

No. 42012-1-II  
(Direct Appeal No. 38978-9-11)

COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

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**In re Personal Restraint of**  
**LESTER JUAN GRIFFIN,**  
**Petitioner.**

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**OPENING BRIEF IN SUPPORT OF AMENDED PERSONAL  
RESTRAINT PETITION**

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## **I. INTRODUCTION**

Petitioner Lester Juan Griffin has been sentenced to a prison sentence of 285 months pursuant to a Judgment & Sentence entered in Clark County Superior Court No. 07-1-00814-2 by the Honorable Robert Lewis. He is currently serving his prison sentence at Stafford Creek Correctional Center.

Mr. Griffin timely appealed his conviction, and the Court of Appeals affirmed on July 13, 2010. The mandate was filed on December 10, 2010. Mr. Griffin filed a *pro se* Personal Restraint Petition on June 14, 2011. On December 9, 2011, Mr. Griffin, through counsel, Innocence Project Northwest (IPNW), filed an Amended Personal Restraint Petition and Motion to Stay and Abey the proceedings. The proceedings were stayed on December 12, 2011 while the IPNW pursued DNA testing. On June 6, 2012, Mr. Griffin moved to lift the stay after it was determined DNA testing would not be possible.

## **II. GROUNDS FOR RELIEF**

The grounds for relief have been stated in the Personal Restraint Petition filed on December 9, 2011.

### III. STATEMENT OF THE CASE

#### A. The Crime

Shortly before midnight on May 16, 2008, Gary Atkinson was awakened by loud knocking on his door. RP 95-96. Mr. Atkinson got out of bed, walked to the front of his home, and opened the door. RP 95-99. As he opened the door, two black men wearing bandanas on the lower part of their faces tried to force their way into his apartment. RP 99-102. They were both holding pistols and telling him to get down or they would shoot him. *Id.* Although both men were partially masked, he immediately recognized the man shouting at him to “get down” as Garry Alexander. RP 100; 103. Mr. Atkinson tried to force the door shut as the two men tried to push their way in but could not, at which point he opened the door and pushed his way through. As he ran from his apartment and towards his neighbor’s adjacent unit, he heard two shots and felt one of them hit him in the back. RP 106.

Mr. Atkinson’s friend and neighbor, Ronald Albertson, heard gun shots and then banging on his own door. RP 146-47. Gary Atkinson told him he had been shot. RP 147. Albertson stepped out his door and saw two people running away. RP 150. He called 911 immediately after that. RP 152. Joshua Hubbard, Mr. Atkinson’s brother and neighbor, also heard gun shots and waited a few seconds inside his own apartment before

opening the door. RP 156. When he opened his door, he saw his brother coming out of the neighbor's apartment; he was bleeding. Mr. Hubbard also called 911. RP 158.

Mr. Atkinson recognized Alexander as one of the attackers based on his voice, build, eyes and nose, and the tear-drop tattoo under Alexander's eye. RP 103-05. He told Anthony Kaski, a witness who had been at Mr. Hubbard's house and also came out to help, that he knew one of his attackers. RP 174. Gary Atkinson was familiar with Alexander and had spoken with him more than twenty times over the preceding two years because his girlfriend had a child with Alexander. RP 110-13. Alexander had been to Mr. Atkinson's residence to pick up the child and had visited the used car dealership where Mr. Atkinson worked. RP 117. Mr. Atkinson described Alexander's voice as "distinctive because he has an accent ... almost southern ... just faint." *Id.* Mr. Atkinson gave Alexander's name to Officer Ballou with the Vancouver Police Department when they questioned him at the scene, before being taken away in an ambulance. RP 140. At the hospital, he identified Mr. Alexander in a photo laydown. RP 142-43.

## **B. The Investigation**

The first 911 call came in at 12:12 a.m. on May 17, and officers were dispatched quickly. RP 307-308. Based on Atkinson's positive

identification, officers began looking for Alexander and he was arrested on May 17, 2008, less than 24 hours after the crime. RP 281. Former Vancouver Police Detective Jeffrey Wilken was the lead investigator in the case. RP 389. He interrogated Alexander the evening of May 17, and then again on May 18 to May 19.<sup>1</sup> RP 391; 392. During the first interview, Alexander denied any criminal involvement. RP 393. During the second interview, he admitted he had been involved but downplayed his role, claiming that Lester Griffin and a man named Christopher Perkins carried out the robbery, and that he was the getaway driver. RP 393-94.

The Vancouver Police Department (“VPD”) searched Mr. Griffin’s residence on May 19, 2008. RP 228. The police department also searched the area around the Evergreen Park apartments, a few blocks away from the crime scene. Sargent Chylack and Officer Gabriel Leonard searched during daylight hours on May 19 and did not find any evidence. RP 212-14. Sargent Chylack and Officer Wilken returned to the area that night and discovered a single glove. RP 220. Subsequent testing indicated the glove contained a mixed DNA profile that included Mr. Griffin as a contributor. RP 358-64. The lab performed no gunshot residue analysis on the glove. RP 366-67.

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<sup>1</sup> For ease of reference, this interview will be referred to throughout as the “May 19” interview.

Officer Nicholas Landas photographed and collected into evidence two .380 caliber shell casings that he found on the sidewalk in front of the victim's unit. RP 165. He later submitted the shell casings for fingerprint testing, but did not receive any lab reports. RP 168. The police obtained DNA swabs from all the suspects in the case, including Garry Alexander. RP 362. Although the shell casings recovered from the scene were likely sources of probative DNA evidence from the actual perpetrators, no DNA testing was performed.<sup>2</sup>

### **C. The Trial**

The primary evidence at trial, which began on February 2, 2009, was the testimony of Garry Alexander. Alexander claimed that he, Perkins, and Griffin had a plan to rob Mr. Atkinson. RP 239. On the day of the attempt, Perkins and Griffin picked him up at his home and they went back to Griffin's apartment. RP 242. They walked over to Handy Andy's—a mini-mart at a gas station—to buy drinks and pepperoni sticks. RP 247. Then they walked back to the parking lot at Griffin's apartment, and waited for him while he went in his house. *Id.* When he came back, he had a hat, a bandanna, and some gloves. RP 254. Griffin got into the driver's seat, Perkins was in the passenger seat, and Alexander rode in the

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<sup>2</sup> Due to the handling of the casings during ballistics review, they cannot be tested for DNA now. See Decl. of Jackie McMurtrie (attached to Petitioner's Motion to Lift Stay and Abeyance, filed on June 6, 2012).

back seat. RP 255. Perkins was brandishing a pistol. *Id.* They drove back to Handy Andy's, and Griffin got out the vehicle and bought a can of beer. RP 256-58.

After leaving Handy Andy's, Griffin drove them to the Evergreen Park Apartments. RP 260. They parked away from Atkinson's residence because it seemed like a better place to park. *Id.* Perkins and Griffin got out of the car, opened the trunk, and walked off. RP 261. Alexander was going to be the getaway driver since he was known as the better driver. RP 263. He lost his nerve and drove away, eventually leaving the car parked at Griffin's apartment and the keys with Griffin's girlfriend, whom, according to Alexander, was on her way to the Evergreen apartments to pick up Griffin. RP 268. Alexander went back to Griffin's apartment later, where Griffin told him he fired a shot, and Perkins said he shot the victim. RP 278.<sup>3</sup>

Based on his prior record and the seriousness of the charges against him, Garry Alexander faced a sentence of up to 208 months. RP 291. In exchange for his testimony, the State agreed to charge him with attempted robbery only, without a firearm enhancement, resulting in a standard range sentence of only 48 months. RP 290-91.

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<sup>3</sup> This statement by Alexander is unclear as to whom "he" refers to, and no one asked Alexander to clarify what he meant.

To put a timeline together, the State presented a series of still photographs taken of the computer screen displaying the surveillance footage from the Handy Andy's mini-mart. *See* RP 305-48 (testimony of Officer Nicholson). The first set of photos (Exhibits 20 to 44) showed three males—Alexander, Griffin and Perkins—entering the store at 11:39 p.m. and leaving at 11:41 p.m. RP 319-20. A second set of photos (Exhibits 45 to 76) showed a white car pulling in at 11:54 p.m., Mr. Griffin walking into the store, and buying a canned drink. RP 341-44. The photos show him getting back into the car and driving away at 11:58 p.m. *Id.* The second set of photos only showed Mr. Griffin coming back to Handy Andy's, but Alexander testified he was in the back of the car at this time. RP 256-59. Based on this, the State argued the three were confirmed to have been together shortly before the crime. RP 452-53; 486. Officer Wilken estimated it takes five to seven minutes to drive from Handy Andy's to the area of the crime; Officer Nicholson estimated under 10 minutes. RP 419; 352.

The State also called two witnesses, Marilyn Green and her daughter Tatana Green, who testified that Mr. Griffin and another man came to their apartment at 11515 N.E. 49th Street—the Evergreen Apartments—and used the phone to call someone for a ride. RP 192. Neither could remember on which day the visit occurred. RP 196; 200.

Both women testified that Perkins and Griffin stopped by between 11:00 and 11:30 p.m. RP 198; 205. Marilyn Green remembered that the 11:00 news was on television and stated that she knew she had been asleep for about two hours after going to bed at 9 p.m. RP 198. The State argued, based on Garry Alexander's testimony and the testimony of a witness who saw two men running toward the apartment complex (RP 384), that Griffin and Perkins went to the Greens' apartment after attacking the victim around 12 AM and after disposing of evidence of the crime. RP 454-55.

Officer Wilken testified that Alexander's testimony was consistent with what he said at the May 19 interview. RP 394. Over defense counsel's objection, Wilken further explained that Alexander told him at that interview that they drove back to the mini-mart; that Griffin was driving; Perkins was in the front seat and Alexander was in the back seat; that Griffin went inside the business; came back out and had made a purchase of a can of Steel Reserve beer. RP 404. This came in as a prior consistent statement of the witness under ER 801(d)(1)(ii). RP 400.

**D. Request for *Brady* Material**

Shortly before trial, the defense learned that Officer Wilken was on administrative leave, and requested *Brady* information. RP 87-89. The prosecutor explained to the judge that when he learned of the leave, he specifically asked the chief criminal deputy in his office whether there was

any *Brady* material that needed to be turned over to the defense. RP 88. He was directed not to disclose to the defense that Officer Wilken was on administrative leave. *Id.* The parties agreed to reserve ruling until the State could confer further, and the next day the prosecutor's office gave the judge their file on Officer Wilken, which was received under seal for in-camera review. RP 180. After reviewing the file, the court ruled that the documents did not contain admissible evidence for substantive or impeachment purposes, and the defense request was denied. RP 303.

**E. Officer Wilken's File**

Wilken's personnel file contains information showing that in 2000, Deputy Prosecutor Richard Melnick of the Clark County prosecutor's office complained that Wilken made materially false statements under oath in regards to a suppression hearing. *See* Exhibit 1. Specifically, the prosecutor's office complained that Wilken's testimony was in conflict with statements he made in a search warrant affidavit and order of destruction of materials. *See* Exhibit 2.

The personnel file also revealed that Wilken had been reprimanded and suspended in 2002 for violation of a number of department policies, including conducting an unauthorized investigation and disregarding the chain of command. *See* Exhibit 3. It appears from the file that his superiors had concerns about Wilken going too far in conducting

investigations and not having a clear understanding of lawful police conduct. *See* Exhibit 4 and 5.

The investigation for sexual harassment and police misconduct that was pending at the time of trial led to Wilken's resignation. *See* Exhibits 6 and 7. The investigation started when Officer Tanis Conroy, an officer with the Department of Corrections assigned to work with the VPD's Neighborhood Response Team, filed a complaint against Officer Wilken alleging sexual harassment and other misconduct by Wilken, including: grabbing her by the throat; placing a pair of women's underwear on her head during a search warrant execution; handcuffing her to a chair and leaving her in the men's locker room; sending her pictures of suspects or informants wearing her (and Sargent Chylack's) equipment or clothing, and; making sexual remarks. *See* Exhibit 8 at pgs. 2, 68.<sup>4</sup> She also alleged, after learning of this later, that Wilken defecated at a crime scene and stuck a DOC business card in the feces. *See* Exhibit 9 (tort claim notice).

The matter was being investigated by the Clark County Sheriff's Office for review by the Clark County Prosecuting Attorney. *See* Exhibit 8 at p. 71 and Exhibit 10. Wilken was placed on administrative leave on August 14, 2008 because of the pending criminal investigation. *See*

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<sup>4</sup> The page number references are to the internal page numbers of the document exhibit.

Exhibit 11. The Clark County prosecutor's office declined the filing of charges in October 2008. *See* Exhibit 10.

#### IV. ARGUMENT

**A. The State Violated Mr. Griffin's Due Process Under *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963), and *Giglio v. United States*, 405 U.S. 150, 92 S.Ct. 763 (1972), by Failing to Disclose Officer Wilken's History of Providing False Testimony and Other Malfeasance, and Failing to Disclose the Pending Criminal Investigation.**

**1. The Legal Framework**

The Fifth, Sixth, and Fourteenth Amendments of the United States Constitution require the government to disclose evidence to the accused that is favorable as to his guilt or punishment. *Brady*, 373 U.S. at 87. "Evidence favorable to the defendant" includes evidence that could be used to impeach a government witness. *Giglio* 405 U.S. at 154. *Bagley v. United States*, 473 U.S. 667, 676-77, 105 S.Ct. 3375 (1985) (both impeachment evidence and exculpatory evidence are subject to *Brady* disclosure). *See also In re Stenson*, 174 Wn.2d 474, 486, 276 P.3d 286 (2012); *State v. Benn*, 120 Wn.2d 631, 650, 845 P.2d 289 (1993).

A *Brady/Giglio* violation has three elements. The evidence at issue "must be favorable to the accused, either because it is exculpatory, or because it is impeaching;" it "must have been suppressed by the State, either willfully or inadvertently," and; its suppression must have resulted

in prejudice to the accused. *United States v. Kohring*, 637 F.3d 895, 901-02 (9th Cir. 2011) (citing cases).

## **2. The Duty to Disclose**

Prosecutors have a duty to “turn over to the defense in discovery all material information casting a shadow on a government witness’s credibility.” *United States v. Bernal-Obeso*, 989 F.2d 331, 334 (9th Cir. 1993) (citing *Giglio v. United States*). In this way, the prosecutor acts as a “representative of a sovereignty” who seeks justice, not a win-at-all-costs opponent. *Kyles v. Whitley*, 514 U.S. 419, 439, 115 S.Ct. 1555 (1995) (quoting *Berger v. United States*, 295 U.S. 78, 88, 55 S.Ct. 629 (1935)). The duty extends to material not within the knowledge of the particular prosecutor who handled the case, so long as the prosecutor’s office had access to the material. *Kyles*, 514 U.S. at 437.

The prosecutor has a duty to disclose material evidence even in the absence of a specific discovery request by the defense. *Bagley*, 473 U.S. at 682. The failure of the State to respond to a specific, relevant request, however, is particularly egregious, and “seldom, if ever, excusable.” *United States v. Agurs*, 427 U.S. 97, 106, 96 S.Ct. 2392 (1976). If the accused requests the personnel files of a testifying police officer, the prosecutor has a well-established obligation to review the files and turn

over any material information favorable to the defense. *United States v. Henthorn*, 931 F.2d 29, 30-31 (9th Cir. 1991).

### **3. Suppressed Impeachment Evidence**

#### ***a. Testimonial Misconduct***

When counsel for Mr. Griffin requested information regarding Officer Wilken's administrative leave, the prosecutor responded that he had checked with his supervisor and learned there was no "*Brady* material," in that "there was no allegation of any issues that would go to Officer Wilken's truth and veracity." RP 88. To make sure, the prosecutor's office submitted a file for in-camera review. RP 180-81. The record does not establish whether these materials included the information about the Clark County prosecutor's office complaint regarding Wilken's conflicting statements made in a search warrant affidavit and order of destruction.

At any rate, given the obvious impeachment value of such information, the duty to disclose this should have been clear. Even if the prosecutor did submit information regarding their complaint to the trial court, it would not mitigate the prejudice to Mr. Griffin because his counsel never received it. *See State v. Gregory*, 158 Wn.2d 759, 794-795, 147 P.3d 1201 (2006) (finding reversible error in the trial court's refusal to review a witness' DSHS file for impeachment evidence).

Suppression of evidence of a prosecution witness's prior false testimony violates *Brady*. See, e.g., *United States v. Cuffie*, 80 F.3d 514, 517-19 (D.C. Cir. 1996) (suppression of witness's prior false testimony requires reversal of conviction, even if witness was thoroughly impeached by other evidence). The fact that a prosecution witness had previously given false testimony "would have been admissible, on cross-examination concerning [the witness's] truthfulness, as a specific instance of his conduct probative of untruthfulness." *Id.* at 517. See also ER 608(b); *State v. McSorley*, 128 Wn.App. 598, 611-612, 116 P.3d 431 (2005) (failing to allow cross-examination of a state's witness, under ER 608(b), is an abuse of discretion if the witness is crucial and the alleged misconduct constitutes the only available impeachment); *State v. York*, 28 Wn.App. 33, 36, 621 P.2d 784 (1980) ("It is well established that a criminal defendant is given extra latitude in cross-examination to show motive or credibility, especially when the particular prosecution witness is essential to the state's case.").

***b. Pending Criminal Investigation***

The sexual harassment complaint investigation reveals that this matter was not just an internal affairs inquiry, as defense counsel seemed to believe and as it was described in court. See RP 87-89. Given Officer Conroy's allegations of physical harassment and intimidation, it was also a

criminal investigation being reviewed for the filing of criminal charges by the Clark County Prosecutor's Office. *See* Section III (E). The investigation began in August 2008. *See* Exhibit 8 at p. 3. The prosecutor's office declined charges in October 2008, but of course the threat of criminal prosecution remains active until the statute of limitations runs out, and in any case, the investigation was pending while Wilken was actively working with the prosecutor's office on this case. *See* RP 392-93.

Suppression of this fact was a *Brady* violation, since any fact—including the existence of a pending or potential criminal prosecution of a witness—that gives that witness a motive to want to curry favor with the prosecutor is relevant to that witness's credibility. *See, e.g., Davis v. Alaska*, 415 U.S. 308, 315, 94 S.Ct. 1105 (1974) (fact that prosecution witness is on juvenile parole is a fact that defense must be able to prove to the jury by cross-examination in order to expose the witness's bias to curry favor with the prosecution; failure to permit this inquiry violates the confrontation clause and requires reversal of the conviction).

Here, there was absolutely no indication by the State to any of the parties that the prosecutor's office was involved in reviewing the allegations against Officer Wilken for the possible filing of criminal charges, a fact Officer Wilken was well aware of, having been told of the criminal investigation and interviewed by the Clark County Sheriff's

Office deputy conducting it. *See* Exhibits 8 and 11. Instead, the trial deputy was instructed not to disclose to the defense that Officer Wilken was on administrative leave. RP 88. The defense having found out anyway and a request for information made, the prosecutor's office still did not disclose that Officer Wilken was potentially facing criminal prosecution by the same office prosecuting Mr. Griffin.

The fact that Wilken knew he might face criminal liability gave him a powerful motive to curry favor with the prosecutor's office to avoid criminal prosecution. This evidence should have been disclosed to permit the defendant to cross-examine Wilken as to his potential bias. *See, e.g., United States v. Schoneberg*, 396 F.3d 1036, 1042 (9th Cir. 2005) (defendant cannot be precluded from asking not only whether witness was biased but also from making a record from which to argue why witness might be biased); *United States v. Salem*, 578 F.3d 682, 689 (7th Cir. 2009) (for impeachment purposes, a criminal defendant on trial is entitled to reveal to the jury not only what benefits a witness is receiving, but also what he perceives he may receive).

***c. Other Evidence Casting Doubt on Wilken's Competence and Credibility.***

Wilken's personnel files reveals other potential *Brady* material. He had been reprimanded and suspended in 2001 for the testimonial

misconduct the prosecutor's office complained about, and in 2002 for violation of a number of other department policies. *See* Exhibit 3. His supervisors had expressed concern that Wilken exhibited poor judgment and did not accept responsibility for his actions; that he displayed a poor understanding of lawful police conduct, and; that he had an "ends justifies the means" attitude toward law enforcement. *See* Exhibit 4.

The investigation resulting in his resignation reveals that having been reprimanded before for neglect of duty, incompetence, disregarding the chain of command, and conducting unauthorized investigations, Wilken persisted in engaging in unprofessional conduct, and that this was largely ignored by his supervisor, Mike Chylack (who was also a witness in Mr. Griffin's trial).<sup>5</sup> Equally disturbing is Wilken's statement during an investigation interview into the 2008 complaint against him that "there are cops ... as good as me that can sit in a room and get someone who didn't do it to say they did it." *See* Exhibit 12 at p. 66.

In a case where the defense tried to argue that Wilken's finding of the glove was suspicious, defense counsel would be allowed to explore the lead investigator's pattern of running afoul of police department policies

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<sup>5</sup> It also appears that but for Wilken's resignation, another internal affairs investigation would have probed concerns raised in September 2008 by the Clark County prosecutor's office relating to alleged interference by Wilken in the negotiations of a case where one of his CIs was the defendant. The prosecutor complained that Wilken seemed to be making promises to the CI and contacted the victim directly to propose a resolution not approved by the prosecutor. *See* Exhibit 13.

and his admitted disregard for an honest investigative outcome, admissible under ER 608(b). Moreover, in light of a material mis-representation by Wilken in this case (discussed further in Section IV (D) (2)), this line of inquiry becomes even more relevant.

#### **4. Materiality**

To obtain reversal of a conviction based on a *Brady* violation, the accused does not have to demonstrate that “the evidence if disclosed probably would have resulted in acquittal.” *Bagley*, 473 U.S. at 680. Rather, undisclosed evidence is material if “there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different,” that is, “a probability sufficient to undermine confidence in the outcome.” *Id.* at 682.

Among other factors, courts considering a *Brady* claim must consider 1) the significance of the withheld evidence in light of the other evidence presented at trial and 2) any reasonable inferences the jury could have drawn from the evidence. This standard is “more lenient to the defense than the newly-discovered-evidence standard.” *Id.* at 681; *Stenson*, 174 Wn.2d at 487. Accordingly, “one does not show a *Brady* violation by demonstrating that some of the inculpatory evidence should have been excluded, but rather by showing that the favorable evidence could reasonably be taken to put the whole case in a different light.”

