkbox"/> Sustained		Date Member Notified <i>Prior to 6-30-04</i>

*[Signature]*



# CLALLAM COUNTY SHERIFF'S DEPARTMENT



## Employee Notification of Investigation

TO:	FROM:
-----	-------

This memo is to advise you that a complaint has been issued against you or that you are the subject of an investigation. Specifically, the allegations are:

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**You have specific rights and responsibilities during the investigation. These rights and responsibilities include the right to have a union representative present during questioning, and the responsibility to cooperate and answer questions. Other rights and responsibilities are outlined in chapter 6 of the Policy & Procedures Manual and in the current Labor Contract. Remember: This is not a disciplinary action. It is an investigation of a complaint or allegation filed against you.**

INVESTIGATOR'S SIGNATURE:	DATE:
---------------------------	-------

2


---

# MEMORANDUM

---

*FROM CAPTAIN RON CAMERON*

DATE: 6-30-04

TO: Undersheriff DeFrang 

SUBJECT: attached



Undersheriff DeFrang,

At your request, you will find attached the memorandum from [REDACTED] describing the events involving [REDACTED]

[REDACTED] was asked to include not only the information that he originally learned from a conversation with [REDACTED], but to report any other information he had learned about or was aware of that is relative to this situation.

Please advise if I can be of further assistance.

Respectfully submitted,



Ron Cameron,  
Capt. Of Investigations

---

# MEMORANDUM



FROM: [REDACTED]

DATE: 25 June 2004

---

TO: Captain Ron Cameron *RC*

RE: Report of Sexual Harassment

FILE:

This memo contains information regarding allegations of Sexual Harassment on the part of [REDACTED]. I am disturbed by having to report this information, but I am duty bound to report the information which was reported to me and situations I have witnessed. I have the utmost respect for [REDACTED] and consider him to very talented and highly motivated. I hope that by properly dealing with these allegations in positive way [REDACTED] will become a greater asset to the Sheriff's Department.

There has been an undercurrent of talk regarding [REDACTED] behavior and /or language use within the department for some time. Many people have talked to me about his demeanor; however, I am not aware of any complaints being brought forward. If investigations were to be initiated and department members were questioned, I believe additional information would be discovered. I recently became aware of an incident which, by policy, I have a duty to report. I am aware of other similar incidents and have included them in this memo as well.

On Thursday, June 17, 2004, in the afternoon, there was conversation in our office regarding the Indian motorcycle which was recently forfeited by Douglas Baker. I offered to ride the motorcycle to Stokes auction. [REDACTED] said that would be fun and she was willing to be my "bitch" for the ride. We all laughed at her comment, as it surprised most of us. We commented about the surprise of her statement. [REDACTED] commented that [REDACTED] comment was not very significant and offered that [REDACTED] had called all of the office staff at the department "bitches." She went on to say that Deputy Hayden had brought flowers in to the office to make up for something he had said or done and [REDACTED] was present. An explanation was given as to the purpose for the flowers and [REDACTED] commented that he (Hayden) should just leave his [REDACTED] "bitches" alone. [REDACTED] said none of the women seemed to have been disturbed by his comment.

Shortly after this conversation [REDACTED] related an incident to me which had occurred on a day in which he had minor surgery to have a mole removed (June 7, 2004.) He said he was talking to [REDACTED] about the surgery and was telling her he should take a day off for

sick leave due to the mole. They were all present in her work area at the Sheriff's Department. He said [redacted] was present and [redacted] said something to the effect that he would show her a mole, put his hand down by the zipper of his trousers, and acted as though he were about to unzip his pants to display his "mole." [redacted] left shortly after making the comment and gesture. [redacted] said he saw that [redacted] was visibly upset about the display. [redacted] told [redacted] he was sorry for what she had witnessed and told her he would be a witness for her if she wished to complain. He said she commented that she said that if [redacted] did something like this on more time, then she would file a complaint.