*Stenson* at 487. Appellate courts review the materiality of the withheld evidence *de novo*. *Kyles*, 514 U.S. at 434.

The undisclosed evidence is likely material if it “bears on the credibility of a significant witness in the case.” *United States v. Strifler*, 851 F.2d 1197, 1201 (9th Cir. 1988), *cert. denied*, 489 U.S. 1032, 109 S.Ct. 1170 (1989). *Accord* *Silva v. Brown*, 416 F.3d 980, 987 (9th Cir. 2005); *United States v. Price*, 566 F.3d 900, 914 (9th Cir. 2009); *United States v. Brumel-Alvarez*, 991 F.2d 1452 (9th Cir. 1993). “In cases in which the witness is central to the prosecution’s case, ... suppressed impeachment evidence ... takes on an even greater importance.” *Benn v. Lambert*, 283 F.3d 1040, 1054 (9th Cir. 2002). Further, the *Benn* court rejected the argument that, because the defense tried to impeach a witness and failed, any additional evidence would not have been material. *Id.* at 1056. (“The fact that other impeachment evidence was introduced by the defense does not affect our conclusion.”); *accord* *United States v. Service Deli, Inc.*, 151 F.3d 938, 944 (1998). Indeed, impeachment may have failed precisely because the State withheld the most damaging evidence. *Id.*

In *Kohring*, the Ninth Circuit Court of Appeals examined a *Brady/Giglio* claim based on the government’s failure to disclose impeachment evidence consisting of a hodge-podge of police reports,

handwritten notes, memoranda, and emails, as well as files regarding an ongoing sexual misconduct investigation of a main witness. *Kohring*, 637 F.3d 895. The court reached three key conclusions relevant to this case. First, it found the impeaching evidence admissible under Fed. R. Evid. 608(b), which is substantially the same as ER 608(b). *Kohring*, 637 F.3d at 905. Second, it concluded that this evidence could not be excluded as unduly prejudicial under Fed. R. Evid. 403. *Id.* at 903-04. Third, it also affirmed the proposition that exculpatory information must be disclosed under *Brady* if it is “admissible, [will] lead to information that will be admissible, or [is] capable of being used for impeachment.” *Id.* at 907.

The government’s failure to disclose this information violated due process under *Brady/Giglio*, and *Kohring*’s conviction was reversed. The *Kohring* court also concluded that withholding this same impeachment evidence violated *Kohring*’s Sixth Amendment right to confront and cross-examine witnesses, because (1) the evidence was relevant; (2) no legitimate interests justified excluding it; and (3) the jury was otherwise left with insufficient information to assess the witness’s credibility. *Id.* 905.

Here, Officer Wilken was the lead detective on the case. RP 389. He obtained the main evidence directly implicating Mr. Griffin—incriminating statements from Garry Alexander. The defense attacked

Alexander's credibility, pointing out that Alexander's shifting story flatly contradicted the victim's consistent and credible description of Alexander as one of the assailants, and that his testimony was in exchange for leniency from the State. RP 476-80.

Alexander's credibility under attack by the defense, the State used Officer Wilken to bolster Alexander, specifically pointing out through Wilken that Alexander's testimony was consistent with his May 19 statements confessing involvement. RP 394. Moreover, through Wilken, the State brought in Alexander's "prior consistent statement" that they had stopped back at the mini-mart and that Mr. Griffin went inside and purchased a can of Steel Reserve Beer. RP 404. Therefore, as the person who elicited Alexander's story and as the lead investigator, Wilken's credibility was crucial to the State's case.

Wilken also found the only physical evidence the State claimed linked Mr. Griffin to the crime—a glove allegedly stashed by Mr. Griffin near the crime that had a mixed DNA profile including him as a contributor. When police searched the area where Mr. Perkins claimed the guns and clothing used in the robbery were hidden, during daylight hours on May 19, they found nothing. RP 212-14. Wilken and Chylack returned to the area at about 11:30 p.m. and discovered the single glove.

RP 211. This occurred after the search of Mr. Griffin's apartment.<sup>6</sup> RP 228. Based on this, the defense attempted to cast doubt on the evidentiary value of the glove by pointing out that Wilken's purported discovery of the glove occurred under circumstances suggesting it had been planted. *See* RP 471-72.

Given Wilken's central role in the case, any evidence that could have impeached Wilken was material. Officer Wilken's testimony regarding his investigation and Alexander's "consistent" statements was crucial in validating the State's case and bolstering Alexander, who, but for Wilken's adoption of his version of events, was proved a liar by the victim. As such, impeachment of Wilken with the information that he had made materially false statements in a search warrant affidavit before, and other instances of misconduct probative of untruthfulness, would have cast doubt on Wilken's credibility. At a minimum, it would have neutralized his corroboration of Alexander's story. This impeachment, allowed under ER 608(b), also would have undermined the State's reliance on Wilken as the lead investigator.

Had trial counsel known the information that was suppressed, he would have used it to impeach Wilken. *See* Exhibit 15 (Decl. of Robert Vukanovich). This information also would have altered his case

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<sup>6</sup> During this search, three pairs of gloves were seized from Mr. Griffin's home. *See* Exhibit 14.

preparation and investigation. *Id.* Instead, due to the *Brady* violation, and as in ER 608(b), the jury was left with insufficient information to assess Wilken's credibility. *Kohring*, 637 F.3d at 905.

Moreover, the assertion that evidence was planted becomes a lot more plausible when levied against an officer who exhibits a disregard for conducting reliable and honest investigations, as exemplified by his testimonial misconduct in at least one other case, in the case at hand, and by his boast that as a good cop he can obtain a false confession. As with the bolstering of Alexander's false testimony, the prejudice to Mr. Griffin in not having the information allowing him to expose Wilken as less than reliable was prejudicial. Coupled with the fact that the transcript of the May 19 interview shows that Alexander did not in fact make any mention of a second trip to the mini-mart—an inconsistency trial counsel failed to notice and point out—the prejudice to Mr. Griffin is clear.<sup>7</sup>

As in *Stenson*, the impeachment evidence could “reasonably be taken to put the whole case in a different light.” 12 Wn.2d at 487. There is a reasonable probability that if the contents of Officer Wilken's file had been disclosed, allowing the defense to impeach the credibility of Officer Wilken and his investigation—and by extension undermine Alexander further—the result of the trial would have been different.

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<sup>7</sup> Counsel's ineffectiveness in this regard is discussed further in Section IV (D).

**B. Mr. Griffin's Right to Effective Assistance of Counsel Was Violated When Trial Counsel Failed to Conduct an Adequate Investigation into Officer Wilken's Misconduct.**

It is well established that “counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” *Strickland v. Washington*, 466 U.S. 668, 691, 104 S. Ct. 2052 (1984); *In re Pers. Restraint of Brett*, 142 Wn.2d 868, 874, 16 P.3d. 601 (2001). “A lawyer who fails adequately to investigate, and to introduce into evidence [information] that demonstrates his client's factual innocence, or that raises sufficient doubts as to that question to undermine confidence in the verdict, renders deficient performance.” *Lord v. Wood*, 184 F.3d 10833, 109 (9th Cir. 1999) (quoting *Hart v. Gomez*, 174 F.3d 1067, 1070 (9th Cir. 1999)) (internal quotation marks omitted and alteration in original). Counsel's failure to investigate possible methods of impeachment, standing alone, may constitute ineffectiveness. *See Tucker v. Ozmint*, 350 F.3d 433, 444 (4th Cir. 2003) (trial counsel must “investigate possible methods for impeaching a prosecution witness, and failure to do so may constitute ineffective assistance”).

Mr. Griffin's counsel had every incentive to fully investigate the scope of Wilken's misconduct, and was on notice to do so given the knowledge that Wilken was on administrative leave. Although he made a request for *Brady* material, he had an independent duty to conduct a full

investigation on his own. Thus, to the degree any of the information on Wilken was available to him at the time of trial, his failure to obtain it independently constitutes deficient performance.

Where counsel performed deficiently, the next question is whether, but for such deficiencies, it is reasonably probable that the result of the proceeding would have been different. *Strickland*, 466 U.S. at 694. “A reasonable probability is [one] sufficient to undermine confidence in the outcome.” *Id.* In making this determination, the court “must consider the totality of the evidence before the judge or jury.” *Id.* at 695. A defendant need *not* show “that counsel’s deficient conduct more likely than not altered the outcome in the case.” *Id.* at 693-94. In other words, the prejudice question in an ineffectiveness claim requires the same showing as a *Brady* claim. For the same reasons Mr. Griffin was prejudiced by the State’s *Brady* violation, he is prejudiced by trial counsel’s failure to discover the material on his own.

Officer Wilken was indispensable to prosecuting Mr. Griffin. Without the undisclosed impeachment evidence and a complete investigation of Wilken, trial counsel could not credibly challenge Wilken’s testimony regarding Alexander’s purportedly consistent statement, the finding of the glove, and other investigative decisions by Wilken. Under these circumstances, “there is reason to believe that the

jury relied on [Wilken's] testimony to reach its verdict," and it is reasonably probable that the impeachment evidence "would have affected the jury's assessment of [Wilken's] credibility." *Benn v. Lambert*, 283 F.3d 1040.

**C. Material Facts Exist Which Have Not Been Previously Presented and Heard, Which in the Interest of Justice Require Vacation of the Conviction.**

The information regarding Officer Wilken which was not available to Petitioner at the time of trial consists of new material facts which have not been previously presented. For the same reasons as set forth in Section IV (B), they require vacation of the conviction.

**D. Mr. Griffin's Right to Effective Assistance of Counsel Was Violated When Trial Counsel Failed to Impeach the State's Main Witnesses With Prior Inconsistent Statements and False Statements.**

**1. Alexander's Prior Inconsistent Statement**

As noted in Section IV (A) (4), the Sixth Amendment right to confront witnesses is broad and encompasses the right to impeach a witness with evidence of a prior inconsistent statement. *See Kohring*, 637 F.3d at 904-905; *State v. Dickenson*, 48 Wn.App. 457, 740 P.2d 312 (1987); *State v. Johnson*, 90 Wn.App. 54, 950 P.2d 981 (1998). Of course, the Sixth Amendment right to place a witness' prior inconsistent statements before the jury is of no value if defense counsel fails to take notice of a prior inconsistent statement, admissible under ER 613.

Here, Garry Alexander's statement to the police on May 19, where he confessed his involvement but said he was the getaway driver, did not contain any mention of going back to the mini-mart. *See* Exhibit 14. At trial, however, when re-telling the story of the crime, his story included this crucial trip back to the store, which he told the jury about with the aid of the photos of the surveillance video. *See* RP 256-258. Alexander included the detail that when Mr. Griffin got back into the car, Alexander could see a can of beer, which can also be seen in the photo showing Mr. Griffin at the store's counter. RP 258. During the May 19 interrogation, Alexander stated instead that after getting into Mr. Griffin's car, they drove to the victim's house and then to the Evergreen Apartments.<sup>8</sup> *See* Exhibit 16 at p. 46, 63.

To be received as a prior inconsistent statement, the contradiction need not be in plain terms. "It is enough if the 'proffered testimony, taken as a whole, either by what it says or by what it omits to say' affords some indication that the fact was different from the testimony of the witness whom it sought to contradict." *State v. Newbern*, 95 Wn.App. 277, 294, 975 P.2d 1041, 1050, *review denied* 138 Wn.2d 1018 (1999) (quoting

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<sup>8</sup> This also affects the State's argument regarding the time Mr. Griffin and his alleged accomplices had to carry out the crime. It was 14 minutes between the time Mr. Griffin is seen driving away from Handy Andy's. The State argued this was sufficient time to drive to the Evergreen Apartments, park, exit the vehicle and grab things from the trunk, walk to the victim's home and commit the crime. RP 484-85. The already tight timeline becomes tighter when it includes an extra stop, per Alexander's first statement.

*United States v. Gravelly*, 840 F.2d 1156, 1163 (4th Cir.1988). *See also Jenkins v. Anderson*, 447 U.S. 231, 100 S. Ct. 2124 (1980) (“Common law traditionally has allowed witnesses to be impeached by their previous failure to state a fact in circumstances in which that fact naturally would have been asserted.”). This court explained in *Newbern*:

The emphasis in this liberal approach is on aiding the finder of fact in evaluating the credibility of the witness's testimony. Courts and commentators have both acknowledged that the jury is better able to determine the value and weight to give a witness's trial testimony if it knows that the witness expressed contrary views while the event was still fresh in the witness's memory and before the passage of time created opportunities for outside influence to distort the statement.

*Newbern*, 95 Wn.App. at 294-95 (internal citations omitted). As such, competent defense counsel would have asked Garry Alexander about his prior inconsistent statement, and if denied by Alexander, proved it by extrinsic evidence. *See* ER 613(b).

Having failed to impeach Alexander, the jury was left with the misleading impression that Alexander's story was, first, consistent from the beginning, and, second, consistent with the video surveillance. Mr. Alexander was the lynchpin of the State's case—his version of events being the basis of the State's prosecution—and the prejudice to Mr. Griffin is clear. It is discussed further in section IV (D) (2).

## **2. Wilken's False Statement**

As noted above, Officer Wilken testified that Alexander's testimony was consistent with what he told Wilken at the police interview on May 19, and that Alexander told him then about the second trip to the mini-mart (the prior consistent statement). Specifically, Wilken claimed that:

Mr. Alexander had described the details as he had testified to me during that interview that they had stopped back at the minit [sic] mart. Again, Mr. Griffin was driving that vehicle, Perkins was in the front seat, Alexander was in the back seat, and that Mr. Griffin went inside the business, was in there a few minutes, came back out, and he had made a purchase of a can of Steel Reserve beer.

RP 404.

On May 21, 2008, Wilken authored a police report where he describes Alexander's statements finally admitting involvement, in part as follows:

After shopping, they proceeded to walk outside where they headed back to LG's apartment where they got into a white in color Oldsmobile with silver rims. Garry said that LG went back inside his apartment where after a minute, he came outside and got back into the car. LG then drove the three of them down the street, heading down towards Garry Atkinson's home. While enroute, Garry stated that LG pulled into the same minit [sic] mart that they had just visited. LG then parked the vehicle and walked into the minit mart by himself as he wanted to buy a beer for himself. Garry said that LG came back to the car a few minutes later with a can of Steel Reserve beer.

Exhibit 17 at p. 4. Notably, by the time of this police report, Officers Wilken and Nicholson had seen the video surveillance from the mini-mart, which they viewed on May 20. RP 315.

Wilken's statement in the police report, authored under penalty of perjury, of a fact he knew or should have known was incorrect, is probative of truthfulness, and effective counsel could have used this information to impeach Wilken pursuant to ER 608(b). Failing to impeach either Alexander or Wilken with this discrepancy and material misrepresentation by Wilken, both in a police report and at trial, could not be the result of any tactical decision, given the issues in the case. The fact that counsel objected to Wilken testifying as to the specific content of Alexander's statement on May 19 confirms this. *See* RP 398. Where the State has adopted as its theory of the case Alexander's version of the crime—a version contradicted by the victim—and where Alexander is the only person directly implicating Mr. Griffin, failure to review the discovery carefully and impeach the witnesses using this information is deficient performance. Since the State was able to bring in a "prior consistent statement," the error was doubly harmful.

The prejudice to Mr. Griffin is glaring. Had trial counsel used the information available to him effectively, Alexander's credibility would have been undermined. More importantly, but for counsel's error, the

State would not have been able to bolster Alexander with a supposedly prior consistent statement. Instead, the State's efforts would have been wiped out by the impeachment of Wilken during cross-examination.

The significance of the testimony about a second trip to the mini-mart is clear, given the State's tactic of highlighting it during both Alexander's and Wilken's direct testimony. Then, in closing, the State argued:

And the rest of the evidence, it all made sense back then, before, long before any pleas for testimony deal was entered into with Garry Alexander. All right, so he made that prior consistent statement, consistent with his testimony, before any deal, all right. And we know that because Detective Wilken testified to that.

RP 448. The prosecutor then continued:

So, again, Garry Alexander explained this, you know, way back in May when he was being interrogated by Detective Wilken. He says that they stop and Garry went in to get a beer. So we—we have the surveillance of the defendant when he pulls up to Handy Andy's that second time. This is as he's going in. And then as he's in the store. Now, how would Garry Alexander if he wasn't in the car and knowing that—what's going on, how would he have known what Garry Alexander bought when they went to the store that second time? Other than being in a car with them on the way to go do this thing, he would have no way of knowing. He says, Garry—he says Lester Griffin had to get a beer before they go in. And you can see a can right there between the clerk and the defendant, Lester Griffin, and you can't see the words "Steel Reserve Beer" on there, but Garry Alexander said he had to buy a can of Steel Reserve beer, and there he is buying a canned beverage right before heading out to do it. Like I say, there's no way Garry Alexander would have known that if he wasn't in the car.

RP 451-52.

Thus, Alexander's "prior consistent statement" served the dual purpose of bolstering Alexander's credibility and explaining away a problem in the State's case—surveillance video showing Griffin alone at the mini-mart very shortly before the crime. Without this part of the story, Alexander's narrative, and by extension Wilken's case, begins to unravel. Whether counsel chooses to impeach Alexander or Wilken only, effective counsel could have kept out the "prior consistent statement." Overall, counsel's failure to impeach the State's main witness and expose the falsehood by Wilken was prejudicial, all the more so as the failure allowed the State to use ammunition based on a lie.<sup>9</sup>

Finally, the cumulative prejudice to Mr. Griffin from the failure to impeach Wilken in the case at hand, and from the non-disclosure of very similar testimonial misconduct in a previous case, is sufficient to undermine confidence in the outcome. As it stands, the jury did not have much of a reason to doubt the competence and integrity of Officer Wilken, despite trial counsel's veiled suggestion that the glove was planted. Impeached by his misconduct, the jury could have concluded that Wilken

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<sup>9</sup> Of course, if the State presented false testimony knowingly, then *Napue v. Illinois*, 360 U.S. 264, 79 S.Ct. 1173 (1959), applies and the materiality/prejudice standard is lower. A *Napue* violation requires that the conviction be set aside whenever there is 'any reasonable likelihood that the false testimony could have affected the judgment of the jury.' *Jackson v. Brown*, 513 F.3d 1057 (9th Cir. 2008), quoting *Hayes v. Brown*, 399 F.3d 972 (9th Cir. 2005) (en banc).

is, at best, reckless with the truth. Viewed through this lens, Wilken's wholesale adoption and active promotion of Alexander's version of events seems sloppy, if not ill-intentioned. It puts in a whole different light his finding of the glove and failure to see through certain investigative tasks, such as not asking for gunshot residue analysis on the glove. *See* RP 473. As the lead detective who confirmed Alexander's version of events, despite the fact that the victim clearly identified Alexander as one of the assailants, Wilken's significance cannot be understated. Had the jury had all the information regarding Wilken, it is reasonably probable that the result of the proceeding would have been different. *Strickland*, 466 U.S. at 694.

**E. Mr. Griffin's Right to Effective Assistance of Counsel Was Violated When Trial Counsel Failed to Object to Improper Argument by the Prosecutor.**

**1. Deficient Performance**

It is well-established that trial attorneys may not personally vouch for the credibility of a witness. As the Court of Appeals stated in *State v. Sargent*, 40 Wn.App. 340, 343-44, 658 P.2d 598 (1985): "It is improper for a prosecutor to express his personal opinion about the credibility of a witness and the guilt or innocence of the accused in jury argument." That the attorneys cannot vouch for a witness is not a new rule. *See State v. Reed*, 102 Wn.2d 140, 145, 684 P.2d 699 (1984); *State v. Case*, 49 Wn.2d

66, 298 P.2d 500 (1956); *State v. Horton*, 116 Wn.App. 909, 68 P.3d 1145 (2003).

Improper vouching may occur in two ways: (1) the prosecutor places the prestige of the government behind a witness by expressing his or her personal belief in the veracity of the witness, or (2) the prosecutor indicates that information not presented to the jury supports the witness's testimony. *United States v. Brooks*, 508 F.3d 1205, 1209 (9th Cir. 2007) (quoting *United States v. Hermanek et al.*, 289 F.3d 1076, 1098 (9th Cir.2002)); *see also United States v. Roberts*, 618 F.2d 530, 533 (9th Cir.1980); *State v. Coleman*, 155 Wn.App. 951, 957, 231 P.3d 212, 215 (2010) *review denied*, 170 Wn.2d 1016, 245 P.3d 772 (2011).

Here, the prosecutor improperly vouched for the key witness tying Mr. Griffin to the crime, Garry Alexander. First, it is important to note that during the State's case-in-chief, the prosecutor questioned Alexander about the agreement he made with the prosecutor's office to testify in exchange for reduced charges and sentence. RP 284-87. The prosecutor introduced the agreement into evidence and confirmed that the contract required Alexander to "tell the truth." RP 285-86. As was recognized in *State v. Ish*, this evidence is "generally self-serving, irrelevant, and may amount to vouching, particularly if admitted during the State's case in chief." 170 Wn.2d 189, 198, 241 P.3d 389 (2010). Further, it indicates to

the jury that “the prosecution has some independent means of ensuring that the witness complies with the terms of the agreement.” *Id.*

Alexander’s contract with the State, which “required” him to tell the truth, thus formed the background for the prosecutor’s improper argument that Alexander should be believed over the victim, whose testimony the prosecutor characterized as follows:

Well, [Mr. Atkinson] certainly when he testifies he knows Garry Alexander is behind this. I mean he knows Garry Alexander is one of the three charged co-defendants in this. So he obviously, you know, isn’t gonna have any big moral dilemma testifying that Garry Alexander is one of them . . . But I submit to you that he’s mistaken as far as who’s at the door.

RP 442-43. This argument clearly states the jury should find that Atkinson is incorrect, while it also suggests that he may know he is wrong but would not feel morally conflicted about his testimony, given that Alexander is charged. This is improper. “[I]t is misconduct for a prosecutor to argue that in order to acquit a defendant, the jury must find that the State’s witnesses are either lying or mistaken.” *State v. Fleming*, 83 Wn.App. 209, 213, 921 P.2d 1076 (1996); accord *State v. Castaneda-Perez*, 61 Wn.App. 354, 362-63, 810 P.2d 74 (1991) (“it is misleading and unfair to make it appear that an acquittal requires the conclusion that the police officers are lying.”).