I know this is not the only questionable behavior on the part of [redacted]. I am aware of an incident involving [redacted] and [redacted]. I was told that [redacted] was reading, out loud, graphic passages from a pornographic book that had been seized as evidence in the a child pornography case. I was told by [redacted] that [redacted] left the room; he believed to distance herself from the reading. However, [redacted] followed her and continued reading the material aloud. [redacted] told me [redacted] appeared to be upset over being subjected to the reading of the material.

[redacted] has had told me of a discussion she had with [redacted] about his behavior around the women at [redacted] (before they moved to [redacted]). She told him that he needed to tone down his behavior.

I was a witness to an incident that occurred in the parking lot at [redacted] several weeks ago. I don't remember who was present, but there were several men talking in the parking lot. [redacted] was saying something about a woman's breasts. [redacted] walked out of the office and may have heard a part of the conversation. [redacted] said something about getting caught and asked [redacted] in a loud voice if she would show him her breasts. He then said something about how much trouble he would be in if [redacted] ever complained of sexual harassment.

On Thursday, June 24, 2004, [redacted] told me that she had received a telephone call from [redacted] that morning. When she answered the telephone, he asked her what she was wearing. She told him jeans and a shirt (or something like that) and he replied that she did not mention her panties and therefore she must not be wearing any panties.

I directed [redacted] to document the event he witnessed. I have attached his documentation to this memo.

7-4-04  
J

## CHAPTER 3. PERSONNEL MATTERS AND TRAINING

### 3.20 HARASSMENT.

**Statement of Concern.** The Department seeks to eliminate and prevent harassment as well as to alleviate any effects such harassment may have on the working condition of an employee. All such harassment is forbidden. Harassment includes unsolicited remarks, gestures or physical contact, display or circulation of written materials or pictures derogatory towards either gender or towards racial, ethnic or religious groups, or basing personnel decisions on an employee's response to such harassment. The Department regards job related harassment as a serious transgression.

**Policy.** The policy of the Department is that every employee has a fundamental right to be free of such harassment. In response to formal reports of harassment, the Department will seek to protect all parties involved from retaliation, false accusations, or future harassment, and where indicated, will take prompt and adequate remedial measures.

Should an issue of harassment be raised, all related matters will be kept confidential to the greatest extent possible throughout the investigation, counseling and disciplinary stages. Any Division Head receiving notice of harassment shall notify the Chief Administrative Deputy who will coordinate, in consultation with the appropriate Undersheriff, an investigation and ensure that the charge is resolved appropriately.

#### 3.20.1 SEXUAL HARASSMENT DEFINED. Sexual Harassment is defined as follows:

Sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

Sexual Harassment includes unsolicited remarks, gestures or physical contact, display or circulation of written materials or pictures derogatory towards either gender or basing personnel decisions on an employee's response to such harassment.

**3.20.2 REPORTING HARASSMENT.** Any employee who feels harassed or is aware of harassment of another employee is urged to report this to an immediate supervisor, Division Head, or to the Sheriff. The report may be informal or formal. A formal report shall include a written statement.

**3.20.3 RESPONSE TO REPORTS OF HARASSMENT.** Written reports concerning harassment will be forwarded to the Chief Administrative Deputy unless there is an allegation against that person, and if so, then written reports will be forwarded to the Sheriff. This procedure will apply to written statements received from reporting employees or written records made by supervisory employees, including Command Staff. Whenever supervisory employees become aware of allegations of harassment, they will make a written record of the allegations and will forward the record to the Department in accordance with this policy.

**3.20.4 INVESTIGATION OF HARASSMENT.** The Chief Administrative Deputy will coordinate, in consultation with the appropriate Undersheriff, an investigation if necessary. The first pre-investigation step shall be to inquire of all persons reporting as to whether the record now includes all allegations of harassment. The investigation will be conducted promptly on a priority basis. The investigation will be directed at ascertaining the facts concerning the allegations. If, in the course of investigation, evidence of harassment involving other employees is found, the Department shall initiate separate investigations.