Then, in closing argument, the prosecutor improperly vouched for Garry Alexander's testimony in two of the ways outlined in *United States v. Brooks*, 508 F.3d at 1209. First, he stated:

You know, something that you can do as jurors is just think about Garry Alexander's testimony. I submit to you that he came across as a forthright witness. He did not hold ... he's not holding anything back ... And when he testifies, he -- he doesn't try to sugarcoat anything, he doesn't try to sugarcoat his involvement, he's like, you know, yeah, we—we were doin' this thing. But he—he didn't pull any punches on the stand, you know, he didn't try to sugarcoat his involvement, and on cross-examination by Defense counsel, he, you know, admitted to everything. All right. So I submit to you he comes off in his presentation on the witness stand as a guy who was involved in this but is forthright in what his involvement was.

RP 449-450.

By making this statement, the prosecutor “expresse[d] his . . . personal belief as to the veracity of the witness.” *Ish*, 170 Wn.2d at 196. Additionally, when he argued that Alexander was “not holding anything back,” the prosecutor implied that the state knew more than the jury, and therefore “evidence not presented at trial support[ed] the witness's testimony.” *Id.*

Even more egregiously, the prosecutor made this argument after having already “place[d] the prestige of the government behind the witness” when he offered a long explanation why Alexander's version of events made sense. RP 444-446. As part of this, the prosecutor argued:

So I encourage you to think about, you know, who a deal should be made with in this scenario. Certainly not one of the guys at the door that's involved in the actual shooting of the victim, but the driver. That's the guy that makes sense to make a deal with, just like if it's a bank robbery and you have a, you know, a driver and guys that go in a rob the bank, its most likely the deal would be made with the driver, and that's what happens here. . . Again, it makes sense to do a deal with the guy that left his co-defendants at the scene. That's the right person to do the deal with.

RP 446-47. In other words, the prosecutor's office would not have given Alexander a deal if he had been one of the men who actually attacked the victim rather than just the driver; if he's lying, the prosecutor's office gave the wrong man a deal.<sup>10</sup>

This argument was improper. First, the State essentially argued that a key issue in dispute—who was actually at the door—was resolved when the prosecutor's office gave Alexander a deal. Second, in making these arguments, the prosecutor used the fact that Alexander was selected by the government as the cooperating witness to bolster Alexander's credibility. In so doing, he “place[d] the prestige of the government behind the witness” by expressing his personal opinion that Alexander was forthright and by expressing his belief, and by extension that of the Prosecutor's Office, that the “right person” was given a deal.

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<sup>10</sup> Even if counsel had objected, this flagrant and ill-intentioned argument denied Mr. Griffin of his right to a fair trial. This is discussed further in Section IV (E).

Alexander was further bolstered by the prosecutor's reminder that the threat of a polygraph hangs over Alexander's head:

The polygraph. Remember, you can look at that contract that the defendant signed, and you can see that throughout that contract it's all hinged on the defendant giving truthful statements that—at all interviews, pretrial interviews, testimony and in any proceeding in the matter of this defendant and Christopher Perkins. The defendant knows full well, it's very clear on that contract, he can be given a polygraph at any time. If he fails, that could be used against him to pull his deal. He knows that. And he knows that when he's testifying. All right. So you can see that in the contract.

RP 489. “Prosecutorial remarks implying that the government is motivating the witness to testify truthfully are prosecutorial overkill.” *Ish*, 170 Wn.2d at 198 (quoting *United States v. Roberts*, 618 F.2d 530 (9th Cir. 1980) (internal quotation marks omitted). Overall, against the background that the State had an independent means of confirming Alexander's credibility, the State improperly vouched for him by placing the prestige of the government behind him and suggesting that if he was not the getaway driver, the prosecutor gave the wrong man a deal. Conveniently, this also purported to resolve for the jury a fact in dispute, since “what happene[d] here” was that the right person got a deal.

Recognizing—as he did—that Alexander's testimony was central to the prosecution's case, defense counsel's failure to object to improper vouching and argument could not have been the result of a “sound trial

strategy.” *Strickland*, 466 U.S. at 689. Having attempted to discredit Alexander, it makes no sense to allow the State to improperly shield Alexander by placing the prestige of the government behind him and putting the good judgment of the prosecutor’s office at issue. The prosecutor’s statements were in violation of a prosecutor’s well-settled duty not to vouch and invaded the province of the jury. Competent counsel would have objected.

## **2. Prejudice**

A review of the relevant cases makes it clear that counsel’s failure to object was prejudicial. The law would require the court to sustain the objections, and at least to strike the argument and instruct the jury to disregard it. There would have been an opportunity to give a curative instruction.<sup>11</sup> To succeed on claim of prosecutorial vouching, a petitioner must demonstrate that there was a “substantial likelihood” that the comments affected the jury. *Reed*, 102 Wn.2d at 145.

Prosecutorial misconduct cases based on witness vouching have resulted in reversals. In *Reed*, the prosecutor made several comments asserting his opinions about a defense witness’s credibility. 102 Wn.2d at 145-46. Finding that the evidence of intent and premeditation—a main

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<sup>11</sup> On appeal, with an objection there would be a more favorable standard of review than without an objection, furthering the prejudice to Mr. Griffin from counsel’s failure to object.

issue in the case—was “not overwhelming,” the Supreme Court of Washington reversed Reed’s conviction, recognizing the “clear impropriety” of the statements and holding that the statements were prejudicial insofar as they undermined a crucial part of the defendant’s case. *Reed*, 102 Wn.2d at 147.

In *State v. Sargent*, the argument was less egregious than in *Reed*, but there was no objection to it. Nonetheless, the Court of Appeals reversed the conviction, again finding the evidence of guilt was largely circumstantial, not overwhelming. *Sargent*, 40 Wn.App. at 345. In *State v. Horton*, this Court held that already-serious problems with the trial were “significantly exacerbated when the experienced prosecutor injected his personal opinion.” 116 Wn.App. at 922. Further, the error was viewed through the deferential lens of an ineffective assistance of counsel claim and the conviction was reversed nevertheless.

As in *Reed*, *Sargent*, and *Horton*, counsel’s failure to object to the prosecutor’s improper statements had a patently adverse effect on the defense. First, it improperly allowed the jury to rely on the personal opinion of a professional prosecutor, an experienced public servant, who undoubtedly had seen many criminal cases tried and many people testify, and who could confirm that a deal was given to the right person—the getaway driver. If the jury did not believe Alexander’s testimony, the

prosecution's case was weak. Alexander was the only person placing Mr. Griffin directly at the scene, and he was contradicted by the victim himself. Atkinson never identified Mr. Griffin, and the only other evidence tying Mr. Griffin to Alexander was a video showing that Mr. Griffin had been with Alexander and Perkins at 11:41 p.m. and showing him alone at 11:54 p.m. RP 319-20; RP 341-44. Without Alexander's testimony, the defense could not tie its case together.

Overall, given the facts of the crime testified to by the victim, and the obvious benefit Alexander received from cooperating, his credibility was already on shaky ground. As such, allowing the State to improperly vouch for him, to the point of letting the prosecutor put his office's decision-making and good judgment at issue, was ineffective assistance of counsel. There can be little doubt that prejudice flowed from it.

**F. Flagrant and Ill-Intentioned Prosecutorial Misconduct Deprived Mr. Griffin of His Right to a Fair Trial**

Prosecutorial misconduct may deprive the petitioner of a fair trial and only a fair trial is a Constitutional trial. *State v. Charlton*, 90 Wn.2d 657, 665, 585 P.2d 142 (1978). In cases of prosecutorial misconduct, the touchstone of due process analysis is the fairness of the trial, *i.e.* did the misconduct prejudice the jury, thereby denying the petitioner a fair trial. *Smith v. Phillips*, 455 U.S. 209, 224, 102 S.Ct. 940 (1982); *State v. Weber*, 99 Wn.2d 158, 169, 659 P.2d 1102 (1983).

Viewed as a whole, it is clear the prosecutor's primary tactic at trial was to put the whole weight of the police and the prosecutor's office behind Garry Alexander, to the point where the truth of his testimony was all but guaranteed. Here, the crux of the issue was as follows: Either Garry Alexander was lying and he was in fact one of the assailants; or the victim was mistaken when he thought he recognized one of the assailants as Alexander. The prosecutor's flagrant and ill-intentioned misconduct framed the problem differently: Either the victim is mistaken; or the prosecutor is mistaken. That was the choice the prosecutor's arguments confronted the jury with, and it cannot be said that in light of this, Mr. Griffin's trial was fair.

The defense bears the burden of establishing the prosecutor's conduct was both improper and prejudicial. *State v. Thorgerson*, 172 Wn.2d 438, 442, 258 P.2d 43 (2011). The misconduct is viewed "in the context of the total argument, the issues in the case, the evidence addressed in the argument, and the instructions given." *State v. Graham*, 59 Wn.App. 418, 428, 798 P.2d 314 (1990). Where no objection is made, the defendant must show that the State's misconduct "was so flagrant and ill-intentioned that an instruction could not have cured the resulting prejudice." *State v. Emery*, 174 Wn.2d 742, 761-62, 278 P.3d 653 (2012) (citations omitted).

This more stringent standard of review requires the defendant to show that: (1) no curative instruction would have obviated any prejudicial effect on the jury and (2) the misconduct resulted in prejudice that had a substantial likelihood of affecting the jury verdict. *Id.* (internal quotations omitted); *See also State v. Fuller*, 2012 WL 3206883 (Wn. App. Div. II August 8, 2012) at 21. Here, pitting one witness, the victim, against the State is a flagrant and ill-intentioned distortion of the issues for the jury to consider. It's hard to conceive what instruction could have adequately informed the jury that they need not decide whether the government made a mistake in giving Alexander a deal.

**G. A Reference Hearing Should be Ordered to Adduce Additional Facts Necessary to Determine Petitioner's Claims on the Merits**

If there are unanswered questions as to the extent and nature of Officer Wilken's misconduct, the non-disclosure of materials by the State, the admissibility of the new material information as impeachment evidence, and the extent and nature of trial counsel's deficiencies, a reference hearing pursuant to RAP 16.11 should be ordered. A reference hearing would help this Court make a proper determination of the prejudice to Mr. Griffin from the various constitutional violations.

**V. CONCLUSION**

The State's case against Mr. Griffin rested on two witnesses whose credibility was not adequately explored due to the State's *Brady/Giglio*

violation and counsel's ineffective assistance of counsel. The evidence not presented would have put the whole case in a different light, as it would have allowed the jury to infer that Wilken, whose credibility, expertise and reliability were crucial to bolstering Alexander, was not a trustworthy investigator. Further, any doubts about the investigation the jury could have developed over the course of the trial were appeased by the prosecutor's personal assurance that Alexander was forthright and not holding anything back and that the right person was given a deal. Each error is sufficient to undermine confidence in the outcome; viewed cumulatively, confidence in the outcome is greatly undermined. For the reasons stated above, Mr. Griffin respectfully requests that this Court grant his Personal Restraint Petition and order a new trial, or in the alternative, remand the case for a reference hearing.

Dated this 13<sup>th</sup> day of August, 2012

Respectfully Submitted,

INNOCENCE PROJECT NORTHWEST CLINIC

A handwritten signature in black ink, appearing to read "M. Fernanda Torres". The signature is written in a cursive, flowing style.

---

M. Fernanda Torres, WSBA # 34587  
Attorney for Lester J. Griffin

**CERTIFICATE OF SERVICE**

I certify that on the date listed below, I served by United States Mail, first-class postage, one copy of this Opening Brief in Support of Amended Personal Restraint Petition on the following:

Ms. Ann Cruser, Deputy Prosecuting Attorney  
Office of the Clark County Prosecuting Attorney, Appellate Division  
1013 Franklin Center  
P.O. Box 5000  
Vancouver, WA 98666-5000

Mr. Lester Juan Griffin, #838731  
H5-B108  
Stafford Creek Corrections Center  
191 Constantine Way  
Aberdeen, WA 98520

11/13/13  
11/13/13  
Date and Place

Cynthia S. Fester  
Cynthia S. Fester

Exhibits

1. IA-00-38 Internal Affairs Addendum/Complaint (dated 01/01/01) & Notice of Findings (dated 01/05/01)
2. Vancouver Police Department Complaint Form (report date 07/26/00)
3. IA-02-33 Wilken Grievance, Internal Affairs History, Final Discipline letter (dated 11/06/02)
4. Vancouver Police Department Correspondence (dated 04/05/02)
5. Memo from City Manager to Wilken re: IA-02-33 (dated 03/24/02)
6. Columbian Newspaper Article (dated 01/22/10)
7. Wilken/City of Vancouver Separation and Release agreement (dated 07/21/09)
8. Clark County Sheriff's Office report by Kevin Harper (courtesy copy to VPD) (undated)
9. Tort Claim Notice: Tanis Conroy (dated 06.15.09)
10. Letter from Dennis Hunter to Vancouver City Attorney (dated 10/27/08) & memo to Tony Golik (11/21/08)
11. Vancouver Police Department Memo to Wilken re: administrative leave (dated 08/14/08)
12. Transcript of 09/17/08 interview of Wilken by Kevin Harper
13. E-mail to Dennis Hunter (dated 08/28/08) and Memorandum to Lieutenant Holloway from Dennis Hunter (dated 09/15/08)
14. Vancouver Police Department Report, Incident No. 08-9421 (Officer Billingsley) (dated 05/21/08)
15. Declaration of Robert Vukanovich (dated 08/10/12)
16. Transcript of May 19, 2008 interview of Garry Alexander in VPD Case No. V08-9421
17. Vancouver Police Department Report, Incident No. 08-9421 (Officer Wilken) (dated 05/21/08)

# **EXHIBIT 1**

Copy to Ofc Wilken  
01-02-01  
JM



## VANCOUVER POLICE DEPARTMENT OFFICE CORRESPONDENCE

**TO:** Ofc. Jeff Wilken  
**FROM:** Sergeant Marla Schuman  
**DATE:** 01-02-01  
**SUBJECT:** Internal Complaint / Addendum

A complaint was filed against you involving an incident that is alleged to have occurred on January 19, 2000. The Professional Standards Unit has assigned the following complaint/inquiry tracking number: IAC #00-38.

Section 4.4 of the new policy provides that a deadline for completion was established at the time the investigation was opened. The Professional Standards Unit anticipated that this investigation would be completed by 10-27-00. If this date is extended, you will be notified in writing of the new due date with an explanation as to why the date was extended. Following the completion of the investigation, you will have an opportunity to review the final report and submit a written response prior to the report being forwarded to the office of the Chief of Police for a disposition.

On 07-26-00 the Professional Standards Unit received a complaint from the Clark County Prosecutors Office. The complaint alleged that on May 19<sup>th</sup>, 2000, you provided materially false statements under oath in Clark County Superior Court in regards to a Suppression Hearing involving the State vs. [REDACTED]

An investigation into this matter was conducted by Sgt. Harry Russell and forwarded to the Office of the Chief for review. During the course of the review of this incident additional potential policy violations were noted.

The allegations, if proven, may be violations of the following Vancouver Police Departmental Policies:

**5.1. NEGLECT OF DUTY**

Employees must not fail to exercise diligence, intelligence, and the interest of the Department in the pursuit of their duties. Employees must not engage in any activities which may cause them to neglect or be inattentive to their duties.

**5.2. INCOMPETENCE**

Employees are subject to disciplinary action if they are deemed to be incompetent by displaying a reluctance or inability to properly perform their assigned duties.

The attached materials are for your information to assist you in preparing for the upcoming interview. Please retain all of these materials, including the Administrative Proceedings Rights form, until the conclusion of this investigation. Should you have any questions or concerns, you may contact the Professional Standards Unit at 735-8868.

Received by: \_\_\_\_\_

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

***\*\*Please sign and return this original to the Professional Standards Unit.***

***\*\* Keep a copy for your information.***



P.O. Box 1995 Vancouver, WA 98668-1995

To: Officer Jeff Wilken  
From: Janet Thiessen, Deputy Chief of Police *JMT*  
Date: January 5, 2001  
Subject: A-00-38  
Notice of Findings and Loudermill Hearing

**CONFIDENTIAL**

The purpose of this memorandum is to inform you of the findings relating to an internal affairs investigation into allegations of misconduct that occurred in as a result of testimony given by you in a criminal case involving [REDACTED] [REDACTED]. You were provided with an opportunity to review the final investigative report and to submit a written response to the Office of the Chief. According to our records you reviewed the investigative file on October 7, 2000. You submitted a written response dated October 8, 2000. If this information is in error, please contact me immediately.

After reviewing the investigative file, there appears to be sufficient evidence that you provided testimony on several occasions that contradicted other testimony provided by you in this criminal case. Specifically, you provided testimony via several written documents authored by you (e.g., police reports, affidavit for search warrant, and Order for Destruction of Hazardous Substances) and during the course of a pre-trial conference and a Suppression Hearing in Clark County Superior Court. Review of each of these documents, your statements during the pre-trial conference and testimony during the Suppression Hearing revealed several inconsistencies in your testimony. The allegation that you violated Vancouver Police Department Policy 7.13.18 Statements/False Statements is **not sustained**. The allegation that you violated Vancouver Police Department Policy 5.1 Neglect of Duty is **sustained**. The allegation that you violated Vancouver Police Department Policy 5.2 Incompetence is **sustained**.

Before determining whether corrective and/or disciplinary action is necessary, you have the right to meet with Deputy Chief Janet Thiessen and/or Chief Stan Reeves for a Loudermill Hearing. You may offer any information you feel is appropriate for consideration. Furthermore, you may have a VPOG representative or a VPOG attorney present during the Loudermill Hearing. This meeting may be scheduled by contacting Debby Campbell or Sharon Pollock in the Office of the Chief on or before January 16, 2001. If you do not respond to this notice, a final letter will be issued after that date.

cc: Stan Reeves, Chief of Police  
Debra Quinn, Law  
Terry Weiner, Law  
File Copy

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# **EXHIBIT 2**

**VANCOUVER POLICE DEPARTMENT  
COMPLAINT FORM**

Reported Date: 072600

Occurred Date: 011900

Location of Incident: Clark County Superior Court

Complainant Name: Deputy Prosecutor R. Melnick

Complainant Address and Telephone: 397-2261

Involved Person (Name and Telephone): [REDACTED] [REDACTED]

Witnesses ([REDACTED] -unknown address)

Police Personnel Involved: Wilkin # 1231

Documents Attached (including number of pages): Search Warrant/ Destruction Order,  
Various legal files documenting Suppression Hearing 00-1-00135-5

**DESCRIBE DETAILS OF INCIDENT AND SPECIFIC NATURE OF COMPLAINT:**  
(Use additional pages of necessary; specify number of page \_\_\_\_\_)

The complaint alleges that Officer Wilkin provided testimony in court that was in conflict with a search warrant affidavit he authored as well as an Order for Destruction of Hazardous Substances connected with Vancouver Police Case 00-1028.

Facts of case: Officer Wilken had occasion to know an arrest warrant existed for [REDACTED]. He and Officer [REDACTED] were monitoring a residence at 1501 KnollCrest Ave. for suspected drug activity. In a search warrant affidavit authored by Wilken, he indicated that he watched [REDACTED] exit a black 1979 Mazda RX-7. Wilken indicated that he saw [REDACTED] carrying objects into a small trailer and that shortly thereafter, uniform officers arrived and [REDACTED] was arrested. Subsequent investigation revealed that the trailer contained chemicals for the manufacture of methamphetamine, and [REDACTED] was arrested.

In a Suppression Hearing regarding this matter on January 19<sup>th</sup> Officer Wilken testified in regards to the arrest and discovery of the precursor chemicals and arrest of [REDACTED]

I was advised that Officer Wilkin's testimony during the Suppression Hearing was in conflict with information provided by him in a Search Warrant affidavit, and an Order of destruction for chemicals found in the trailer.

I was advised that Defense Attorney Lavelle had impeached Officer Wilken on the stand in regards to statements that appeared in a search warrant he authored.

Deputy Prosecutor Melnick indicated that Defense Council Levalle had contacted him to complain about the inconsistencies in Wilkens statements made in court.

I am aware that the Deputy Prosecutor on this case was [REDACTED] and that he was now in private practice in the Seattle area.

Deputy Chief Theissen was present during the dialogue with Prosecutor Melnick and this issue was assigned as an IA investigation.

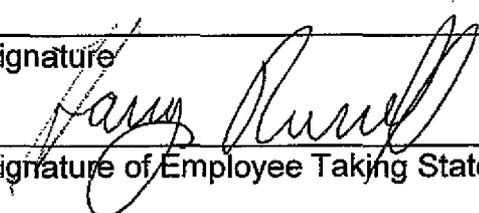
**VMC 7.76.175 Making a False or Misleading Statement to a Public Servant**

A person making a false or misleading material statement to a public servant is guilty of a gross misdemeanor. "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties.

Police department employees who are the subject of frivolous or malicious statements may have legal recourse against a false accuser.

I have written and/or read the above statement and it is true and correct.

\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Signature of Employee Taking Statement

\_\_\_\_\_  
Date

10 17 00

\_\_\_\_\_  
Date

# **EXHIBIT 3**

Officer Jeff Wilken IA History

Year	IA #	Description	Finding	Disposition
1998	None			
1999	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2000	A-00-38	Neglect of Duty	Sustained	Reassignment to patrol
		Incompetence	Sustained	Retraining
2001	[REDACTED]	[REDACTED]	[REDACTED]	
2002	[REDACTED]	[REDACTED]	[REDACTED]	
	A-02-33	Reporting for Duty, General Conduct	Exonerated / Closed no finding	
		Neglect of Duty, Chain of Command, Duty to Report Information, Unauthorized investigation, Prisoner Security	Sustained	Pending

[REDACTED]

**A-00-38**

**Allegation**

...you provided testimony on several occasions that contradicted other testimony provided by you in this criminal case.

**Finding**

...that you violated Vancouver Police Department Policy 7.13.18 Statements/False Statements is not sustained. The allegation that you violated Vancouver Police Department Policy 5.1 Neglect of Duty is sustained. The allegation that you violated Vancouver Police Department Policy 5.2 Incompetence is sustained."

"..the issues...arose in part due to a lack of training.

*Chief Reeves*

Ofc. Wilken Related Training

Prior to IAC	Date	Hours
Drugs Meth Labs	5/25/2000	8
Drugs Narcotic Interdiction & Investigation	12/6/99-	16
Search And Seizure	10/23/98	3
Search Warrant Writing Session	12/15/2000	4
	Total	31
Following IAC		
Drugs- Meth Lab Recognition	10/19/2001	2
Interview – Basic Reid Technique of Interviewing	3/19/01-	24
Search Warrants – Evidence/Forfeiture	12/13/2002	1.5
Search Warrants – Legal Issues	12/13/202	2.5
Search Warrants – Protocols	12/13/2002	2
Search Warrants – SWAT Tactics	12/13/2002	2
	Total	34

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A - 02 - 33

Allegation

...you conducted an unauthorized investigation on April 04, 02

Finding

1. **5.12 Reporting for Duty - Exonerated**

The investigation did not provide sufficient evidence to support the allegation that Officer Wilken had violated this policy in the handling of the case.

2. **5.15 Neglect of Duty - Sustained**

The investigation produced sufficient evidence that Officer Wilken had violated this policy in the handling of the case.

3. **7.3 General Conduct - Closed no finding**

The investigation is closed, after reasonable investigative efforts, without making a finding. Upon review, policy 5.5 (Neglect of Duty) was the more appropriate charge.

4. **11.1 Chain of Command - Sustained**

The investigation produced sufficient evidence that Officer Wilken had violated this policy in the handling of the case.

5. **7.13.16 Duty to Report Information - Sustained**

The investigation produced sufficient evidence that Officer Wilken had violated this policy in the handling of the case.

6. **7.13.20 Unauthorized Investigations - Sustained**

The investigation produced sufficient evidence that Officer Wilken had violated this policy in the handling of the case.

7. **12.6 Prisoner Security - Sustained**

[REDACTED]

[REDACTED]

COV - 000165



P.O. Box 1995 Vancouver, WA 98668-1995

To: Officer Jeffrey Wilken  
From: Brian Martinek, Chief of Police  
Date: November 06, 2002  
Subject: A-02-33 / Final Discipline –Letter of Reprimand/Three Day Suspension

The purpose of this memorandum is to inform you of the final decision relating to an internal affairs investigation into allegations that you conducted an unauthorized investigation; specifically, that you took off duty enforcement action on a fraud/forgery case involving [REDACTED] [REDACTED] without obtaining supervisory permission to do so (V02-5400). Additional allegations indicate that during the course of that investigation you failed to maintain prisoner security which resulted in a foot pursuit and minor injuries to the prisoner. You were provided with an opportunity to review the final investigation report, submit a written response and meet personally with me. According to my records, you reviewed the file on September 09, 2002 and chose not to submit a response. You also met with me, Commander Sutter, Commander White and Lt. Schuman for a Loudermill Hearing on October 16, 2002.

The evidence indicates that on April 04, 2002, while off duty, you received witness information regarding a case you were working on involving [REDACTED] [REDACTED]. This witness advised you that it looked as if Ms. [REDACTED] was in the process of moving out. After being advised there were no available patrol units to respond to the scene, you placed your two minor children in your private vehicle and responded to the scene off duty. You indicated that you did make an attempt to notify Precinct Command, but did not receive authorization from any supervisor prior to taking this action. After leaving your children in a safe location, you made contact with the suspect once a marked patrol unit arrived. You placed the suspect under arrest and placed her in the marked unit. While in custody, you removed the suspect's handcuffs and left her in the vehicle with the windows down. The suspect subsequently escaped from the vehicle, and after a brief foot pursuit, was apprehended. You contacted Detective [REDACTED] [REDACTED] via cell phone and requested his assistance at the scene to obtain further information. This request was not made through the supervisor. You did speak with Cpl. [REDACTED] [REDACTED] just prior to the start of your duty shift to notify him that you were tied up in the investigation and would not be reporting to duty as scheduled. Upon learning this information, your duty supervisor, Sgt. [REDACTED] [REDACTED] responded to the scene and relieved you from the investigation. He advised you at the time that this investigation had not been authorized.

1

Based on the evidence in the investigative file, the allegations that you violated Vancouver Police Department policies 5.15 "Neglect of Duty", 7.13.16 "Duty to Report Information", 7.13.20 "Unauthorized Investigations", 11.1 "Chain of Command" and, 12.6 "Prisoner Security" were sustained.

Sufficient evidence exists to substantiate the allegation that you failed to exercise diligence, good judgment, and the interest of the Department. You proceeded to take action without first obtaining permission from your direct supervisor because, by your own admission, you were aware your direct supervisor would not approve the action. Exigent circumstances did not exist at the time of this incident to warrant a disregard for the requirement to make proper notification. Further, you had been notified by Dispatch that sufficient resources did not exist at the time to handle this situation.

The evidence in this investigation also revealed that you failed to maintain prisoner security during the course of this incident. Your decision to have the handcuffs removed from a suspect in custody and place her in a vehicle with the windows rolled down resulted in a brief escape, foot pursuit and the minor injury of your prisoner.

In determining the appropriate level of discipline, I have considered several things. First, you failed to meet reasonable expectations of performance while handling a case of this nature. Second, there is a sufficient history of internal affairs investigations with you as the subject of the investigation, three of which resulted in sustained policy violations for incidents in which you also failed to exercise good judgment in your duties as a police officer. Third, you have already received counseling and retraining for previous performance errors. Fourth, your actions placed you and a probationary officer in a potentially harmful situation given the lack of resources available at the time you took this unauthorized action. As a senior officer you have the obligation to maintain an adequate level of officer safety and model appropriate adherence to the policies and procedures of the Vancouver Police Department at all times. The totality of your actions in response to this situation reveal both neglect and a disregard for departmental rules and regulations.

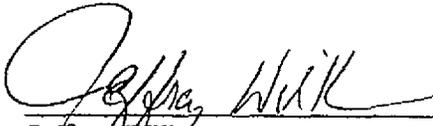
Finally, I am very concerned that you have failed to show any acceptance of responsibility for your actions. In fact, your attempt to blame Officer [REDACTED] seems to indicate a willingness to deflect that responsibility. Regardless of Officer [REDACTED] actions, your conduct, standing alone, is sufficient to sustain the policy violation.

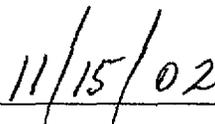
During our Loudermill hearing you brought forward policy 5.22.1 "Off Duty Action" for my review. You indicated that it is your belief the policy clearly gives you the authority to take off duty action. While this policy may enable officers to take enforcement action while they are off duty, the policies which you violated during this incident are designed to ensure that good judgment and safety consciousness prevail during enforcement actions. As stated in the policy, "In non-emergency situations, this action may consist of notification to the police agency having jurisdiction." This situation was non-emergency, and therefore did not require your immediate action while off duty. Additionally, your admission that you knew your supervisor would not approve this off duty action further underscores that this action was ill advised.

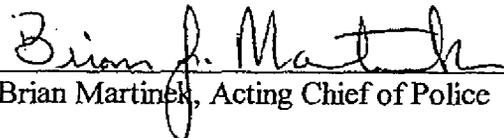
Considering all the listed factors, I am issuing this **Letter of Reprimand and Suspending you from Duty for Three (3) Days**. I believe this is sufficient to expect that your performance in the future will meet and exceed Vancouver Police Department standards. In addition, I must inform you that should there be future policy violations, disciplinary action, up to and including termination may result.

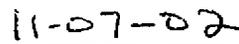
In the event you wish to appeal this decision, you may do so as provided in Section 28.2 of the Collective Bargaining Agreement by providing a written grievance to your first level supervisor outside of the bargaining unit within 21 days of the date of any violation of the collective bargaining agreement.

Please sign and return this copy to Lt. Schuman acknowledging that you have received it. You may keep a copy for your records. If you have any questions about this disciplinary action, you may contact me directly.

  
\_\_\_\_\_  
Jeffrey Wilken

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Brian Martinek, Acting Chief of Police

  
\_\_\_\_\_  
Date

cc: Cmdr. Chris Sutter  
Cmdr. Mary White  
Debra Quinn, Law  
Terry Weiner, Law  
Personnel File, HRRS  
Personnel File, VPD  
Doug Luse, VPOG  
File Copy

# **EXHIBIT 4**



**POLICE DEPARTMENT  
CITY OF VANCOUVER, WASHINGTON**

**OFFICE CORRESPONDENCE**

**TO:** Sgt. [REDACTED] [REDACTED]  
**FROM:** Cpl. [REDACTED] [REDACTED]  
**SUBJECT:** Compliance with departmental policies  
**DATE:** 04/05/02

On 04-04-02 I reported for briefing at 1500 hours at Central Precinct. I observed Officer Wilken missing from briefing, although he was scheduled to work. He may have been late due to child care issues this week. At this time I had my radio on and 2M21 contacted me by radio and wanted to call me. I advised him of the briefing room phone number and he called me. He related in summary that he was in conducting an investigation that he had started and he was in East Precinct. He related he was at home today with his children when he received a phone call from an apartment building manager. The apartment manager reported to him that a wanted person was at the complex in Cascade Park. On 03-27-02 Officer Wilken conducted a search warrant on the location and attempted to locate the wanted person. I was present when he conducted the search warrant. He further related that he went to the apartment complex with his children. He related that Officers were tied up on a SWAT operation/barricaded subject, so he contacted Officer [REDACTED] to assist him. Officer [REDACTED] was working overtime on dayshift in Central Precinct.

Officer Wilkin related he located the wanted person and had placed her under arrest. He related that while she was in his custody she escaped from custody and ran down the street. He related he chased her down and placed her under arrest.

At this time I needed to ask officer safety and public safety questions. I asked him where his children were and if he had equipment such as a raid jacket or identifying information that he was the Police. He also does not have a take home police vehicle. He related that his children were now with his wife and he did have his gun and badge. He related that he wanted to continue the investigation and conduct a consent to search or get a search warrant. He related he had contacted Detectives [REDACTED] and [REDACTED] I asked him what criminal charges he had at that time and what property he expected to recover in a search. He said he arrested her for the warrants and he knew of a cell phone to recover. He was

COV - 000511

PDR - 4/24/09 - Wilken - IA 02-33 - 000357

not specific of other property that would be recovered. I told him to contact me immediately when he knows of whether or not the Detectives will continue the case. It was apparent that Officer Wilken would not be reporting for normal duty shift. This now left the shift short and below required staffing levels. Sergeant [REDACTED] was notified by hearing the conversation and I met with him and Lt. White immediately after a short roll call. Officer Wilken did not notify me or any Supervisor, that I was aware of, about working from home, affecting an arrest or that he was on an investigation outside of his duties on that day. I have a concern that there may be policy violations as a result of this incident. This incident may be consistent with repetitive acts that I have tried to informally redirect Officer Wilken away from.

I have told Officer Wilkin during the preparation of a threat assessment and raid plan that he needs to be able to be identified as a Police Officer when working out of his uniform.

On 02-24-02 in West Precinct Officer Hogan related that Officer Wilkin arrived on the scene of a major hit and run accident and was told not to search the vehicle or go through it. Officer Hogan then observed him going through the vehicle. Officer Wilken then ran with a K-9 unit in a dog track for the hit and run suspect. The dog track lead him to a house in which the odor of marijuana grow was emitting from the house. A male came to the door with a joint and abruptly closed the door. I arrived on scene to assist Cpl. Hochhalter with crimes scenes because we had a drive by shooting, hit and run and house contained that may have a suspect in it. Officer Wilken wanted to force entry into the residence because of exigent circumstances. There were no exigent circumstances and a search warrant was obtained after notifications were made on scene.

On 04-01-02 I investigated a vehicle prowl and information revealed that the suspect may be at 8311 Fruit Valley Road. Officer Hogan went to the location on Fruit Valley Road to do a knock and talk and see if there was evidence, a witness or suspects that were identifiable or in plain view. Officer Hogan was advising me of his findings on radio channel eagle3. Officer Wilken jumped the radio traffic on Eagle 3 and suggested Officer Hogan tow the car and get a search warrant for it. I informed Officer Hogan I would not tow the car. I later informed Officer Wilken that I did not have a lawful reason to tow the car. I did pass on the information I developed to the burglary task force. I later learned that Officer Wilken had questioned Officer Hogan about what I was doing with the case.

On 04-04-02 just prior to I told Officer Wilken at Central Precinct that he did not need to jump radio traffic regarding the towing a vehicle in order to write a search warrant on the vehicle. I informed him of the misdemeanor crime and that the towing would not be lawful and I lacked probable cause. I could not apply for a warrant due to the lack of an identifiable witness. He replied that he did not know that. I told him that's why he should not jump calls and challenge a disposition made by the case Officer

During that conversation on 04-04-02 just prior to 0330 hours at Central Precinct,

Officer Wilken updated me on the wanted person and search warrant investigation that I accompanied him on in East Precinct. He advised me that he got additional information from QWEST. He related he called them from home and uncovered more identity theft information on the wanted person. When I jokingly challenged him on why he would do that at home he stated they don't give us enough time, here.

I have to redirect Officer Wilken or constantly check his activities. Officer Wilken has been placing an emphasis on finding situations to write search warrants on rather than his assigned patrol responsibilities. Officer Wilken has been provided shift expectations in writing at the beginning of this year. I think these shift expectations clarify our responsibilities.

Respectfully Submitted,

Cpl. [REDACTED]

COV - 000513

PDR - 4/24/09 - Wilken - IA 02-33 - 000359

# **EXHIBIT 5**



P.O. Box 1995 • Vancouver, Washington 98668-1995  
www.ci.vancouver.wa.us

## MEMORANDUM

**TO:** Jeff Wilken, VPD  
**FROM:** *Betsy Williams*  
Betsy Williams, Assistant City Manager  
**DATE:** March 24, 2003  
**RE:** Jeff Wilken Grievance – Step 3 (IA A-02-33)

This Memorandum is in response to the grievance filed by VPOG on your behalf with the City Manager's office on January 29, 2003. By mutual agreement of the parties, a meeting was held with me on March 4, 2003. You attended the meeting, and were accompanied by VPOG President Scott Creager and its attorney, David Snyder. I offered you and Mr. Snyder an opportunity to present information and argument in support of the grievance. Commander Rick Smith and Asst. City Attorney Terry Weiner were present as representatives of the City. Following the hearing I met with some of the witnesses in this matter. By mutual agreement, the time for me to respond to this grievance was extended to March 24, 2003. The basic facts regarding this matter are set forth in IA A-02-33.

During your meeting with me on March 4<sup>th</sup>, and in a letter to Chief Martinek dated January 20, your representative Mr. Snyder offered several concerns regarding the circumstances leading to the disciplinary action as well as the severity of the disciplinary action itself. Briefly, the basis of the grievance, as I understand it, is as follows: 1) VPD policies provide a broad range of discretion and your actions in this situation were within a reasonable interpretation of these policies. 2) You have received commendations in the past for your aggressive law enforcement activity and to punish you now for the same kind of behavior is inconsistent and unfair. 3) You made a reasonable attempt to get in touch with your supervisors. 4) This is your first formal discipline and you have not received the benefit of progressive, corrective discipline. In fact, it was argued, you had not received remedial training as identified in a corrective action in a previous incident, and corrective counseling you had received in another was not timely. In short, the discipline imposed for the incident that is the subject of this grievance was excessive.

Based on my review of the record, what I was told by you and your representatives during our meeting on March 4<sup>th</sup>, and subsequent interviews with some key witnesses, I am denying this grievance. My reasons follow:

COV - 000187

PDR - 4/24/09 - Wilken - IA 02-33 - 000033

First, I feel you demonstrated throughout this incident what I would describe as disregard for clear direction to secure approval from your superiors before taking action related to this particular investigation and, beyond, that what I would characterize as lack of respect for the chain of command in general. You stated several times during our meeting that your intent in your actions that day was to merely conduct surveillance. Your subsequent conduct, however, is more consistent with your being actively involved in the situation, and in fact taking unilateral action in a lead role. To begin, to decide on your own to respond while off-duty, from your home, to a phone call from the apartment manager was inappropriate. Supervisory approval was warranted before even leaving your house. Once on the scene, however, ostensibly only to do "surveillance," you left the apartment complex to follow the suspect in her truck, and made the decision to have the suspect arrested at the first opportunity after Officer [REDACTED] arrived at the scene. You should have obtained authorization from a supervisor prior to conducting your activities. Although you may have attempted to call Commander Sutter and/or White (when you knew many officers and supervisors were occupied with the SWAT callout), you made no effort to contact the on-duty supervisor at the precinct, nor your patrol supervisors at home. I understand that all your superiors have multiple means to contact them, including pagers and cell phones; and your attempts to contact them were half-hearted at best. I find your lack of effort to effectively contact a supervisor extremely troubling, especially in light of the prior direction that was clearly given to you by Lt. White, Commander Sutter, Corp. [REDACTED] and others in regard to expectations of you to obtain supervisory approval for activities and/or overtime related to this investigation. You also contacted Detectives [REDACTED] and [REDACTED] directly (on their cell phone rather than through dispatch), without seeking the approval of either their supervisor or your supervisor. Once again, you unilaterally made a decision as to how vital and limited resources should be deployed – to assist you – without going through the proper chain of command.

You asserted in our meeting that the off-duty policy allows a broad range of discretion for police officers to pursue law enforcement activities at their own discretion. To support your assertion, you cited an example (and gave me a copy of the newspaper clipping) of a case in which two detectives arrested a woman involved in a counterfeit check-cashing spree while off duty – for which they received kudos, not disciplinary action. I find no comparison between your conduct in this matter and that of Detectives [REDACTED] and [REDACTED] in VPD case number V02-19662. I have reviewed information from that case, which shows those two incidents are starkly different:

1. Although Detectives [REDACTED] and [REDACTED] were technically off duty, they just finished working half a day on a department related project. They went to eat immediately after their shift and were outfitted as if they were on duty. You were off duty and paged at home, and not prepared for duty.
2. Detectives [REDACTED] and [REDACTED] observed a crime in progress. You responded to a person who was wanted for a crime. There was no reason to believe that criminal activity was occurring at the time of your response.
3. Detective [REDACTED] and [REDACTED] primary duties include investigating criminal activity based on reports written by patrol and/or their response while off duty to assist other detectives on major crimes, and/or fraud/forgery issues that require an immediate response. Your primary duties, as a patrol officer, are to respond to calls for service, conduct proactive enforcement, and investigate activity as a patrol officer. You are not required and/or encouraged to respond to off duty issues unless prior approval is obtained from your supervisors, or the department has to call

COV - 000188

personnel in due to an emergency response situation.

4. The detectives did not initiate any actions to confront the suspects prior to patrol (a uniformed presence) being notified and arriving on scene to transfer the appropriate information. The detectives' actions were appropriate in dealing with a crime in progress and officer safety measures were taken to include a uniformed presence. There was sufficient support for the detectives during their incident. You acted on your own without any support during the initial phases of the incident.
5. The detectives did not have any other duties that they needed to perform that day. Therefore, their ability to recognize suspicious criminal activity, notify patrol, wait for patrol, allow patrol to make the initial contact, and follow up with sufficient support was proper for the circumstances. By contrast, you initiated surveillance even though no criminal activity was occurring, even though your responding to the scene was outside the scope of your normal responsibilities. You did not receive proper authorization to engage in your off-duty activities despite being scheduled to work during swing shift that day, which therefore resulted in you missing lineup and leaving your shift short-handed at the beginning of the shift.

Beyond your disregard – and sustained violations – of VPD policies regarding chain of command, off-duty action, and others, I am also troubled by repeated displays of poor judgment on your part, which appears to be a pattern you have demonstrated in the past as well. There are many examples of what I would call poor judgment in this particular episode. I will mention only a few. One example of your poor judgment surrounds your disregard of the need for supervisor approval of the deployment of limited departmental resources. You were aware almost immediately that departmental resources were stretched very thin that day because of a SWAT callout. You should have realized that a supervisor needed to know that you were diverting Officer [REDACTED] – the only officer available for patrol in the district at that time – from his regular duties to assist you with your investigation. The Department has set forth specific protocol designed to ensure the best use of limited resources. In order for the Department to best meet its needs in serving and protecting the community, it is imperative that its officers follow these protocols. On this day, you decided that your own agenda and your personal priority were more important than the prioritization of resources by your entire organization on a day when resources were stretched very thin.

In regards to the suspect's escape from custody, your actions likewise displayed very poor judgment – not only in your sustained violation of policies designed to protect both the suspect as well as the arresting officer – but also in your attempt to deflect responsibility from yourself to Officer [REDACTED]. You stated that Officer [REDACTED] was supposed to be watching the suspect, and therefore her escape was not your fault. You, however, made the decisions to allow the suspect to remove her sweatshirt, remove her handcuffs and remain in the patrol vehicle with her window rolled down. Officer [REDACTED] was a probationary officer at the time of this incident – a rookie cop, if you will; and you were the senior officer on the scene. As the senior officer, you should have exercised better judgment in handling the situation.

You also displayed extremely poor judgment in bringing your children to this surveillance. While I understand this is not a specific policy violation, basic common sense would dictate that taking your children to the scene of potential criminal activity places them at unnecessary risk. Beyond that, you placed them in the care of the apartment manager, a person you barely knew, another action I find of questionable judgment.

COV - 000189

In summary, your involvement in this matter, starting with responding to a non-emergency call while off-duty, without the approval or even knowledge of your superiors, to taking your children to the scene, in your personal vehicle, without proper identification, failing to make a serious and concerted effort to contact a supervisor, and unilaterally bypassing the chain of command to deploy limited resources on your own, exhibits extremely poor judgment on your behalf, and a lack of regard of department policies and procedures. This matter, together with your prior sustained IA's demonstrating a tendency to use poor judgment in performance of your duties, cause me concern that you have an "ends justify the means" attitude towards law enforcement. Your attorney's somewhat cynical statement that you would have been better off ignoring this situation, staying at home, and letting the suspect "escape" was actually not far off the mark. In this situation, sound, professional and considered judgment should have led you to conclude that this was not an emergency situation or so urgent that it required you to endanger your children, yourself and Officer [REDACTED] by proceeding without supervisory approval or knowledge.