The investigator shall cause the person reported to have harassed an employee to be advised of the allegations and to afford such person an opportunity to reply orally or in writing. The employee shall also be advised that any retaliatory conduct will be subject to disciplinary action regardless of allegations of harassment.

The results of the investigation shall be reduced to writing. A finding shall be made that there is or is not reasonable cause for disciplinary action. Nothing in this section shall limit the authority of the Department to modify policies or practices to correct any appearance of sexual harassment without finding reasonable cause for disciplinary action or taking any disciplinary action. The report will also include any recommendations to remedy any harm which was suffered if the evidence shows that the employee alleged to have been affected by sexual harassment was injured or harmed.



A report which finds reasonable cause for disciplinary action will be maintained in the personnel file of any employee subject to discipline. The employee may have placed in the personnel file a statement of rebuttal or correction. For the purpose of this section, a former employee may present such statement.

### **3.20.5 TREATMENT AND RETENTION RECORDS RELATING TO HARASSMENT.**

Records relating to harassment include written reports regarding alleged harassment, memos between Department employees concerning investigation of such allegations and Department recommendations in response to allegations. Records relating to sexual harassment will be retained by the Department for a minimum of six (6) years. All such records will be retained in the A36 file. There will be a cross reference to the A36 file of the reporting employee, the allegedly affected employee and the employee who was reported to have harassed another. Once the material in the A36 file is determined to have no reasonable bearing on job performance or on the efficient and effective management of the Department, reference to it in one or more individual personnel files may be removed.

No information from the A36 file nor any indication of the cross reference to the A36 file will be disclosed to persons who do not have confidential access to the personnel affairs of the Department, provided that there are two exceptions which permit some disclosure.

First, an employee who reported harassment and/or an employee who was allegedly affected by harassment may request that the Department provide to another regarding the investigation of harassment. On a case-by-case basis, the Department, in its own discretion, may agree to release specified information.

Secondly, whenever the Department would provide general information to persons who are not officers or employees of the Department regarding an employee or former employee from the Department's personnel file and the employee's personnel file reflects a finding of reasonable cause for disciplinary action, then the Department will also send information regarding the investigation of harassment; except that no readily identifiable reference to other parties involved may be included, and any statement which the employee had requested be held in the file will accompany the disclosure. Information about the finding of reasonable cause for disciplinary action would not be given in response to a request for verification of dates employed.

Narrative Report

RUN DATE: 06/25/2004

Page 1

This is a report documenting a situation per the order of [REDACTED]

Sometime during the third week of June 2004, I overheard a discussion with [REDACTED] personnel about some comments that [REDACTED] had made to the [REDACTED] staff at the Sheriff's Department in the recent past.

After overhearing the conversation I shared with [REDACTED] and others, at the [REDACTED], an event that occurred during the late morning/early afternoon on June 7<sup>th</sup> 2004, while I was talking with [REDACTED]

On June 7<sup>th</sup> 2004, I was joking with [REDACTED] about some minor surgery I had on my shoulder dealing with the removal of a small mole. We were joking about me maybe having to take time off from work to recoup from this, as any time away from work could be a good thing. While we were talking [REDACTED] walked by and must have overheard the conversation. He said, "Mole, I will show you a mole" and then placed his hand down by the zipper of his pants making a motion like he was going to unzip them. He laughed and then left.

It appeared to me that [REDACTED] was offended and I immediately told her that I was very sorry that this situation had occurred. I told her that if she wanted to make a complaint that I would document what had occurred. [REDACTED] told me that she was not amused by [REDACTED] comments and that if he did something like this one more time she would say something.