In view of the foregoing, the discipline imposed is more than reasonable, if not lenient, given the number and magnitude of these offenses and the risk at which you put yourself, your children, the suspect, Officer [REDACTED] and others on that day.

Officer Wilken, you expressed concern that this disciplinary action in your file will diminish your opportunities for promotion at VPD and tarnish your record as a law enforcement officer. Based on your record (including prior commendations, performance reviews and comments from your superiors) and my personal meeting with you, it is clear you are an enthusiastic, hard-working, committed, and intelligent police officer and that you have leadership potential. In short, you possess many attributes for a promising career in law enforcement. That being said, if you are truly interested in achieving success and career growth in VPD or any other law enforcement organization, it would serve you well to further develop your competency in areas such as teamwork, sound decision making, resource deployment, impulse control, and personal accountability. Your liberal interpretation of VPD policies, during the course of our meeting on March 4th, demonstrated to me a lack of maturity and understanding for one who aspires for a leadership position in law enforcement work. Your time spent evaluating the definitions of certain words within the policies might be better spent pursuing a more complete understanding of why these policies exist in the first place – to ensure the safety of all concerned in the course of law enforcement activities and to ensure that limited resources are directed to the highest priority needs.

Based upon all the evidence I have reviewed, your grievance is denied. Should you wish to advance this matter to arbitration, you must provide written notice of the intent to do so to the City Manager's Office within ten (10) from the date of this decision, as set forth in Section 28.2 of the contract.

I wish you the best in the future.

cc: ✓ Brian Martinek, Police Chief  
Scott Creager, VPOG  
David Snyder  
Terry Weiner, Law

COV - 000190

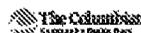
PDR - 4/24/09 - Wilken - IA 02-33 - 000036

# **EXHIBIT 6**



**Capture Clark County**  
SOUTHWEST WASHINGTON BY LOCAL PHOTOGRAPHERS

The best of Clark County  
by local photographers in a  
hard-bound book!



**\$29.95**

## City offers \$125,000 to settle complaint

### Corrections officer claims former Vancouver cop sexually harassed her

By Andrea Damewood

Friday, January 22, 2010

Corrections officer claims former Vancouver cop sexually harassed her

Vancouver has offered \$125,000 to a state corrections officer to settle a potential lawsuit over alleged sexual harassment by a former Vancouver Police Department officer.

Corrections officer Tanis Conroy served the city with a complaint in December, claiming that Jeff Wilken harassed her over several months in 2008, including placing thong underwear on her head while searching an offender's home.

She also claimed Wilken used derogatory sexual terms, handcuffed her to a chair and pushed her into a men's locker room and grabbed her by the throat.

The complaint said the events caused Conroy "lost income, emotional distress, pain and sleeplessness and other manifestations of stress."

Conroy claimed that fellow officers did little to nothing upon witnessing her distress, that the city failed to supervise Wilken and it also failed to quickly investigate his alleged actions.

The complaint, which was not filed with the court, also names Wilken as a defendant. Wilken resigned from the police force in August, two months after Conroy filed a tort claim with the city.

Pending approval from the city council, Vancouver will settle with Conroy for \$125,000 to avoid further legal fees and the potential that a jury could award her much more, Vancouver Assistant City Attorney Dan Lloyd said.

Juries have awarded anywhere from \$75,000 to \$3 million in similar cases, he said.

"The jury can award a lot of money for these types of cases if they find in the plaintiff's favor," Lloyd said.

Conroy's settlement will be paid from the city's risk fund, which is reserved for litigation, he said.

#### Allegations denied

The settlement would close a case fraught with allegations of inappropriate workplace conduct.

The underwear-on-the-head incident allegedly occurred during a May 2008 search of a Sifton-area home. According to Conroy, after she protested, Wilken replied: "I took them from the clean pile."

The suit also alleged that Wilken had a loud verbal argument with Conroy, insisting in vulgar terms that Conroy had told him she wanted to sleep with him.

Wilken joined Vancouver police in 1997 after working for a police department in Illinois.

He was placed on paid administrative leave in September 2008 and there was an in-depth investigation of the allegations.

Conroy's complaints were sent on to the Clark County prosecutors office, which declined to press criminal charges.

The internal investigation ended with Wilken's resignation in September 2009.

In an August 2009 interview with The Columbian, Wilken admitted putting the underwear on Conroy's head and handcuffing her to a chair.

But he denied some of the other allegations, including that he grabbed Conroy's throat.

According to documents Wilken provided The Columbian, he told internal affairs investigators in January 2009 that Conroy gave no indication she was uncomfortable.

"She's laughing, joking around, I'm joking with her, she's receptive to it," Wilken told investigators, according to a Jan. 6, 2009, transcript. "At no point did she state anything to the nature, either with a tone of voice or a word that was descriptive, to make me feel or believe that I've crossed the line."

### **Additional claims**

The city's settlement does not resolve Conroy's suit against Wilken, Lloyd said.

"I don't even know if she's going to proceed with claims against the individual (Wilken)," he said.

The Vancouver Police Department has been the target of several claims and lawsuits from current and former employees, including a \$1.65 million discrimination settlement with former Officer Navin Sharma, another lawsuit filed by former Officer Chris Kershaw and tort claims filed by Cpl. Randy Braaksma and Sgt. David Henderson. Braaksma has been on paid administrative leave since last February.

# **EXHIBIT 7**

## SEPARATION AGREEMENT AND RELEASE OF ALL CLAIMS

In consideration of the mutual covenants contained herein, THE CITY OF VANCOUVER ("City") and Jeffrey Wilken ("Wilken") hereby agree as follows:

WHEREAS Wilken is currently employed by the City as a police officer for the Vancouver Police Department and has been employed with the City since November 3, 1997.

AND WHEREAS the City and Wilken wish to enter into this Separation Agreement and Release of All Claims ("Separation Agreement") setting forth the terms and conditions of separation from employment mutually agreeable to both parties as set forth below; and both parties acknowledge that this Separation Agreement is entered into for full, adequate and valuable consideration.

NOW THEREFORE, in consideration of the execution of this Separation Agreement and the consideration to both parties, it is agreed as follows:

1. Resignation. At Wilken's request, the City hereby accepts Wilken's resignation from employment with the City effective September 1, 2009. Wilken acknowledges and agrees the decision to resign his employment was made after being afforded the ability to confer with counsel and was a strictly voluntary decision. Wilken will provide the City with a written letter of resignation upon execution of this Separation Agreement. It is understood and acknowledged by both parties that as of the effective date of separation of employment, Wilken will have no further employment relationship with the City.
2. Consideration. In consideration of Wilken's acceptance of the terms and conditions of this Separation Agreement and release of claims, the City agrees to provide Wilken with the following:
  - a. In order to provide Wilken's family with a period of continued health insurance coverage, a lump-sum payment to Wilken in an amount equivalent to five (5) months of health insurance premiums under COBRA based on Wilken's health insurance plan as currently enrolled, paid at the 2009 premium rate (\$1,516.73/month), in the gross amount of SEVEN THOUSAND, FIVE HUNDRED AND EIGHTY-THREE DOLLARS AND 65/100 (\$7,583.65) to which Wilken is not otherwise entitled. City-paid health insurance coverage, as a benefit of employment, shall end September 30, 2009;
  - b. A lump sum payment of all accrued but unused vacation/PDO hours earned through September 1, 2009, which is currently estimated to be 270.63 hours, valued at NINE THOUSAND, SEVEN HUNDRED AND THIRTY-ONE DOLLARS AND 94/100 (\$9,731.94); and a lump sum payment of all accrued but unused compensatory time earned through September 1, 2009, which is currently estimated to be 17.75 hours, valued at SIX HUNDRED AND THIRTY-EIGHT DOLLARS AND 30/100 (\$638.30); Wilken recognizes and acknowledges this amount may be reduced for any comp time prior to September 1, 2009.

- c. Payment of the above amounts in subparagraphs (a) and (b) shall be made on or within a reasonable time following Wilken's effective date of separation of employment under this Separation Agreement;
- d. Payment of the foregoing amounts in subparagraphs (a) and (b) shall be considered as wages for tax purposes and reported as such, and subject to the usual and customary withholdings, at Wilken's sole obligation; and
- e. Wilken shall have the right to maintain medical, dental and vision insurance to the extent allowed under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

3. Release of All Claims by Jeffrey Wilken: Except for those obligations created or arising out of this Separation Agreement for which receipt and satisfaction has been acknowledged herein, Wilken, on behalf of himself, his descendants, dependents, heirs, executors, administrators, assigns, and successors, and each of them, hereby covenants not to sue and fully releases, and discharges the City and its elected officials, appointed officials, board and commission members, employees, agents, volunteers, servants and successors, past and present, as well as their spouses and marital communities, heirs, executors, and administrators, and each of them, hereinafter collectively referred to as "City," with respect to and from all claims, demands, rights, liens, agreements, contracts, covenants, actions, suits, causes of action, obligations, debts, costs, expenses, attorneys fees, damages, judgments, orders, remedies and liabilities of whatever kind or nature in law, equity or otherwise, whether now known or unknown, suspected or unsuspected which Wilken now owns or holds or has at anytime prior to the effective date of his resignation owned or held against such releases arising out of or in any way connected with Wilken's employment relationship with the City. This Release includes, but is not limited to, any claim for personal injury, breach of contract, wrongful discharge, or any claim for discrimination because of race, sex, national origin, religion, or disability, under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Family and Medical Leave Act, the Washington Law Against Discrimination, RCW 51.48.025, and any other state or federal law or statute; except this clause shall not apply to any benefits under unemployment or workers' compensation laws to which Wilken may otherwise be legally entitled, as set forth more specifically in Section 4 below.

4. Exclusion of Certain Benefits or Rights from Release. This release specifically excludes the following claims and/or benefits to the extent they have accrued to Wilken as of September 1, 2009, his last date of employment with the City:

- a. Any claims Wilken may have to wages, salary and employment-related benefits;
- b. Any pension, profit-sharing, retirement, or 457 plan contributions from the City to which Wilken is entitled or rights to any of these benefits;
- c. Any and all workers' compensation claims Wilken has, filed or not yet filed; and
- d. Any claim or potential claim to Social Security benefits, sick leave, or any other similar benefits.

5. Covenant Not to Sue. Wilken agrees not to lodge, file or bring any grievance, suit, charge or complaint or any other form of action against the City, including the City's directors, officers, managers, agents, employees and assigns relating in any way whatsoever to any matters released

herein, including any claim arising out of Wilken's employment with the City and separation of employment from the City of Vancouver.

6. Waiver of Statutory Claims. The foregoing covenant not to sue and release is expressly intended to include any and all claims arising out of local, state or federal statutes or regulations, including without limitation Title VII of the Civil Rights Act of 1964, as amended; Chapter 49.60 RCW; Chapter 42.41 RCW; RCW 51.48.025 RCW; the Vancouver Municipal Code, the Vancouver City Charter, any policies or procedures promulgated thereunder, and any right to recovery for claims brought under the authority of the Equal Employment Opportunity Commission.

7. Non-admission of Liability. It is expressly understood that this release and the consideration for it do not in any way constitute an admission of liability or wrongdoing on the part of either Wilken or the City. Any such liability is expressly denied. This Separation Agreement is entered into solely to bring about a resolution of this matter.

8. Knowing Release. Wilken and the City declare they have each read the full contents of this Separation Agreement and fully understand its terms and provisions and voluntarily accept the above terms and provisions. Wilken specifically declares that prior to the execution of this Separation Agreement, he apprised himself of sufficient relevant data and had the opportunity to obtain the advice of legal counsel in order to intelligently exercise his own judgment in deciding whether to execute this Separation Agreement.

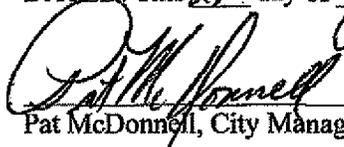
9. Nondisclosure of Information. Upon inquiry from any potential employer of Wilken, the City, in accordance with policy, will only provide information concerning his dates of hire and separation, his beginning and ending job titles and salaries, and a statement that it is the policy of the City not to respond to inquiries from potential employers except by providing the preceding information. All such requests shall be answered only by the City's Human Resources Department. No other information will be revealed to a potential employer of Wilken unless the City receives a signed release of information executed by Wilken.

10. Entire Agreement. The parties expressly acknowledge that no promise, inducement or agreement not set forth herein has been made. This Separation Agreement contains the entire agreement between the City and Wilken, and the terms and provisions of this release are contractual and not a mere recital. There shall be no amendment to this Separation Agreement unless by a written agreement signed by Wilken and the City Manager.

11. Choice of Law and Venue. This Separation Agreement has been executed and delivered within the State of Washington, and the rights and obligations of the parties shall be governed by the laws of the State of Washington without regard to the principals of conflicts of law. Venue for any action arising out of this Separation Agreement shall be in the Superior Court for Clark County, Washington.

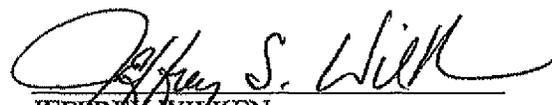
12. Effective Date. This Separation Agreement is effective immediately upon signature by Wilken and the City Manager or his designee.

DATED: This 27<sup>th</sup> day of July, 2009.

  
Pat McDonnell, City Manager

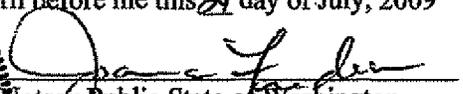
THE UNDERSIGNED HAS READ THIS SEPARATION AGREEMENT AND  
RELEASE OF ALL CLAIMS AND FULLY UNDERSTANDS IT. WILKEN UNDERSTANDS  
HIS RIGHTS AND WAS AFFORDED AN OPPORTUNITY TO CONSULT WITH AN  
ATTORNEY PRIOR TO EXECUTING THIS AGREEMENT AND IF WILKEN ELECTS TO  
SIGN THIS AGREEMENT WITHOUT HAVING OBTAINED INDEPENDENT COUNSEL,  
WILKEN'S SIGNATURE CONSTITUTES A WAIVER OF SUCH.

DATED: This 21<sup>st</sup> day of July, 2009.

  
JEFFREY WILKEN

Subscribed and sworn before me this 27<sup>th</sup> day of July, 2009



  
Notary Public State of Washington  
My Commission expires: 4/9/2010

# **EXHIBIT 8**

**Incident: Courtesy Report**  
**Involved: Jeff Wilken, VPD**  
**Tanis Smith, DOC**  
**Dates of incident: April, 2008 – July, 2008**  
**Case Number: S08-12091**

**ORPHAN DOCUMENTS ATTACHED:**

MCU Narrative (71 pages)  
Copy of document authored by Tanis Smith, outlining complaint (4 pages)

Transcript of interview of Tanis Smith (95 pages)  
Transcript of interview of Neil Crannell (9 pages)  
Transcript of interview of Bethany Graves (13 pages)  
Transcript of interview of Gordon Conroy (18 pages)  
Transcript of interview of Steve Lobdell (7 pages)  
Transcript of interview of Pete Muller (9 pages)  
Transcript of interview of Brian Ford (10 pages)  
Transcript of interview of Jennifer Thomas (6 pages)  
Transcript of interview of Fili Matua (14 pages)  
Transcript of interview of Barbara Kipp (6 pages)  
Transcript of interview of Dave Henderson (8 pages)  
Transcript of interview of Franklin Gomez (5 pages)  
Transcript of interview of Adam Millard (5 pages)  
Transcript of interview of Greg Hibbard (5 pages)  
Transcript of interview of Tim Martin (5 pages)  
Transcript of interview of Ron Stevens (4 pages)  
Transcript of interview of Jon Pfister (5 pages)  
Transcript of interview of Brian Billingsley (5 pages)  
Transcript of interview of Duane McNicholas (11 pages)  
Transcript of interview of Dustin Nicholson (15 pages)  
Transcript of interview of Mike Chylack (44 pages)  
Transcript of interview of Jeff Wilken (82 pages)  
Transcript of second interview of Tanis Conroy (Tanis Smith) (39 pages)

Copy of memo authored by Sgt. Dave Henderson, 7/24/2008, to Lt. Chapman (1 page)  
Copy of memo authored by Lt. John Chapman, 7/31/2008 (2 pages)  
Copy of memo authored by Lt. John Chapman, 8/6/2008 (1 page)  
Copy of NRT Monthly Stats, April – July, 2008, East NRT (4 pages)  
Copy of NRT Monthly Stats, May – June, 2008, West NRT (2 pages)  
Copy of VPD report V08-9794, search warrant at 15715 NE 87<sup>th</sup> Circle  
Copy of digital images taken by Sgt. Mike Chylack, of 15715 NE 87<sup>th</sup> Circle search warrant scene (4 pages)

**SYNOPSIS:**

S08-12091  
Courtesy Report for VPD  
Detective Kevin Harper, 3216

Department of Corrections Officer Tanis Smith stated that between approximately April, 2008, and July 17, 2008, while assigned to the Neighborhood Response Team at the Vancouver Police Department East Precinct, she was subjected to acts of assault and harassment by Vancouver Police Department Police Officer Jeff Wilken. Officer Wilken was assigned to the Vancouver Police Department East Precinct Neighborhood Response Team during this same time frame. These incidents reported by Tanis Smith included:

On May 21, 2008, during a search warrant of a residence at 15715 NE 87<sup>th</sup> Circle, Jeff Wilken placed a pair of underwear he found at the house on the head of Tanis Smith. This incident was witnessed by DOC Officer Fili Matua, and statements about this incident were made by Tanis Smith, contemporaneous with the incident, to Sgt. Mike Chylack and VPD Officer Leonard Gabriel. Sgt. Chylack took digital images of this residence during the service of the search warrant.

Tanis Smith stated that Jeff Wilken made numerous comments to her that she believes were sexual or inappropriate in nature. These comments were made both at times while they were alone and in while in group settings. Some of these comments were witnessed or overheard by other officers.

Tanis Smith stated that, following a search warrant action in June, 2008, Jeff Wilken grabbed her by the neck with his hand. Tanis Smith stated that this occurred outside the Vancouver Police Department West Precinct. Jeff Wilken did this without warning or known reason, causing her pain and fear. Tanis Smith made statements regarding this incident to VPD Officer Dustin Nicholson, contemporaneous with the incident.

Tanis Smith stated that in July, 2008, Jeff Wilken handcuffed Tanis Smith to a rolling office chair and wheeled her into the foyer of the men's locker room at VPD East Precinct. Sgt. Mike Chylack witnessed this action, as did Sgt. Dave Henderson. DOC Officer Neil Crannell witnessed part of this incident.

Tanis Smith stated that she did not verbally directly tell Jeff Wilken or others that she did not want to be subjected to his inappropriate comments or actions. Tanis Smith stated that she believes she had made it clear to Jeff Wilken, however, that his comments or actions were unwanted. Tanis Smith stated that she did not formally report these incidents to any supervisor until after the final incident on July 17, as she did not want to be known as a "rat" and wanted to fit into the work unit. Tanis Smith also expressed a concern that, because a supervisor, Sgt. Mike Chylack, had been present for at least one of the incident and had been laughing at the incident, she was worried any complaint she voiced would not be taken seriously.

Tanis Smith stated she informed Lt. John Chapman a few days after the handcuffing incident, and later told her supervisor, DOC Supervisor Jeff Frice, of additional incidents.

Jeff Wilken acknowledged that many of these incidents occurred, but stated that Tanis Smith did not tell him at any point that his actions were unwanted or inappropriate. Jeff

Wilken stated that Tanis Smith appeared to be going along with, and enjoying, the jokes, and that had she told him she felt his actions were inappropriate he would have stopped.

**NARRATIVE:**

On 8/12/2008 I was assigned by Detective Sergeant David Trimble to investigate possible criminal actions by a Vancouver Police Officer against a Department of Corrections Officer. I was provided an undated 4-page document, written in first person; this document detailed a series of incidents from May 21, 2008 until July 17, 2008. This document did not name the author or provide the name of the complainant.

On 8/13/2008, Detective Sergeant David Trimble and I met with Vancouver Police Chief Clifford Cook, Commander Chris Sutter, and Vancouver City Attorney Terry Weiner. During this meeting, I was informed that DOC Officer Tanis Smith had filed a complaint with the Vancouver Police Department. She submitted a 4-page document as part of her complaint.

On 8/13/2008, Vancouver Police Department Lieutenant Marty Holloway and I went to 8008 NE Fourth Plain Rd, the location of the East DOC offices. There Lt. Holloway introduced me to Tanis Smith. Lt. Holloway then excused himself and I spoke with Tanis briefly. Present at this time was Tanis' supervisor, Jeff Frice. Tanis agreed to come to the MCU office the following day, with her attorney, for an interview.

**Tanis Smith (Tanis Conroy), DOC**

On 8/14/2008 at 0944 hrs Detective Sergeant David Trimble and I spoke with Tanis Smith. Present for this interview was Thomas Boothe, an attorney retained by Tanis to represent her. This interview was tape recorded, with Tanis' and Thomas' permission. Tanis gave us the following information:

Tanis has been with the Department of Corrections for about 4 ½ years. She supervises high-risk offenders. She applied for the DOC Outstation slot for the Vancouver Neighborhood Response Team (NRT) East Precinct position.

The selection process for NRT included being on two years as a DOC officer, and being a Community Corrections Officer II. Tanis said a DOC officer automatically graduates from CCO I to CCO II, but has to interview to become a CCO III, a lead officer.

Beth Graves is the only other DOC officer currently on an NRT team. Jennifer Thomas had been at the Vancouver PD East Precinct NRT team but had left after a few months. She now has a mental health caseload.

Tanis started with NRT in December, 2007. The East Precinct NRT team started in July. When Tanis started working on the team, she was treated fine. There was some inner conflict going on between Jeff Wilken and Dustin Nicholson; they were fighting a lot.

Jeff was going through a divorce and wasn't around the office a lot. Tanis did not know what the conflict between Jeff and Dustin had been.

Tanis is not aware of any history the NRT had of hazing or pranks. She had heard that a Career Criminal Apprehension Team (C-CAT) member had once handcuffed a NRT member to a van; she heard that Brian Ford had handcuffed Neil Martin to the van. Tanis is not aware of any other pranks that have gone on within the group.

The general atmosphere of the group is not that of a tight knit group. Most of the people go their separate ways. Tanis said that a lot of people don't want to work with the East NRT group, and a couple of the NRT guys had been in trouble with Internal Affairs. Tanis said she thought Jeff Wilken and Leonard Gabriel had the IA troubles. Tanis said she thought Jeff's IA had to do with use of force; she was not sure what Leonard's was about.

The team members are Sgt. Chylack, Jeff Wilken, Leonard Gabriel, Dustin Nicholson and Tanis. Tanis said that she and Dustin teamed up a lot when she first started. Tanis had her own caseload; nobody helped her much with her caseload except Dustin and Sgt. Chylack.

Tanis said that Jeff Wilken and Leonard Gabriel own a business together, called 'Fisticuffs.'

Tanis said the troublemaker in the group is Jeff. She said that when Jeff starts talking, people walk away because they don't want to be involved in what he is doing and saying. Jeff has talked about how "he crapped himself", that people have paid him to crap himself. She said this happened at TGI Friday's. Jeff also says sexual stuff in front of the group.

Tanis said that during the first interaction she had working alone with Jeff, he started describing to her a series of sexual positions that she didn't want to hear about. Tanis said that Jeff was telling her about what a 'chili dog' was and what a 'donkey punch' was; "stuff I didn't want to hear about." Tanis said that later, in the van together, the other team members were laughing about Jeff telling her this stuff, and saying, "Don't get him started."

Tanis thought this took place in April. She did not recall the whole conversation, but said Jeff asked her if she knew what a 'chili dog' is and then started going into detail about it, and then asked her if she knew what a 'donkey punch' was and then went into detail about what that was. Tanis said she thought, "Oh, God, that's gross." Tanis said she told Jeff "that's gross; that's sickening."

Tanis said she told Sgt. Chylack that she gotten her first encounter with Jeff; Sgt. Chylack said, "Oh, God, What did he say." Tanis said she told Sgt. Chylack it was stuff she didn't need to know.

Tanis said that the next day, when the NRT guys were in the van, and she said, "Why don't you have Jeff tell you about all that stuff." She said she remembered Leonard telling Jeff that "You are wrong. That's so sick. What is wrong with you?" Jeff's response was to just laugh.

That was Tanis' first encounter with Jeff being crude and inappropriate.

Tanis said that everybody on the team teases each other, but nothing is said that appears to be sexual in nature, other than by Jeff. The guys talked derogatory back and forth to each other, but Tanis did not really participate in that.

Spencer Harris did tell Tanis that he could beat her in a foot race, so they raced and Spencer did beat her.

Tanis did not personally view any hazing incidents. She knew the guys teased each other verbally, but nothing that went over the line as a group, besides what Jeff was doing to Tanis.

Before April, Tanis' workspace had been located apart from the rest of the NRT team. In April, her workspace moved to the area of the cubicles within the NRT area. Tanis' work station was put between Sgt. Chylack's and Leonard Gabriel's. Initially Tanis was going to be put over by Jeff Wilken, but Jeff is messy so Tanis' work station ended up being between Sgt. Chylack's and Leonard Gabriel's. Lt. Chapman told Tanis the reason for this placement was just because Jeff is messy.

Within the group, some of the NRT members would sometimes talk about things going on in their lives. Leonard sometimes did, but Dustin never really did. Some of the team members teased Tanis about her relationship with Gordon. Tanis said that she had been with the NRT about two weeks when Gordon proposed to her. The guys on the team did not ask her or talk about her previous relationships. Mostly what she was teased about was dating a cop.

Tanis was not generally asked about things that made her uncomfortable by the people on the team. She was not asked things she considered too personal to be asked. The comments that were made about Tanis and Gordon were teasing, and Tanis was not asked about things she considered inappropriate.

Tanis said Jeff would sometimes vent about his ex-wife and child support; Tanis would say that Gordon knew what that was like.

Tanis said that in May, Jeff was going through a divorce, but things started going a little better for him. She said she thought that he and his ex were getting along better, and that he had a girlfriend. Tanis said that in the beginning, Jeff would tell her that he didn't know if he could trust her. Tanis said she did not know if she had somehow gained his trust.

Tanis said the conversation would come up by Jeff saying he didn't know if he could trust her. Tanis would tell him, "What do you mean you don't know if you can trust me. Of course you can trust me." Tanis thought Jeff meant that he didn't know if he could trust her as a co-worker on an offender contact, if he could trust her to have his back.

Tanis said that in May, Jeff maybe started getting more comfortable around her.

Tanis said that Jeff sometimes made comments about her personal appearance. Tanis said that before the events in May started, the other team members would make comments about Dustin Nicholson having man boobs. One time, Jeff looked at Tanis and told her that Dustin had bigger boobs than she did. Jeff was the only one who made this comment.

Tanis said Dustin having man-boobs was a frequent joke that the other team members made; she did not know if Dustin knew about this or not.

Tanis didn't really talk to Beth about being a woman on the team. Beth is a "type A" personality and she happened to fit in a lot better than Tanis did.

Tanis didn't talk to Jennifer about being on the team before Jennifer left. She did not hear any comments from Beth or Jennifer about being on the team. Beth did say to Tanis that she didn't like to be around Jeff because of the comments that Jeff would make. Because Beth works at a different precinct, she doesn't have to be around him.

Tanis has talked to Beth about Jeff, but Beth hasn't given her any advice about Jeff. Tanis has talked to Leonard about Jeff. She would tell Leonard some of the stuff that happened, and Leonard would tell her, "You're kidding me, he didn't really do that did he?" Leonard would tell Tanis that Jeff is "stupid."

If Leonard was around when Jeff started saying things that were inappropriate, Leonard would tell Jeff, "Dude, shut up. What's wrong with you?"

Tanis told Gordon after every incident involving Jeff. Gordon would tell Tanis that she had to tell somebody. Tanis was hesitant to do that. She said that she was a female working with all males; she was trying to fit in and she didn't want to be a snitch and cause problems. She said that to a certain degree, people think she should be able to take some of the joking. Tanis said she was fearful and didn't want retaliation. She said she had worked really hard to be placed in an outstation. Tanis said that, for the Department of Corrections, to be placed in an outstation meant that she was doing her job really well.

Tanis said she still is really afraid, and that she fears retaliation. Tanis said she wants to fit in as one of the guys. Tanis said she had not seen retaliation, but had heard about it with the Navin Sharma case, and knew how Navin Sharma was treated. Tanis said she heard that he was alienated.

Tanis said she did not want to be the one to break up the team by complaining.

Tanis said that the first time anything inappropriate happened with Jeff, Jeff was the instigator. Jeff was always the instigator of the inappropriate behaviors.

Tanis said her immediate reaction to Jeff talking to her about the sexual positions was that she was in shock. Tanis said she said, "What are you talking about?" Tanis said she is not a person who likes confrontation. If she can avoid a confrontation, she will. Tanis said that Jeff would have known she was embarrassed by her face being red; she could not recall doing anything with her body language that would have communicated to Jeff that she was uncomfortable. Tanis did say that she told Jeff she didn't want to hear any more because she was trying to eat. Jeff stopped when she told him this.

Tanis said this took place during the daytime or early evening.

Tanis said that she told Sgt. Chylack about this later, and he expressed sympathy but did not give her advice or say he would talk to Jeff or intervene.

Tanis said that Sgt. Chylack did not tell her he would step in and talk to Jeff.

Tanis did not have a clear memory of the second time Jeff brought up something inappropriate. Tanis said that Jeff would say that he and her would never go out and have a beer together after work, because this time he was trying to make things right with his girlfriend. Tanis said she told him that she would never go have a beer with him anyway. Tanis did not know what Jeff's intent had been in telling her this. She did not know what Jeff's point was.

Tanis said none of her other teammates made comments to her like Jeff made.

Tanis said that it seemed like Jeff was always saying something inappropriate. This would happen in groups or when she and Jeff were alone. Jeff would sometimes say something inappropriate and sometimes not. In times when Jeff was not saying something inappropriate, he would talk about his kids or the divorce he was going through.

Tanis said that Jeff would make comments sometimes just to get a reaction out of people.

Tanis said that when she was on surveillance with the other teammates, she would ask why Jeff was the way he was; they would tell her that it's because Jeff's sick. They would not give her advice. Tanis said that when they were all in a group, and Jeff was saying stuff, the others would say, "Don't get him started." Jeff would make the same kind of comments in front of the group as he would to Tanis.

Tanis said that the one incident when Jeff was talking about crapping himself, he asked the others something like, "C'mon haven't you guys done that." Dustin and Leonard responded, "Never."

Tanis recalled some specifics about things Jeff had said to her. Jeff would bring up Bryan Acee, who works for VPD C-CAT. Jeff would tell Tanis that he knew she wanted to sleep with Bryan. Tanis would say, no, I don't. Jeff would say that it was okay for her to think that. Tanis said that one of the times that Jeff was making those comments, Jeff suddenly turned it into Jeff saying that Tanis had said she wanted to sleep with Jeff. Tanis said she told Jeff that she never said that. Jeff said that she did say that. Jeff later brought it up again and said that Tanis had said she wanted to sleep with Jeff. Tanis said this was the kind of thing that Jeff would do when they were alone.

Tanis said these comments started in around July, towards the end of the NRT. Tanis thought the Bryan Acee thing came up once or twice, and the comments Jeff was making about Tanis supposedly wanting to sleep with Jeff came up once or twice again.

Tanis did not tell Jeff that she didn't want to talk about this; she would say that, "No, I don't" and would just drop it and try to change the subject. After a while, Jeff would let Tanis change the subject. Jeff would be really adamant that Tanis had said she wanted to sleep with him, even though she never said that she did.

Tanis was not comfortable with confrontation, and knew that she still had to work with him.

Tanis said Jeff would say and do the same kind of things around Sgt. McNicholas as he did around Sgt. Chylack. She said that Jeff would not make the kinds of comments that he did around her and the rest of the NRT team if Lt Chapman or other administrators were around.

Tanis said that Jeff might say stuff to a lesser degree around the sergeants as he did around Leonard and Dustin.

Tanis said she never told anyone else on the team what Jeff was saying about her wanting to sleep with him. She said she would never say things like that because talking about Jeff's comments starts the rumor mill. Tanis never told Sgt. Chylack or any other sergeant about Jeff's comments; she told only Gordon.

Tanis said she was trying to ride out the stuff with Jeff, because she knew that the NRT was being disbanded; Jeff was going to be assigned to another precinct and she wouldn't have contact with him anymore. The disband date for the NRT was set as July 18.

Tanis said that the handcuffing incident was the trigger incident that caused her to come to the decision to report what Jeff had been doing. Tanis said, "If you can imagine going through 4 months of being humiliated and embarrassed in front of everybody and then to one day be handcuffed and put in the men's locker room, then that was the straw for me." Tanis never anticipated that event; she just knew that the abuse was going to keep going as long as she worked around Jeff.

Tanis said that she went to Lt. Chapman. Tanis said she has a supervisor and a sergeant. She said that some of this stuff had happened in front of her sergeant and he just laughed, so when she finally went and told someone about the handcuffing she went to Lt. Chapman.

Tanis said that Sgt Chylack was there for the handcuffing thing and "he thought it was funny." She said he laughed off other incidents, too, like the first incident at the search warrant with the panties. Prior to that incident, Sgt. Chylack had a "rule of thumb" that what was going on was "just Jeff being Jeff."

Prior to May 21, Jeff had never touched Tanis. She did not think she even shook his hand in a greeting.

The search warrant on May 21 was the second time they had served a search warrant on the same house within a couple of months. Sgt. McNicholas was there, as was Leonard Gabriel, Brian Billingsley, possibly Brian Ford, Fili Matua, and Sgt. Chylack. Others, such as Spencer Harris, may have been there, too.

The house is a two story house. They did not have specific room searching assignments. Tanis said everyone doing the search was wearing gloves as personal protective equipment. Tanis searched one bedroom, and then went into the master bedroom where Jeff was searching. Sgt. Chylack was going around taking photos. There may have been another person there in the master bedroom also.

Tanis said she was standing right by the foot of the bed, with a dresser behind her. There is a mirror on that dresser. Jeff was standing off to Tanis' right. Tanis said she didn't even see it coming when Jeff put the panties on her head. She did not see where the panties came from. Tanis said she did not know what it was at first that Jeff put on her head. Tanis said she ripped them off her head and threw the panties and was "instantly mad." Tanis said she told Jeff that "I should shoot you right now for doing that to me." Tanis said Jeff laughed.

Tanis said that Sgt. Chylack was either right there or was told about it right after, and Sgt. Chylack laughed and "everyone made a big joke of it." Tanis said she was so mad she left the house and went and sat down in the van to get out of the situation. Tanis said Leonard was in the van; he asked what was wrong with her and she told him what happened. Leonard said, "Eww, are you serious?" Tanis said she was really pissed. When Sgt. Chylack came downstairs, she told him that she was really mad, but told Sgt. Chylack that "you know what, I'll let this one go" or words to that effect. Sgt. Chylack said ok, and that Jeff was just joking with her.

Tanis said what was going through her mind once she figured out what Jeff had put on her head was that Jeff had just put these panties on her head, she did not know whose they were, if they were clean or dirty, she didn't know if the person who owned or last wore the panties had a disease. She said she was so grossed out and humiliated. She said when she went home she told Gordon and took a shower and scrubbed her hair and her

face because it was just gross, and that nobody would want panties thrown over their head they did not know from where they came.

Tanis said she was mad about it and is still mad about what happened.

Tanis said she did not recall what Fili's reaction was. She said that if Jeff had put panties over anyone else's head, that person probably would have punched Jeff. Tanis said she believes she was singled out because she's female.

Tanis said Sgt. Chylack laughed, but Leonard did not. Leonard did not witness the actual incident. She did not recall if Fili laughed; she thought he was upstairs when it happened. She was not sure he saw it.

No one else commented to her about the incident that Tanis recalled. Tanis said she sat in the van right after the incident, until they finished the warrant. She did not know how much longer the other guys were in the house doing the warrant. Tanis said she drove home to Oregon City right after they were done with the warrant.

Tanis said that the June incident where Jeff grabbed her neck took place after the East NRT was helping the West Precinct NRT with a search warrant. When they got done with the warrant, they went back to West Precinct. This was in the daytime, in the afternoon. Tanis said that Sgt. McNicholas was outside the precinct, smoking. Everyone else (except Jeff) was inside the precinct.

Tanis said she remembered seeing Jeff come around the fence as she was talking to Sgt. McNicholas. Jeff reached over with one hand and grabbed Tanis by the neck. Tanis said Sgt. McNicholas was still outside, but she did not know if he saw what Jeff did. Tanis said Jeff grabbed her such that his thumb was on one side of her neck and his index finger was around the other side of her neck.

Tanis said she saw Jeff walking up; when he got to her he just came straight at her, took his hand out and squeezed her neck. Tanis said she told him words like, "Hey, what are you doing. You scared me." Jeff said, "I know."

Tanis said she did not recall how far away Sgt. McNicholas was when this happened, just that Sgt. McNicholas was still out there. She did not recall seeing any other patrol officers out there.

Tanis said Jeff didn't say anything else. Sgt. McNicholas did not say anything. Tanis said she walked inside the precinct.

Tanis said this was the first time Jeff had touched her since the panties incident. Tanis said it did not appear Jeff was acting out of anger, just messing around. Tanis said that she was confused and shocked when it happened. She did not know if Jeff was trying to joke with her. She was worried that Jeff had "just assaulted me." Tanis did not talk to Jeff about it later.

Tanis said that her first thoughts when Jeff's fingers went around her neck were "what the hell are you doing? We are at a precinct and you are doing this to me, in daylight?" Tanis said Jeff grabbed her neck hard enough that she thought she had red marks on her neck. Tanis said she walked into the West Precinct and asked Spencer Harris and asked him if she had red marks on her neck, and told him that Jeff had just grabbed her. She did not recall what Spencer said, but that he didn't seem to want to hear what she had to say.

Tanis did not tell anyone else at the precinct, or if anyone else heard her tell Spencer. Tanis said she did tell Gordon when she got home. She did not tell Sgt. Chylack or Sgt. McNicholas.

Tanis said that when she told Gordon what happened, the first thing he asked her was "why'd you let somebody grab your neck?" She told him that she didn't know that Jeff was going to grab her neck. Gordon asked her why Jeff did it, and she told him that she didn't know.

At this point in the interview we took a break in the interview with Tanis.

### **Neil Crannell, DOC**

On 8/14/2008 at 1105 hrs Detective Sergeant Dave Trimble and I spoke with DOC Officer Neil Crannell. This interview took place in an interview room at the CCSO Major Crimes Unit office, and was tape recorded with Neil's permission. Neil gave us the following information:

Neil has been with DOC for about 5 years. He retired as a sergeant with the Portland Police Bureau before finding employment with the Washington State DOC.

Neil is currently assigned as an Outstation Officer to the Vancouver Police Department, at the VPD East Precinct. His work hours are 0700 hrs until 1800 hrs. He was not assigned to either NRT or the C-CAT team. His schedule is such that he works mostly with the dayshift officers, but does see some of the swingshift officers during the hours that their shifts overlap with dayshift.

Neil does not usually go on search warrants with the NRT or C-CAT. He occasionally worked with Tanis Smith when she went out on offender contacts, but only once in a while, because Tanis was assigned to the East Precinct NRT and worked more in the afternoons than during the day shifts. Neil has never been on a search warrant with Tanis.

Neil is only aware of one issue involving Tanis Smith and another member of the NRT. Neil said there was one circumstance where something came up. He did not know the date of this incident. Neil said his work area, with the corporals and crime prevention

people, was separated from the NRT work cubicles. He did not have visual contact with the people in the NRT area.

Neil said one afternoon, perhaps a month or a month and a half ago, he was at his computer and heard Tanis say, "Hey, Neil; Help." Neil said it did not sound to him like a cry of 'help' as if Tanis was in danger, but more like, "Hey, come over here." Neil said he went around the south side of the cubicle and saw Sgt. Chylack at his computer. Sgt. Chylack's cubicle space is at the northeast corner of that section of the cubicles. Tanis' work space is south of, and adjacent to, Sgt. Chylack's. Jeff Wilken' work space is across from theirs, at the southwest corner of that set of cubicles.

Neil said when he came around the corner, Tanis was standing up, with her right wrist handcuffed to a wheeled office chair. Jeff Wilken had ahold of Tanis' left arm, twisting it and trying to get a handcuff on it. Tanis was saying something, but Neil does not recall what she was saying. Neil thought the atmosphere was "light." Tanis was not saying anything major to, or cussing at, Jeff.

Neil said Sgt. Chylack was sitting there, paying attention, but didn't seem to be too concerned, either. Neil was not paying attention to what Sgt. Chylack was doing. Sgt. Chylack appeared to have been doing something at his computer, but was now turned and was looking at what was going on between Tanis and Jeff.

Jeff did get Tanis' left wrist handcuffed to the chair, and Tanis was at that point seated in the chair. Neil assumed this was horseplay. Neil thought that Tanis was going to stay seated in the chair for a while, and then Jeff was going to unhandcuff her and then it would be done.

After Tanis was sitting down, he walked back around to his own cubicle space, out of sight. Neil then heard Tanis' chair moving, and heard Tanis say something like, "hey." Neil did not recall Tanis saying anything beyond that. Neil said he thought he got a phone call around that time, and stopped paying attention. Neil said the sergeant was there.

Neil said that was the last he knew of what had happened at that time. Neil said that Tanis may have said some other things, but he did not hear her say anything "like an alarm" or anything like that. Sgt. Chylack did not seem alarmed or concerned. Neil did not recall Sgt. Chylack saying anything.

Neil did not recall anyone else being around.

Neil said that Tanis later told him that Jeff had pushed her down the hallway in the chair, and into the men's locker room. Neil said Tanis told him she had hollered or yelled; he had not heard this, however.

Neil said Tanis told him that she eventually got out of the locker room and that she was unhandcuffed there. Neil had the impression that it was horseplay, kind of, until Jeff

pushed her into the locker room. Neil said that Tanis' concern was that this happened, and that she was surprised and taken aback that this would have happened.

Neil thought that it may have been a week or so later that Tanis told him.

Neil said he has heard bantering back and forth over the top of the cubicle wall. Nicholson and Tanis have bantered back and forth; just the typical things that people hear. Dustin was getting married; Tanis was getting married, talk like that. Neil did not hear anything else that might be construed as harassing or inappropriate.

Neil said Tanis talked about there being other incidents, but he did not know details. Neil said that he told Tanis that if she was concerned, she should talk to Lieutenant Chapman. Neil said there was nothing else he could pin down specifically as far as incidents.

Refer to transcript for details of this interview.

**Tanis Smith (Tanis Conroy), DOC**

On 8/14/2008 at 1133 hrs Detective Sergeant David Trimble and I resumed the interview with Tanis Smith. Present again for the interview was Tanis' attorney, Thomas Boothe. This interview was again tape recorded, with the permission of Tanis and Thomas. Tanis gave us the following information:

Tanis said that Gordon told her that she needed to tell somebody about Jeff did, that she was assaulted. Tanis did not want to because she was afraid, and when she did say something, it seemed like nobody wanted to hear it.

Tanis said that no one ever suggested to her that she should avoid reporting these incidents.

Tanis said that she would change the subject rather than tell Jeff that she did not want to talk about a certain subject. She said that Jeff is not somebody who is really going to listen to you, and that Jeff is the one who crosses the line and the boundaries. When she told him that he scared her when he choked her, he told her "I know." Jeff did not seem concerned that she would report his actions.

Tanis did not recall right then if there were any other specific incidents that took place prior to July 15.

Tanis said that she knew Frank Gomez from before he went to VPD. Frank was called to help with the controlled buy because while they were setting up surveillance, and Frank did the traffic stop on the dealer. The dealer was taken to the precinct, where Jeff interviewed him.

After Jeff did the interview on the dealer, he decided to turn the dealer into a CI. Frank was still in uniform, and was going to change clothes and go with the guy to get the

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remainder of the dope out of the guy's house. Frank speaks Spanish, and other members of the household were Spanish speaking.