It was my understanding that [REDACTED] would deal with this when I left and gave it no more thought. I shared this incident with [REDACTED] and others at the [REDACTED] only as conversation and not as a complaint.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Deputy: [REDACTED]

Date: June 25, 2004

Supervisor Approval: \_\_\_\_\_ [Signature]

Date: 7-8-04

8

Snohomish County Public Defender Association  
2722 Colby Avenue  
Suite 200  
Everett, WA 98201

Dear SCPDA Public Records Officer,

In accordance with *Telford v. Thurston County Board of Commissioners* and pursuant to RCW 42.56 we request the following records:

1. Any and all records of direct communication in 2016 with Snohomish County judges or their staff.
2. Any and all billing records submitted in 2016 to Snohomish County for expert services.

# 1 and 2 include, but are not limited to:

- a. Emails
  - b. Letters
  - c. Billing and/or invoice records
  - d. Text or social media messages
3. A list of all emails the SCPDA uses to communicate.

We request these records be disclosed in electronic format with metadata if applicable to [GAVIN@7316@gmail.com](mailto:GAVIN@7316@gmail.com) or to the address below in CD or thumb drive format.

Regards,

The Government Accountability Project  
10011 Bridgeport Way SW  
Ste. 1500, #120  
Lakewood, WA 98499



# Clallam County Sheriff's Office

WASPC Accredited Agency

223 East 4<sup>th</sup> Street, Suite 12  
Port Angeles, WA 98362-3015

Support Services: (360)417-2270  
Fax: (360)417-2498

[www.clallam.net/lawenforcement](http://www.clallam.net/lawenforcement)

sheriff@co.clallam.wa.us

Ron Cameron  
Undersheriff

Brian King  
Chief Criminal Deputy

Alice Hoffman  
Chief Civil Deputy

Ron Sukert  
Jail Superintendent

W. L. Benedict  
Sheriff

File: L60.15 Disclosure Log #: P003646

## PUBLIC DISCLOSURE REDACTION AND EXEMPTION LOG

DATE: 06/15/17

REQUESTOR(s) NAME: Lori Shavlik

This concludes our response to your request.

### REDACTIONS

Document Type / Description	Date	Author	Exemption /Explanation	Pages
A36 File No. 722	12/09/03	Captain Snover	Bellevue John Does 1-11 vs. Bellevue School District #405, 129 Wn. App.832, (2005)  When an allegation is unsubstantiated, as shown by an adequate investigation, the name of the member who is the subject of the investigation is not a matter of legitimate public concern and can be redacted.	1-5, 7-13, 17, 18
A36 File No. 730	06/17/04	Captain Snover	Bellevue John Does 1-11 vs. Bellevue School District #405, 129 Wn. App.832, (2005)  When an allegation is unsubstantiated, as shown by an adequate investigation, the name of the member who is the subject of the investigation is not a matter of legitimate public concern and can be redacted.  RCW 42.41.030(7) the identify of a reporting employee shall be kept confidential for protection against retaliatory actions.	1, 3-5, 8

If you believe that the information furnished has been incorrectly denied or redacted, you may file a written appeal with the Undersheriff within five (5) business days from the date of this letter. The appeal must include your name and address, a copy of the redacted document and a copy of this letter together with a brief statement identifying the basis of the appeal. Please mail or deliver your appeal to:

Undersheriff Ron Cameron  
Clallam County Sheriff's Office  
223 E 4<sup>th</sup> Street, Suite 12  
Port Angeles WA 983262-3015

Completed by Clallam County Sheriff's Office staff member: Chief Civil Deputy Alice Hoffman



# Clallam County Sheriff's Office

WASPC Accredited Agency

223 East 4<sup>th</sup> Street, Suite 12  
Port Angeles, WA 98362-3015

Support Services: (360)417-2270  
Fax: (360)417-2498

<http://www.clallam.net/Sheriff>

sheriff@co.clallam.wa.us

Ron Cameron  
Undersheriff

Brian King  
Chief Criminal Deputy

Alice Hoffman  
Chief Civil Deputy

Ron Sukert  
Jail Superintendent

W. L. Benedict  
Sheriff

FILE: A79.15

## CERTIFICATE OF RECORDS DESTRUCTION

I, Lorraine Shore, Administrative Coordinator,  
Lorraine Shore

acting as an agent of Clallam County Sheriff's Office, hereby approve the destruction of the following public records according to the provisions of WAC 434-640.

Records/Series	Inclusive Dates	File # and Description	Disposition Authority
Collins, Allen	11/3/1980 to 1/20/2010	P14	GS50-04B-06 Rev. 3
Everts, Deborah	5/4/1998 to 3/26/2010	P14	GS550-04B-46 Rev. 3
Everts, Deborah	12/16/2009	Training	GS2011-180 Rev. 1
Collins, Allen	12/2009	Training	GS2011-180 Rev. 1
Farmer, Margaret	11/23/2006	Training	GS2011-180 Rev. 1
Fontenot, David J.	2/11/2005	Training	GS2011-180 Rev. 1
Snover, Steven W.	10/27/2005	Training	GS2011-180 Rev. 1
Ellefson, David R.	4/18/2007	Training	GS2011-180 Rev. 1
Radich, Nancy	6/1/2006	Training	GS2011-180 Rev. 1
Kent, Jessica	3/5/2009	Training	GS2011-180 Rev. 1
Sanderson, Susie	10/12/2005	Training	GS2011-180 Rev. 1
Roggenbuck, Jennifer	6/6/2008	Training	GS2011-180 Rev. 1
Mattson, Timothy	3/21/2005	Training	GS2011-180 Rev. 1
Meyer, Tamoya	11/09/2006	Training	GS2011-180 Rev. 1

Reidel, Donald	7/13/2004	Training	GS2011-180 Rev. 1
Rife, Clay	10/16/2005	Training	GS2011-180 Rev. 1
Fuchser, Charles	2/1/2006	Training	GS2011-180 Rev. 1
Radich, Nancy L.	7/19/1985 to 9/9/2006	P14	GS50-04B-06 Rev. 3
Dawson, Judy	6/15/1992 to 3/31/2008	P14	GS50-04B-06 Rev. 3
Ellefson, Dave	6/19/1987 to 2/29/2008	P14	GS50-04B-06 Rev. 3
Wilgocki, Mary	8/21/2000 to 1/9/2009	P14	GS50-04B-06 Rev. 3
Velie, Gary	10/28/1994 to 5/1/2007	P14	GS50-04B-06 Rev. 3
Traxinger, Kathleen	11/1/1997 to 5/1/2010	P14	GS50-04B-06 Rev. 3
Mattson, Timothy B.	9/7/1994 to 9/30/2005	P14	GS50-04B-06 Rev. 3
Reidel, Donald M.	4/10/1989 to 11/15/2005	P14	GS50-04B-06 Rev. 3
Rife, Ted C.	2/2/2004 to 1/15/2006	P14	GS50-04B-06 Rev. 3
Fuchser, Charles	1/18/1984 to 7/1/2007	P14	GS50-04B-06 Rev. 3
Farmer, Margaret	11/12/1980 to 8/1/2006	P14	GS50-04B-06 Rev. 3
Picard, Jessie	4/3/2006 to 4/13/2007	P14	GS50-04B-06 Rev. 3
Kelly, Donald	3/8/1976 to 3/30/2006	P14	GS50-04B-06 Rev. 3
Snover, Steven	1/18/1984 to 11/30/2005	P14	GS50-04B-06 Rev. 3
Allison, Staci L.	4/1/2002 to 4/4/2007	P14	GS50-04B-06 Rev. 3
Allison, Staci L.	10/12/2005	Training	GS2011-180 Rev. 1

I certify that the above listed public records were destroyed.

Destruction executed by (method) Shredding, on this 12<sup>th</sup> day of Oct, 2016.