Tanis said that they were waiting for Frank's change of clothes to arrive, and they were all really tired from their last search warrant. Jeff looked over at Tanis and asked, "Can Gomez fit into your pants?" Tanis said she replied, "Are you serious Jeff? Come on. Knock it off." Jeff then looked at her and said, "Can I get into your pants." Jeff said this in front of Sgt. Chylack, Frank Gomez and Dustin Nicholson. Tanis said she told Jeff, "no."

When Frank Gomez got his clothes, they left.

Tanis said she was offended by Jeff's comments, because he was bringing her into it. She did not recall what Frank's reaction was. Tanis said her tone of voice to Jeff was a direct and stern "no." She said Dustin just stood there, like he was just there. Tanis did not recall what Sgt. Chylack was doing; she was sure both Sgt. Chylack and Dustin were within earshot and would have heard Jeff's statement.

Tanis thought Jeff was half-joking about Gomez fitting into her pants size, but that Jeff was serious about himself getting into Tanis' pants when Jeff asked her in front of everyone about him (Jeff) getting into Tanis' pants. Tanis perceived this to be a sexual question that Jeff was asking her.

Tanis said that Jeff had not asked her this question directly before.

Tanis said that the next day was the lunch at Red Robin. They had done a search warrant after turning the guy, and they had to be back at 8:00 AM for the search warrant. This warrant was about a rooster, dealing with code enforcement. They did find a rooster and Animal Control came out and took the rooster. Nothing happened inappropriately with that warrant.

They went back to the precinct and talked about going to lunch one last time. Members of C-CAT came. Leonard and Dustin could not attend, and neither could Sgt Chylack. Only Jeff and Tanis came from the East Precinct NRT.

Tanis said Beth Graves, Sgt. McNicholas, Brian Billingsley, Jeremy Free, Pete Muller, Steve Lobdell, Fili Matua, Brian Ford and Jeff Wilken were there. Tanis said everyone except Jeff was in street clothes. Jeff was wearing his 'police' shirt; she did not know why he was wearing this shirt. Tanis described it as a polo shirt that says 'police' on it. This is the shirt they typically wear when they serve search warrants.

Tanis said that when they go out, usually everyone takes all their police stuff off so that they are not readily identifiable as police officers when they are out at restaurants and such. Tanis said there is no policy of which she is aware that dictates what they wear at lunch.

Tanis said that there was a chair side and a booth side to the tables they were seated at. Seated in the booth side were: Beth Graves, Jeremy Free, Tanis, Jeff and Fili. Seated in the chairs across from them were: Sgt. McNicholas, Brian Billingsley, Pete Muller (directly across from Tanis), Steve Lobdell (across from Jeff Wilken), and Brian Ford.

Tanis said that after they ate, she brought out her wallet from where it had been in her lap, and took out her stack of credit cards to look for her debit card to pay for her bill. She said that Jeff looked over and saw her pink 'Victoria's Secret' card. Jeff pulled the card out of her hand, and said, "Oh, what's this; Victoria's Secret'." Tanis said she grabbed it back from him and said, "Yeah, a 'Victoria's Secret' card." Tanis said Jeff told her, "C'mon. After this let's go on a shopping spree." He said to her, "We'll just go over there and find stuff that Gordon will like." Tanis said she told Jeff, "No, Jeff." She said that Jeff replied, "yeah, c'mon." Jeff was loud, and Tanis was sure that others nearby heard his comments.

Tanis looked over at Pete Muller and from his face she could see that Pete was embarrassed and looked away. Jeff continued, saying, "This is what friends do for friends." Tanis said she told Jeff, "Who said we're friends." They paid and left. When they got back to the East Precinct, Tanis told Jeff, "Hey you really embarrassed me at lunch today" and Jeff told her, "I know, but it was really funny." She said her reply was something like, "Whatever, Jeff."

Tanis did not see if Beth reacted, or if Jeremy Free reacted. She said that after Jeff did this she tried to scoot closer to Jeremy Free (away from Jeff Wilken); Jeremy asked her what she was doing. Tanis said she did not recall anyone besides Pete reacting to Jeff's comments until she said, "Who said we're friends?"

Tanis said she believes that Jeff did this because she is the only female there who is not gay. Tanis said she felt she was targeted by Jeff because she is straight and Jeff felt he could get away with it. Tanis said that at that time she was getting married in less than a month to Gordon, with whom Pete works.

Tanis said that no one ever told Jeff to knock it off while she was around. She said that when one of Jeff's co-workers says something to him about being inappropriate, like when he was talking about crapping himself, Jeff gets defensive and points fingers at something else. He says things like, "well you did that." She did not recall specifics.

Tanis she came in early to work the day of the handcuffing incident, July 17. She started out at 11:00 AM because she was going to an appointment later. She said Jeff had been teasing her, but she did not recall about what, and she responded back to him in some way. Tanis said this was the first time she "flipped him stuff back". She said she doesn't usually ever come back at Jeff verbally.

Tanis said they were in the NRT cubicle area, and she was at her desk, in her chair. Tanis' handcuffs were on her desk. She did not recall why she had them out of her cuff

case on her duty belt. Tanis said her keys, including her handcuff key, were sitting out because her computer log-on numbers are on her key fob.

Tanis said her handcuffs and her keys were right next to each other.

Tanis said Jeff did not say anything to her before grabbing her handcuffs. Jeff grabbed Tanis' cuffs and cuffed her right hand to the arm of her rolling office chair without warning. Jeff then picked up Tanis' keys and threw them out of the NRT cubicle area. Tanis did not know where the keys landed, but they were thrown out towards the photocopier hallway. Tanis tried to squeeze her hand out of the handcuff, but Jeff tightened the handcuff up so that she couldn't.

Tanis said Sgt. Chylack was at his computer; she was not sure what he was doing. She said she really likes Sgt. Chylack, but sometimes he just doesn't hear what is going on. Tanis said she rolled her chair over to him and asked him if he had a handcuff key, and Sgt. Chylack said, "Huh?" Tanis said that it's always a clue when he says "huh," like sometimes Sgt. Chylack is not looking to pay attention. Tanis said Sgt. Chylack said he didn't have a key.

Tanis said that Neil Crannell might have heard, or looked in on what was happening.

Tanis said Jeff then walked over and got his handcuffs, and she knew at that point that Jeff was going to try to handcuff her other hand to the chair. She was still right by Sgt Chylack; Sgt. Chylack's back may have been towards her.

Tanis said that as Jeff was trying to handcuff her other wrist, she was "like hitting him and trying to kick him away." Tanis said she told Jeff, "Jeff, don't. Don't." Tanis said that Jeff is obviously stronger than she is, and he got her hand down and handcuffed her other hand to the chair. Tanis said she did not remember exactly what happened, but he may have grabbed her hand when she tried to punch him. Tanis said she tried to punch him, but did not think she connected. She said she tried to kick Jeff once but did not think she connected with him.

When Jeff got Tanis' wrists both cuffed to the chair, she was not able to stand up from the chair at all.

Tanis said she is really claustrophobic, and she really doesn't like being handcuffed. She said at that point it was "do you cry or do you just laugh." Tanis said she was uncomfortable, and she said she laughed a little bit and said, "Okay, this is enough." Tanis said that Jeff then proceeded to roll her out of the NRT area. Jeff was laughing as he wheeled her out of the cubicle area.

Tanis did not hear any words or verbal exchange between Jeff and Sgt. Chylack.

Tanis said what was going through her mind right then was that if she didn't lift her feet up, she was going to trip and fall forward and really get hurt, because her hands were

cuffed to the rolling chair and she would not be able to put her hands out to break her fall. Tanis said she put her feet up on the chair. Tanis said she was nervously laughing; she did not think she spoke to Jeff again until he started towards the locker room.

Tanis said that Jeff pushed her out and to the hall and to the left, like out towards the doors where the cars are parked. She said she thought that Jeff was going to put her outside. Before they got outside, there is the door to the men's locker room. Tanis said it was about 4:00 PM at this time, and that at 4:30 PM day shift ends for VPD.

Tanis said when Jeff started towards the men's locker room, she told him, "Jeff, don't. Don't Jeff, Jeff don't. I don't want to see anybody. Stop, Jeff." Tanis said that just as one enters the front part of the locker room is a sleeping area, before one actually enters the locker room part. Tanis said it was dark in this area; the sensor lights did not come on when Jeff pushed her in. Tanis said Jeff left her there and walked out.

Tanis said she rolled herself out towards the door, and when she kicked her way out she saw Sgt. Dave Henderson. She was "freaked out" about being in the locker room. She said, "Hey, Sarge; can you help me?" Sgt. Henderson replied, "What the hell's going on?" Jeff was there in the hallway. Sgt. Henderson got his cuff key out and Jeff told him, "No, no, no, I'm just messing with her." Sgt. Henderson told him, "Knock this shit off. This isn't funny." Right then, Sgt. Chylack walked around the corner and said, "Let's get her out of there."

Jeff grabbed cuff keys; she did not know if Sgt. Chylack had his own keys in his hand or not, but Jeff put keys into Tanis' hand and told her to get herself out. The keys Jeff put in Tanis' hand were not Tanis' set of keys. Tanis told them that she couldn't uncuff herself because she could not move her hands. Sgt. Chylack then said "Get her out of there," and they uncuffed her.

Tanis then pushed her chair back into the office. She was really embarrassed and did not know what to do, so she called Gordon while Sgt. Chylack and Jeff were still there. She told Gordon that Jeff had just handcuffed her and rolled her into the men's locker room. Gordon told her that he had to call her right back; that he was on a call right then.

Jeff then told Tanis, "That's probably not something Gordon wants to hear about." Tanis took this to mean that Gordon would be unhappy if he heard about what Jeff had done. Tanis felt that Jeff was implying that she should not tell Gordon.

Tanis said that Chylack was laughing and Jeff was laughing. They both left for a guild meeting; that was the last time Tanis spoke with Jeff. She said she has spoken with Sgt. Chylack since then; they are friends, or she thinks of him as a friend.

Tanis said that her concerns about being taken into the men's locker room were that she was going to be really embarrassed because there was going to be someone in there undressing to go home and they would see her, or if anyone in there was going to the

restroom. Tanis said she was embarrassed when she rolled herself out of the locker room and saw Sgt. Henderson there.

Tanis said she never thought that Jeff would have ever handcuffed her or taken her to the locker room. She said she was embarrassed and scared. Tanis said she was pleading with Jeff not to put her in the locker room. When Jeff was rolling Tanis towards the locker room, she told him, "Okay, Jeff, this is over with." She was not laughing when she was rolled into the locker room or when she rolled herself out.

Tanis said that she was 100% positive that Jeff knew she did not want to go in the men's locker room. She said she was sure she was "pretty loud" and that her adrenaline was going as it was happening. She said there was nothing about her words or tone that would have led Jeff to believe that she was enjoying what was going on or taking it as a joke. She told him "no" repeatedly and was telling him to stop.

Tanis said she was not yelling once she was in the locker room because she did not believe anyone was out there to hear her; she didn't think anyone was there until she saw Sgt. Henderson.

Tanis said that Sgt. Henderson appeared to be "pissed; he was mad." Sgt. Henderson immediately got his cuff keys out. Sgt. Henderson did not actually get Tanis uncuffed because Jeff told Sgt. Henderson that he was just playing with her. That was when Sgt. Chylack came out and told Jeff to get Tanis uncuffed. Tanis said it was clear to Sgt. Henderson that Tanis was getting uncuffed.

Tanis said she did not know if Sgt. Chylack knew Jeff was taking her, or had taken her, into the men's locker room. She said she did not see Sgt. Chylack after Jeff wheeled her out of the NRT cubicles, until she had gotten out herself of the locker room.

Tanis said that when she reported to Lt. Chapman about the handcuffing incident, Lt. Chapman appeared mad and upset that this happened to her. She said Lt. Chapman had not been aware that things had been happening to her.

Tanis said she had been really afraid to report, and that there is a whole "us versus them" and that there was going to be retaliation towards her from her reporting it. She said she told Lt. Chapman about the handcuffing incident, not the other incidents. She said she was scared to tell Lt. Chapman about the rest of what had happened. Tanis said she is scared of Jeff and that she does not believe he is a stable person and that she does not know if he is going to try to come after her.

Tanis said that a lot of people are friends with Jeff, and she was afraid of what they might do.

Tanis said that she was concerned that if she had reported any of the prior incidents to her supervisor that her supervisor would have yanked her off the Outstation assignment. She does not think that her supervisor would have thought she was the problem.

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Courtesy Report for VPD  
Detective Kevin Harper, 3216

Refer to transcript for details of the interview with Tanis.

**Bethany "Beth" Graves, DOC**

On 8/14/2008 at 1256 hrs Detective Sergeant David Trimble and I spoke with DOC officer Bethany "Beth" Graves. This interview was tape recorded, with Beth's permission. Beth gave us the following information:

Beth is a Community Corrections Officer III. She is a co-worker of Tanis Smith. Beth is currently assigned to Vancouver Police Department, West Precinct, and has been assigned there since May 1, 2007. Before the Neighborhood Response Team was disbanded, Beth was a part of the West Precinct NRT. Beth is now just assigned to the precinct. The other members of the team were Sgt. Duane McNicholas, Jeremy Free, Brian Billingsley and Spencer Harris. Neil Martin and Eric McGarrity had been on the team, but were only there for a month or so after Beth got there. Neil's 3-year assignment was up shortly after Beth's assignment started, and Eric's assignment ended in January.

About a month or two after Beth was assigned to the team, Tanis Smith got the position at the East Precinct NRT. They did not work together often; mostly they saw each other on warrants. Occasionally Beth and Tanis would go out into the field together and do field contacts, as they each have their own caseload in addition to assisting the Neighborhood Response Teams. Beth, who is a CCO III, is assigned to be Tanis' lead officer.

Beth was aware of one incident involving the East NRT. Tanis recently informed Beth of an incident that had occurred at East Precinct, around 2 or 3 or 4 weeks ago. Tanis told Beth that she had been handcuffed to or in a chair, and then pushed into the men's locker room.

Tanis was upset when she told Beth of this incident; Beth had the impression that Tanis did not think it was funny. Beth thought that Tanis told her about this incident the day after it happened.

Beth said she had not personally observed any incidents involving problems between Tanis and any other NRT or Vancouver Police Department members. Beth said she works at a different precinct than Tanis.

Beth said that Tanis also told her about an incident involving underwear, and about her being choked. Beth said that if she had been aware of anyone hurting Tanis or embarrassing Tanis, Beth would have done something about it. Beth considers Tanis a close friend, as well as a co-worker.

Beth said that Tanis did not tell her when the choking and underwear incidents occurred; Beth speculated that she had been out of town or on vacation when these incidents took place. Tanis told Beth that an investigation was going to happen because of the incidents.

Beth said that early on Tanis had asked her for advice about the different personalities on the NRT. Tanis said there was lots of teasing and bantering; Beth told Tanis not to take it personal unless it is personal. Beth said she told Tanis not to let them know it was getting to her. Beth told Tanis that "you need to draw your line" and "if somebody crosses it you need to let them know." Beth said this was just general advice about going into an environment with a lot of males, not specific advice about dealing with one particular person.

Beth said she told Tanis that if she had issues with somebody she needed to confront them and tell them to stop. Tanis did not tell Beth about any specific incident that Beth recalled that prompted Tanis to ask for advice. Beth said that both of them wanted to work hard to fit in, not only with police officers but with male police officers and men in general.

Beth said that Tanis told her the person who was responsible for the neck squeezing incident and the handcuffing incident was Jeff Wilken. Beth said she did not witness these incidents, and that the first she heard of the incidents was when Tanis told her a few days ago. Beth did not personally witness any interactions between Tanis and Jeff, other than riding in the van together over to a warrant. She did not see anything out of the ordinary.

Beth said she had never worked alone with Jeff Wilken.

Beth said that she was at the Red Robin lunch. She recalled that Tanis told her something about the lunch that happened that made her uncomfortable, but that she did not recall specifics and she did not witness whatever actually happened. Beth said she rode there and back from the lunch with Tanis; Beth recalled only that what had happened had something to do with Jeff.

Beth said Tanis and her socialize together sometimes. Beth was at a social event with Tanis when Tanis told her about the handcuffing incident. Beth had heard about the incident before, and either had asked Tanis about it, or Tanis volunteered the story about it. Beth asked Tanis if she was okay, and what had happened. That incident Tanis described stands out in Beth's mind.

Refer to transcript for details of this interview.

**Gordon Conroy, CCSO; Husband of Tanis Smith / Conroy**

On 8/15/2008 at 1346 hrs I spoke with Deputy Gordon Conroy, at the CCSO West Precinct. This interview was tape recorded, with Gordon's permission. Gordon gave me the following information:

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Gordon and Tanis have been married for a little over one week. Tanis is employed by the Washington State Department of Corrections. Tanis been employed there at DOC for over 4 years.

Gordon said Tanis was assigned to the NRT in December, 2007. Somewhere around the first part of May, or possibly a bit earlier, Tanis began telling Gordon of some problems with another employee of the NRT. Tanis identified Jeff Wilken as the problem; Gordon said Jeff works for Vancouver Police.

The first problem Tanis mentioned involving Jeff or anyone else was when she was at a search warrant involving Jeff and other members of the NRT. They were searching a bedroom, and Jeff picked up a pair of underwear, possibly thong panties, and stuck them over Tanis' head. Gordon remembered that Tanis came home, pissed off, and told him that she felt so dirty. Gordon was shocked at what Tanis said had happened. Tanis went and took a shower after telling Gordon about it.

Later, Gordon asked her why she put up with it, and Tanis said she didn't want to cause any waves. They left it at that. This was the first major incident Tanis told Gordon about.

Gordon personally witnessed Jeff acting out, a couple of years ago, at TGI Friday's. Gordon said that Jeff got there after everybody else, and he was really drunk. Jeff had been at a hockey game before going to TGI Friday's. Gordon said that Jeff wasn't fun to be around; he was acting obnoxious. Gordon could not describe any specific behaviors.

Gordon recalled that the next incident he recalls Tanis telling him about was when Tanis and Jeff were at the VPD West Precinct, following a search warrant. Tanis told Gordon that Jeff grabbed her by the throat, for no apparent reason. Gordon said Jeff either asked, did that scare you, or possibly Tanis told Jeff that it scared her, and Jeff said, "I know" and walked away. Gordon said Tanis was really shocked about it. Gordon said Tanis asked him if she had red marks on her neck and then explained to him what had happened. Gordon did not recall seeing red marks.

Gordon asked her if anyone had seen it. Tanis told him that "D-Mac" (Duane McNicholas) had been present, but she was not sure if he had seen it. After it happened, Tanis walked into the precinct and went to Spencer Harris and asked if she had red marks on her neck. Tanis told Gordon that her neck hurt at that time. Gordon did not recall what Tanis said Spencer's words were, but Spencer's reaction was something like "I don't want to hear it" or "I don't want any part of it."

Gordon said that he and Tanis had the conversation that "Why did you let him grab your throat?" Tanis told him she didn't, that Jeff just walked up and did it. Tanis didn't tell Gordon that she and Jeff were playing around before that; only that Jeff just walked up and grabbed her and that what Jeff did scared her. Gordon said he told Tanis that she

needed to tell someone, and that Gordon was surprised that there was a supervisor there and the supervisor didn't take corrective action or do anything.

Tanis didn't want to cause waves. She worked hard to get where she was at and she didn't want to be known as a snitch or somebody who would cause waves.

Gordon said Tanis was concerned that if she reported what happened, she would be removed from the team and be put somewhere else, and nobody would ever get in trouble. Tanis did not want to get anyone in trouble, and was in fear of people not liking her. Gordon said Tanis is a "people pleaser" and doesn't want people not to like her.

Gordon said Tanis would talk about comments that Jeff Wilken would make to her. One time she and Jeff were in a car, and Jeff started talking about sexual stuff, and Jeff told her that "you know you want to fuck me" and she told him that that was not true and told him to knock it off, and then changed the subject.

Later that day, or possibly the following day, when they were in the office with other people around, Jeff told people that "Tanis wants to fuck me." Tanis said, "No, I don't." Jeff replied, "Well, yeah, you told me you did. Don't lie." Gordon said Tanis told him that Jeff got in her face about it. Tanis told Jeff to knock it off.

Gordon said he thought Tanis might have said that Dustin Nicholson and, possibly, Sgt. Chylack, were around when this happened. Tanis said it was people from the NRT there at the time Jeff made the comments.

Gordon said her demeanor when she described this incident was that of being mad, but not knowing what to do. Tanis said that she was almost done, that the unit was being disbanded, and she was almost out of there. It was always "just another month." Gordon said that in the 8 months that she was over at NRT, it made it harder on their relationship just from Tanis having to deal with the stuff, because she was always mad about something in regards to work. Gordon felt it had to do with the stress she was put under.

Gordon said that Tanis became more distant and "very irritable" because of the stress.

The next specific incident that Gordon could recall was told to him by Tanis when he and Tanis were on their way home from work. NRT had served its last search warrant, and members of the NRT and C-CAT had gone out to lunch at Red Robin afterwards. When Tanis was paying her bill, she was flipping through her wallet trying to find her debit card. Tanis has a pink 'Victoria's Secret' card, and Jeff, who was sitting by her, reached over and grabbed it from her. Jeff said something like, "hey why don't we go on a shopping spree. You go try things on for me; I'll tell Gordon how good you look in them." Tanis told Gordon she was really embarrassed; she somehow got the card back and told Jeff to knock it off. Tanis told Gordon that other people heard it and were embarrassed; one such person was Pete Muller. Tanis told Gordon that Pete looked embarrassed at what was going on.

Gordon said that Tanis told him that Jeff was the only one wearing a police uniform when this happened; the rest of the group was in civilian clothes.

Gordon said Tanis told him that she had told Jeff to knock it off or to stop. Gordon said Tanis is not one for confrontation. Gordon said he told Tanis that she needed to tell Jeff to knock it off, and she told Gordon that she does, but that Jeff doesn't. Gordon said that everybody else feeds off of Jeff, and that other people are hearing it and not doing anything about it so that it must not be that big a deal, especially if a sergeant is not doing anything about it.