Location of Disposal: Port Angeles, WA

Signature of agent 

Printed name of employee destroying record(s) Leanne Shue

Title: Administrative Coordinator



# Clallam County Sheriff's Office

WASPC Accredited Agency

223 East 4<sup>th</sup> Street, Suite 12  
Port Angeles, WA 98362-3015

Support Services: (360)417-2270  
Fax: (360)417-2498

<http://www.clallam.net/Sheriff>

sheriff@co.clallam.wa.us

Ron Cameron  
Undersheriff

Brian King  
Chief Criminal Deputy

Alice Hoffman  
Chief Civil Deputy

Ron Sukert  
Jail Superintendent

W. L. Benedict  
Sheriff

FILE: A79.15

## CERTIFICATE OF RECORDS DESTRUCTION

I, Lorraine Shore, Administrative Coordinator,  
Lorraine Shore

acting as an agent of Clallam County Sheriff's Office, hereby approve the destruction of the following public records according to the provisions of WAC 434-640.

Records/Series	Inclusive Dates	File # and Description	Disposition Authority
Fontenot, David J.	3/13/1998	Training	GS2011-180 Rev.1
Fontenot, David J.	10/28/1994 to 9/22/2005	P14	GS50-04B-06 Rev. 3
Lenahan, David F.	4/1/1976 to 3/15/2008	P14	GS50-04B-06 Rev. 3
Hayden, Anthony	3/15/1998 to 12/6/2005	P14	GS50-04B-06 Rev. 3
Hayden, Anthony	7/6/2005	Training	GS2011-180 Rev.1
Lowe, Annie	12/7/1992 to 3/13/2010	P14	GS50-04B-06 Rev. 3
Lowe, Deborah	1/15/2010	Training	GS2011-180 Rev.1
Lenahan, David F.	12/19/2006	Training	GS2011-180 Rev.1
Roggenbuck, Jennifer	8/21/2008 to 1/23/2009	P14	GS50-04B-06 Rev. 3
Meyer, Tammy	12/1/2006 to 1/1/2003	P14	GS50-04B-06 Rev. 3
Zohovietz, Jessica	10/1/2001 to 11/10/2009	P14	GS50-04B-06 Rev. 3
Sexton, Sky	4/2/2007 to 5/4/2008	P14	GS50-04B-06 Rev. 3
Sanderson, Susan	3/10/1999 to 2/2/2006	P14	GS50-04B-06 Rev. 3



Sheldon, Jerry	7/6/2009 to 9/1/2009	P14	GS50-04B-06 Rev. 3
Fontenot, David J.	10/31/2005	Employee Misconduct Sustained	GS50-04B-46 Rev.1
Hayden, Anthony	11/18/2005	Employee Misconduct Sustained	GS50-04B-46 Rev.1
Allison, Stacy	4/4/2007	Employee Misconduct Sustained	GS50-04B-46 Rev.1

I certify that the above listed public records were destroyed.

Destruction executed by (method) Shredding, on this 12<sup>th</sup> day of Oct, 2016.

Location of Disposal: Port Angeles, WA

Signature of agent 

Printed name of employee destroying record(s) Loraine Shore

Title: Administrative Coordinator



# Clallam County Sheriff's Office

WASPC Accredited Agency

223 East 4<sup>th</sup> Street, Suite 12  
Port Angeles, WA 98362-3015

Support Services: (360)417-2270  
Fax: (360)417-2498

<http://www.clallam.net/Sheriff>

sheriff@co.clallam.wa.us

Ron Cameron  
Undersheriff

Brian King  
Chief Criminal Deputy

Alice Hoffman  
Chief Civil Deputy

Ron Sukert  
Jail Superintendent

W. L. Benedict  
Sheriff

FILE: A79.15

## CERTIFICATE OF RECORDS DESTRUCTION

I, Lorraine Shore, Administrative Coordinator,  
Lorraine Shore

acting as an agent of Clallam County Sheriff's Office, hereby approve the destruction of the following public records according to the provisions of WAC 434-640.

Records/Series	Inclusive Dates	File # and Description	Disposition Authority
McCawley, Debra	6/12/1989 to 11/26/2003	P14	GS50-04B-06 Rev. 2
McCawley, Debra	11/26/2003	Training	GS50-04G-01 Rev. 0
Doran, Susan	1/20/2004 to 6/23/2004	P14	GS50-04B-06 Rev. 2
Wilhelm, Steven	3/3/2003 to 11/25/2003	P14	GS50-04B-06 Rev. 2
Edelberg, Katherine	11/3/2003 to 10/11/2004	P14	GS50-04B-06 Rev. 2
Yarnes, Laurie	1/1/2000 to 9/14/2003	P14	GS50-04B-06 Rev. 2
Renfroe, Lester	8/21/1986 to 6/4/2004	P14	GS50-04B-06 Rev. 2
Renfroe, Lester	5/28/2003	Training	GS50-04G-01 Rev. 0
Ramsey, Scott	3/2/2004 to 7/4/2004	P14	GS50-04B-06 Rev. 2
Kelly, Donald	2/12/1990	Training	GS50-04G-01 Rev. 0
Fuchser, Charles	7/1/1986	P14 (Reserve Advisor)	GS50-04B-06 Rev. 2
Hahn, Charles	12/9/1992	P14	GS50-04B-06 Rev. 2

Ellefson, David	2/17/1988 to 6/5/1989	P14	GS50-04B-06 Rev. 2
Swagerty, Lloyd	3/2/1/89	P14	GS50-04B-06 Rev. 2
Velie, Gary	9/8/1994	P14 (Resv. Dep.)	GS50-04B-06 Rev. 2
Page, Bruce	9/22/1996	Training	GS50-04G-01 Rev. 0
Fontenot, David	9/8/1994	P14 (Resv. Dep.)	GS50-04B-06 Rev. 2
Perryman, Laura	6/13/1989	Training	GS50-04G-01 Rev. 0
Wilgocki, Gary	4/9/2000	Training	GS50-04G-01 Rev. 0
Reidel, Don	12/12/1985	Training	GS50-04G-01 Rev. 0
Morse, Daniel	6/10/2002	P14	GS50-04B-06 Rev. 2
Spidell, Darrell	10/11/2002	Training	GS50-04G-01 Rev. 0
Spidell, Darrell	12/31/2003	P14	GS50-04B-06 Rev. 2

I certify that the above listed public records were destroyed.

Destruction executed by (method) Shredding, on this 12<sup>th</sup> day of Oct, 2016.

Location of Disposal: Port Angeles, WA

Signature of agent 

Printed name of employee destroying record(s) Lousine Shou

Title: Administrative Coordinator

This is a printer friendly version of an article from [www.peninsuladailynews.com](http://www.peninsuladailynews.com)  
To print this article open the file menu and choose Print.

Article published Jan 27, 2006

## Former Clallam Sheriff's Department deputies won't be charged

ANDREW BINION

PENINSULA DAILY NEWS

SEATTLE -- Two former Clallam County Sheriff's deputies accused of misconduct will not face criminal charges.

Brian Moran, chief criminal prosecutor for the state Attorney General's Office in Seattle, said Thursday that he had reviewed three inch-thick internal investigations and decided not to pursue criminal charges against former Detective Sgt. David John Fontenot and former Deputy Anthony Dwane Hayden.

"Many of these cases come down to not whether there was inappropriate behavior, but whether a crime occurred and we could prove it beyond a reasonable doubt," Moran said, noting that it is possible crimes did occur.

In November, the Clallam County Sheriff's Department released two investigative reports detailing allegations of sexual harassment, mishandling of evidence and false swearing against Fontenot.

Fontenot resigned before the reports were released.

At the same time, the department released an investigative report of allegations that Hayden conducted an extramarital affair on county time and used his county-issued cell phone excessively for personal use.

Hayden was fired from his position and has not appealed to be reinstated, Sheriff Joe Martin said.

Clallam County Prosecuting Attorney Deborah Kelly forwarded the investigative reports to the state Attorney General's Office for review to avoid the appearance of a conflict of interest.

Kelly's husband is Clallam County Sheriff's Sgt. Don Kelly.

Investigations 'thorough'

Moran praised the investigations conducted by Portland, Ore.-based labor lawyer Jill Dinse as "thorough," but noted that because those interviewed were compelled to answer questions, the reports could not be used against them in court.

Also, to prosecute Fontenot and Hayden, they would likely have to be called to testify

"He clearly has some talent as a law enforcement officer," Benedict said.

However, Benedict said Hayden would not be welcome back in the Clallam County Sheriff's Department.

"As long as another agency knows what they are getting, there has to be room for redemption and rehabilitation," Benedict said.

Hayden, who has a Montesano address, could not be reached for comment. His lawyer did not return a phone message seeking comment.

#### Alleged misconduct

Hayden was one of two officers who left the Clallam Sheriff's Department during the 2005 investigation into alleged misconduct.

A third officer was reprimanded.

In addition, the undersheriff resigned shortly before the results of the investigation were made public.

An investigation by Jill Dinse, a Portland, Ore., lawyer hired by the Sheriff's Department, focused on accusations against Hayden and Sgt. David Fontenot.

Hayden was fired following Dinse's investigation of reports that he conducted the extramarital affair while working, including spending about 60 hours on his department cell phone talking to the woman.

The woman's name was redacted in copies of Dinse's report that were released to the public.

According to Dinse's investigation, Hayden often visited the woman at her Sequim residence while wearing his uniform and once took her on patrol and had sexual relations at the department's West End building.

Dinse also looked into accusations that Fontenot took a pair of antique aviator goggles seized during the search of a warehouse in January 2005 and then did not log the item into evidence.

She also investigated allegations that Fontenot intentionally falsified a date on a legal document and sexually harassed female co-workers.

Fontenot was placed on paid administrative leave on Sept. 16, 2005, and he resigned within days.

In addition, Undersheriff Steve Snover retired from the Sheriff's Department after only six months in the No. 2 position.

## Captain reprimanded

Capt. Ron Cameron was reprimanded by Martin for failing to punish Fontenot more severely after looking into the allegations originally.

In June 2005, Fontenot was accused of displaying inappropriate behavior and using crude language that amounted to sexual harassment, Dinse's report said. No internal investigation was undertaken.

A female employee with the department brought another sexual harassment complaint against Fontenot in August.

Dinse agreed with a Port Angeles Police Department detective who originally investigated the complaint that Fontenot's behavior was "at least inappropriate and unprofessional," the report said.

Fontenot said he had used humor to motivate officers under his command and also to lighten the mood of an often-stressful job.

Regarding the accusation of taking the goggles, Fontenot admitted he made a mistake, which he called a "shortcut."

But he said he was never given a chance to explain his actions -- and that Dinse only asked him about allegations against Hayden, who was a deputy under his command.

He also said he did not have union representation at the time he quit and later attempted to rescind the resignation.

Cameron conducted an internal investigation in June 2005 into the accusation involving the goggles and the misdated document allegations and concluded that Fontenot had committed "policy violations."

Fontenot received a 10-day suspension that was reduced to five days.

Dinse found that Cameron's investigation bowed to perceived pressure from Snover, who the lawyer said was Fontenot's friend.

In his letter of reprimand, Martin said Cameron was not suspected of dishonesty, but by not holding Fontenot more accountable he showed "a serious shortcoming, poor judgment and inappropriate deference to Snover."

---

All materials Copyright © 2014 Black Press Ltd./Sound Publishing Inc.

"If we have to clean our house to do that, that's what we have to do," said Det. Sgt. Monty Martin.

Asked if he felt better now that the sheriff has acted Martin responded, "Yes. I do."

All the findings of the Sheriff's investigation are being forwarded to the prosecutor's office for possible charges.