Gordon said Tanis did not describe a history of hazing in the unit. Gordon said there is joking, and there is crossing the line. Gordon said Jeff's actions were way over the line. Gordon said that he told Tanis that he can't fight her fights, but that he thought she needed to talk to Sgt. Chylack about it, or tell another supervisor, or tell her own supervisor. Tanis would say things like: we're getting disbanded, it's almost over, I can hack it out for another week.

Gordon said that the last day, he was in his office and Tanis called him on his Nextel. Tanis said that he wouldn't believe what Jeff just did to her. Gordon was just getting ready to go out the door. Tanis said that Jeff had handcuffed her and shoved her into the men's locker room. Tanis was not crying when she told Gordon this. Gordon said he told her that he had to call her back because he was in the middle of something. Gordon did not call her back, but when he got home they talked.

Tanis told Gordon that she had been seated at her desk at Vancouver East Precinct, and she had her handcuffs there, and Jeff handcuffed one of her hands to the chair. Tanis was trying to kick Jeff to get away from him, and telling him to knock it off, and Jeff grabbed her other hand and handcuffed it to the chair. She said Sgt. Chylack was sitting there and everybody was kind of laughing. Tanis told Gordon that she was kind of laughing too, because she didn't know what to do.

Gordon said that Tanis told him that Jeff wheeled her around the office; she tried to kick at him to get him away from her. Instead, Jeff wheeled her into the men's locker room. Gordon said he did not recall if Tanis said it was light or dark in there, but she was scared that there was going to be a guy in there. Tanis told Gordon that she had to kick the door open and had to wheel herself out. When she wheeled herself out, VPD Sgt. Henderson was walking in the door and asked what the hell is going on. Jeff told Sgt. Henderson that they were just playing, and Sgt. Henderson said they had to knock this crap off.

Gordon said that Tanis was embarrassed when she talked about this happening to her. Gordon said this is progressively getting worse, and that what had happened was a crime. Gordon said he asked her if she was going to let this continue or was she going to do something about it. Tanis asked him what she should do. Gordon said he told her that she needed to report it.

Gordon said that Tanis called him later, either the next week or whatever, from work, and said she had told Lt. Chapman about the handcuffing incident. Gordon said he told her that he was proud of her. Tanis was upset and crying and said she didn't want to get anyone in trouble. Tanis told Gordon that she was scared of Jeff and scared of what he might do when he found out that she had told. Tanis told Gordon that Jeff is really unpredictable.

Gordon said Tanis did not want to have the perception that she was the victim of a crime. The biggest thing for her is what people perceive of her. Tanis told Gordon that she had never stood up for herself and she was so glad that she finally did.

Gordon said of the things Tanis described to him, the choking was an assault, and the "whole underwear thing, that's blatant harassment right there."

Gordon had not heard of Jeff doing this to any other person besides Tanis. Jeff has a reputation for other stuff but not things like what he did to Tanis. Gordon said that C-CAT did not like to work with the East NRT, and NRT West did not like to work with the East NRT because they did not trust what the East NRT did.

Gordon had concerns when Tanis went to work for NRT East because of the reputations of Jeff and another officer there. Gordon did not know of issues with other female officers there at NRT before Tanis. Gordon said Jennifer Thomas had been there but she left to go work mental health cases.

Refer to transcript for details of this interview.

### **Steve Lobdell, VPD**

On 8/15/2008 at 1534 hrs I spoke with Vancouver Police Officer Steve Lobdell. This interview was conducted at a private residence in Battle Ground. The interview was tape recorded with Steve's permission. Steve gave me the following information:

Steve is currently assigned to swingshift at West Precinct. He had been with C-CAT during part of the time when Tanis was assigned to an NRT team.

Steve recalled the Red Robin lunch when the NRT was being disbanded. People there included Duane McNicholas, somebody else from the West NRT, possibly Spencer Harris and Brian Billingsley, Pete Muller, Brian Ford, Tanis Smith, Jeff Wilken, possibly Beth Graves, and possibly others. Steve did not recall any specific teasing, other than normal joking. Steve did not hear anything between Jeff and Tanis.

Steve said that Jeff had brought up to the people at shift briefing once that Jeff had an IA because he had handcuffed Tanis to a chair and rolled her out of the office and down a hallway that goes to the outside. Jeff had told them at briefing that he was going to roll Tanis outside, but didn't have a key to get back inside, so he rolled her into the men's room. Jeff did not give any other details.

Steve said Jeff made it sound like Tanis did not really care about the incident, that it was joking around and having fun. Steve did not recall hearing that story more than once from Jeff.

Steve has not heard of any other incidents involving Tanis and Jeff, or Tanis and anyone else, nor has he personally heard Jeff make comments that were inappropriate in nature.

Refer to transcript for details of this interview.

**Pete Muller, CCSO**

On 8/15/2008 at 1646 hrs I spoke with Detective Pete Muller of the Clark County Sheriff's Office. This interview was conducted in a classroom at Camas High School, and was tape recorded with Pete's permission. Pete gave me the following information:

Pete is currently assigned to C-CAT, and has been assigned there since January. He has known Tanis Smith and Jeff Wilken for several years. Tanis is employed by DOC and Jeff is a VPD officer who was assigned to NRT. Tanis had been on the NRT team for less than a year.

Pete was not aware of any incidents involving inappropriate behaviors between Jeff and Tanis during or following a search warrant.

Pete was aware of an incident that took place at Red Robin in mid July, when the NRT was being disbanded. Pete said he and Steve Lobdell and Brian Ford showed up a little late for the lunch. Pete sat directly across from Tanis; Jeff Wilken sat next to Tanis.

Pete said that this took place just prior to Gordon Conroy and Tanis getting married. Pete did not recall how the conversation was brought up, but that the conversation turned into Jeff suggested that he and Tanis go to Victoria's Secret at the mall, after lunch, and that Tanis model and try on, or try out, or see Tanis with, lingerie before Gordon saw it. Pete said he could see that Tanis was uncomfortable about what Jeff was saying. Pete said that he actually turned his head because he couldn't believe what he was hearing from Jeff. Pete said that Tanis' face turned red and she looked away and she wasn't comfortable.

Pete said he looked at Tanis, waiting for some indication that she had had enough, and for Pete to step in.

Pete said no one else but Jeff was making the statements. The underlying tone was more of a sexual nature, and Pete turned his head because he just couldn't believe what he was hearing from Jeff. Pete could not recall verbatim what Jeff was saying. Pete did not know if Jeff thought he was being funny, or what Jeff might be trying to gain out of it. Pete said there would be no reason for someone to make comments like that, and that the comments crossed the line.

Pete thought that most, if not everyone, was wearing civilian clothes. He thought they had done a search warrant on Thompson that day, and that might have been the last search warrant that NRT did.

Pete said that in his opinion Jeff's comments were not professional or appropriate.

Pete said that it was not likely that everyone at the table heard the comments. Fili Matua was seated next to Jeff. Steve Lobdell was seated to Pete's right. Brian Ford was on the other side of Steve Lobdell. Brian Billingsley was seated to Pete's left. Beth Graves may have been seated next to Tanis. Pete did not think that Duane McNicholas was within earshot.

Pete had heard about the handcuffing incident, but had not heard personally about it from Jeff or Tanis. Pete had not personally witnessed any other comments or incidents between Jeff and Tanis.

Refer to transcript for details of this interview.

### **Brian Ford, DOC**

On 8/18/2008 at 1402 hrs I spoke with DOC Officer Brian Ford, at an interview room of the Clark County Sheriff's Office Major Crimes Unit. This interview was tape recorded with Brian's permission. Brian gave me the following information:

Brian has been with DOC since 2000. In 2005 he transferred from King County down to Vancouver, and has worked here since. Brian is currently assigned to C-CAT. Brian is a Community Corrections Specialist. He works with Fili Matua, his supervisor, and Brian Acee, John DeGroat, Pete Muller, Leland Roccas, Jeff Kipp and Andy Hamlin.

Most of the time Brian worked with the VPD West Precinct NRT team, although they sometimes worked with the East NRT.

Brian is aware that the reason I wanted to talk to him was because of Tanis Smith and Jeff Wilken. Brian had heard of the incident where Tanis Smith was handcuffed to a chair by Jeff, and pushed into the male's bathroom. Brian was not told about this incident directly by Tanis. He did not recall who actually told him.

Brian said that Tanis, being the only female on the team, took the brunt of the abuse and hazing, not just from being female, but from being DOC. Brian did not recall anything in particular that stuck in his head, but recalled that some comments were made that were "crossing the line."

Brian said there was an incident at Red Robin that he witnessed. He did not recall any specific comments by Jeff Wilken. Brian said there have always been underlying comments, but he could not recall any specifics.

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Courtesy Report for VPD  
Detective Kevin Harper, 3216

Brian was seated across the table from Tanis and Jeff, to his left. They had gotten there before the C-CAT team did. Brian got there around the same time as Pete Muller and Steve Lobdell.

Brian said Tanis was quiet, and that the comments were one-sided. Brian said Tanis' nature is quiet and that she wants to be judged by her work quality. Brian said that Tanis looked uncomfortable with what was being said by Jeff. Jeff was the only one making the comments that Brian could remember.

Brian said it was possible that Tanis was being picked on possibly both because of her gender and because she is a DOC officer, but that the comments that were being made at Red Robin were more towards her as a person rather than because of her DOC job.

Refer to transcript for details of this interview.

**Jennifer Thomas, DOC**

On 8/19/2008 at 1040 hrs I spoke with Jennifer Thomas at 8008 NE Fourth Plain Rd. This interview was tape recorded, with Jennifer's permission. Jennifer gave me the following information:

Jennifer has been with DOC for 4 ½ years; she was hired about a month, or a month and a half, after Tanis Smith was. Jennifer is a CCO II. From May 1, 2007, until November 1, 2007, Jennifer worked at Vancouver Police Department East Precinct. When the VPD NRT was formed at East about a month or two after Jennifer started at East, Jennifer was assigned to the NRT team.

The other NRT members were Sgt. Mike Chylack, Dustin Nicholson, Jeff Wilken and Leonard Gabriel. When Jennifer joined the team, there had been some sort of innuendo and sexual banter, but Jennifer made it clear that she did not involve herself with people she worked with, that she was there on a professional basis. Jennifer said she never had any innuendoes directed towards her after that.

Jennifer said most of the comments were from the group, rather than from any particular officer. Jennifer clarified that Sgt. Chylack never participated in any of the innuendo language. He never made any comments like that.

Jennifer said that the comments are "more kind of like joking stuff" that were not serious, but had she not stopped it from continuing it would be a slippery slope; she recalled saying that it was not something she was interested in and she never had any comments after that.

Jennifer gave the example of being asked, "Are you looking at my butt" as one of the innuendoes. Jennifer said that Dustin Nicholson made this statement to her. She said that each one of the team would have made those comments, though.

Jennifer said she could see their personalities with other women, but that it was never directed at her.

Jennifer was not aware of a history of hazing or teasing within the group. She said that hazing was not an issue, but teasing was. Jennifer said that she asked a lot of questions when she first came to the group, and Leonard Gabriel one time told her that she had asked the 48<sup>th</sup> question she had asked him since being in the car with him that day. She did not take offense to this.

Jennifer said she stayed with NRT until she took the mental health position at DOC.

Jennifer said she did tell Tanis that one thing Tanis would have to establish with this unit, with the officers in general, was strong boundaries. Jennifer said that she could see how they would kid, and if you kind of thought it was just play and just bantered back, Jennifer could see how they would continue to push it and think it was okay.

Refer to transcript for details of this interview.

### **Fili Matua, DOC**

On 8/19/2008 at 1518 hrs I spoke with DOC Officer Fili Matua at the CCSO Major Crimes Unit office. This interview was tape recorded, with Fili's permission. Fili gave me the following information:

Fili is assigned to the C-CAT team, located at VPD's West Precinct. C-CAT often worked with the West Precinct NRT, and sometimes worked with the East Precinct NRT. The East NRT was the newer of the two teams. Fili said they did about 300 warrants together with the NRT teams since 2006.

Fili knows Tanis Smith from working with her at DOC; she was assigned to the East NRT. He knows they did some warrants together, but did not recall any specific warrants.

I asked Fili about the incident at the warrant served on May 21, where someone had put underwear or panties on Tanis' head. Fili did recall this incident, and recalled that this was the house of an Hispanic family. Fili said he was searching one of the rooms upstairs, possibly a west room of the house. Jeff Wilken was searching the master bedroom. When Fili was done searching his room, he went into the master bedroom. Tanis was either already in the bedroom where Jeff was, or walked in after Fili went in.

Fili said that Jeff Wilken picked up a pair of underwear, either off the floor or off the bed, and "popped it on her head." Fili did not recall what color the underwear was. Fili said Tanis "jumps, and freaks out a little bit" and said something to Jeff. Fili did not recall what Tanis said to Jeff. Fili said that Tanis was "kind of pissed off."

Fili said that Jeff did not pull the underwear all the way down over her face, but did put it on her head. Jeff and everyone else searching were wearing gloves.

Fili said he had never heard of anyone doing that before. Fili said that people on the teams do tease each other, but "that's like throwing a loaded rig at somebody." Fili said that search warrant sites are where you run into "dirty things" and that grabbing something that might be unclean and throwing it at your partner is not something you want to do. Fili said that was crossing the line into unprofessional behavior.

Fili said that after Tanis took the underwear off of her head, she went downstairs. He did not recall if she came back after that. Fili said he did not know if anyone talked to Jeff about that; he said he did not. Fili said that Sgt. Chylack was at the house, but he did not know where Sgt. Chylack was when the underwear got put on Tanis' head. Fili did not recall if anyone else was in the bedroom when this happened.

Fili said he heard about the handcuffing incident. He thought that initially he had heard about it from Tanis. Fili said he heard that Tanis and Jeff were ribbing each other and Jeff had had enough, so Jeff handcuffed her to a chair and then rolled her into the men's bathroom. Fili heard this took place at the East office.

Fili said Jeff told him that he rolled her into the front area, not all the way into the actual changing area. Fili said he heard the story so many times from everybody that he was not sure now if he and Tanis had a one-on-one talk about it.

Fili said that he was at the Red Robin luncheon the last day of the NRT East. Fili said there was some ribbing going back and forth between them. He initially did not recall what it was about; when I asked him if it had to do with Victoria's Secret, he said he did recall that.

Fili said that he did not recall how they got onto the subject of Victoria's Secret, but Jeff made the comment along the lines of "why don't we go shopping at Victoria's Secret, you can try on stuff and I'll watch." Tanis' response to that was to tell him to "shut up." Fili did not think it went beyond that.

Fili said he tends to block out things that Jeff says; that it's a good rule of thumb. Fili said Jeff is a good cop, does good work, but sometimes Jeff says stuff to "even a guy like me" that Fili wonders where Jeff comes up with it. Fili did not give any specific examples.

Fili said he did not know why Jeff picks on Tanis; he said has always wondered why Jeff picks on her. Fili said Jeff makes fun of Ford (Brian Ford) but not too much because Ford is a big guy. Fili said he personally always felt that it was because the NRT was Jeff's team, and Jeff gives it to Dustin, to Gabriel, to his team.

Fili said Jeff ribs everybody, but that you can't say certain things to all of them. Fili said that, "the Victoria's Secret thing; he probably shouldn't have said that; actually, shouldn't

have said that.” Fili said maybe to make fun of her hair or her shoes, but not to put underwear on her head.

Fili said that Jeff would not have put underwear on anyone else’s head besides Tanis; if Jeff had put underwear on Fili’s head, “I probably would have punched him out.”

Fili said he did not know why Jeff thought he could get away with doing this stuff to Tanis. Fili was not aware of any issues Jeff had with Jen Thomas, Tanis’ predecessor on the NRT East. Fili said that it may be that the DOC officer was the “outsider” to the unit, with a team of VPD officers.

Fili said that the guys sometimes make fun of Jen because “she’s a yakker” and talks a lot. Fili said Jen transferred to the mental health division because that was her goal; that was what she went to school for. Fili said there were no issues with the quality of Tanis’ work; he said Tanis does good work.

Fili had only recently heard about Jeff grabbing Tanis by the throat; he had not heard about it contemporaneous to the time it occurred.

I asked Fili if anyone told Jeff to back off, or tried to reel him in when he was inappropriate. Fili said that, in hindsight, he wished he had said some stuff, as he is the senior DOC guy out there and he wished he had told Jeff to knock it off. Fili said that he knew Sgt. Chylack had told Jeff to knock it off a couple of times. Fili did not recall what incident it was that he heard Sgt. Chylack tell Jeff to knock it off. Fili said he was there and heard it, but did not recall the actual incident, but that Jeff was “yapping about something.”

Fili was not Tanis’ supervisor. He did not directly supervise the NRT; the DOC officers associated with NRT were supervised by Jeff Frice. Fili said that if they were out there in the field, however, he would be the “top guy.”

Fili said that, in hindsight, he wished he had told Jeff to knock it off.

Refer to transcript for details of this interview.

### **Barbara “Barb” Kipp, VPD**

On 8/24/2008 at 1858 hrs I spoke with Sgt. Barb Kipp at the Vancouver Police Department East Precinct. This interview was tape recorded, with Barb’s permission. Barb gave me the following information:

Barb has been a sergeant for 10 days. She is currently assigned as a swingshift sergeant, to the “B” squad dayshift. She recalled an incident, involving Officer Jeff Wilken, during, or just following a shift briefing. Barb said this occurred some weeks ago, prior to her promotion to sergeant. Barb said Jeff had been on the squad for only one or two days with Barb present. Right after briefing, which Barb had conducted, everyone was

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talking and chatting. Barb was not paying attention to how the conversation started. Jeff prefaced his comments by saying something about "this could lead to an IA" or could be a complaint. Jeff started talking about an incident where he was joking around with a DOC officer, or she was joking around with him, and he told her that if she wants to joke around he was going to handcuff her to a chair. Jeff then said he handcuffed the DOC officer to a chair, and then pushed her into the men's locker room or into the first entrance into the men's locker room.

Barb did not recall if Jeff named Tanis Smith as the DOC officer, or if Jeff just said it was a female DOC officer, but everyone seemed to know about whom Jeff was talking.

Barb knows who Tanis Smith is, and that Tanis is a DOC officer.

Barb said Jeff portrayed it as a joke, and that they were joking around. Barb did not know how the incident stopped.

Barb said that Jeff did talk about this incident again within her earshot. Barb heard just portions of this conversation as she was walking through an area of cubicles. Barb thought it might have been this same day, later that night. Jeff has not spoken of any other incidents to our around Barb, and Barb had no personal knowledge of any other incidents involving Jeff and Tanis.

Barb said that persons who were at the shift briefing when Jeff talked about the handcuffing incident may have been Sgt. Jon Pfister, Corp. Lobdell, Greg Hibbard, Adam Millard, Tim Martin, Aaron Gibson, Corp. Jim Watson, Lt. Whitney, and Ryan Junker.

Refer to transcript for details of this interview.

### **David Henderson, VPD**

On 8/24/2008 at 1938 hrs I spoke with Sergeant Dave Henderson at the Vancouver Police Department East Precinct. This interview was tape recorded, with Dave's permission. Dave gave me the following information:

Dave is a swingshift sergeant, assigned to District 3. Jeff Wilken is an officer with VPD, and has been here around 9 or 10 years. They did work a squad together before Dave was promoted to sergeant, and Dave has supervised a squad on which Jeff worked after Dave's promotion to sergeant.

Dave recalled an incident that occurred on July 17, at the VPD East Precinct. Dave had a copy of a memo he wrote about this incident. Dave said he had left his office around 1600 hrs and was walking out the doors on the west side of the precinct. Dave was thinking that he was going to be late for a meeting if he did not get out of the precinct then.

Dave saw Jeff Wilken pushing a rolling officer chair down the hallway, and that DOC Officer Tanis Smith was seated in this chair. It appeared to Dave that Tanis was handcuffed by both hands to the arms of the chair. Dave did not specifically recall what Tanis' feet were doing, but assumed they were up because the chair was rolling freely. Jeff was pushing the chair and Tanis west through the precinct, towards the exit doors on the west side of the precinct.

Dave said he was taken aback; he thought he might have said something to the effect of "what are you doing" or "what's going on." Jeff kept pushing the chair down the hallway; Dave could see that both Tanis' hands were cuffed to the arms of the chair. Jeff started to push Tanis and the chair into the men's locker room.

Dave described the locker room as having a foyer with a sleep room; beyond this is another doorway that leads into the actual locker room.

Dave said he thought he said something like "Knock it off" and not to go into the men's locker room. Jeff stopped, and then wheeled Tanis back into the hallway. Dave said Tanis had been laughing, and Dave did not know what was going on right then. Dave said this was inappropriate office behavior. Tanis said something like, "Sgt. Henderson, unhandcuff me" in sort of a joking way. Dave was reaching for his keys, which he keeps in his vest pocket. At that point, Jeff had stopped pushing Tanis, and Dave figured he was going to unhandcuff her. As he was reaching down to unhandcuff her, Jeff wheeled Tanis away.

As Jeff wheeled Tanis back down the hallway, Dave saw Sgt. Chylack come around the corner. Dave figured that since Sgt. Chylack was Jeff and Tanis' direct supervisor, he was going to address what ever happened. Dave then left for his meeting.

Tanis did not say anything else that Dave recalled, nor did he hear Tanis say anything to Jeff. Dave did not recall if Jeff said anything Dave knew that this was the last day of the NRT and he did not know if this was some sort of horseplay related to this.

Dave estimated this whole incident took 20 or 30 seconds, from the time he first saw Jeff and Tanis until Jeff pushed Tanis back down the hall towards the break room, and Dave saw Sgt. Chylack. Dave left the precinct for his meeting.

Dave did not think he has seen Jeff since then. Jeff has never discussed any work issues with Tanis he has had. Dave has talked to Tanis about offenders and gang related stuff; she has not discussed any issues related to Jeff with Dave.

Dave said that the behavior was "totally inappropriate" for an office. He did not think that Tanis had been pushed all the way into the men's locker room, just through the first door into the foyer area where the sleeping area is. Tanis was laughing, not calling for help and did not show any signs of distress. Dave believed that Tanis wanted the handcuffs off her, though.

After the interview, Dave gave me a copy of a memo he wrote and directed to Lt. John Chapman. I noted this memo is dated August 24, 2008. I pointed this out to Dave; he said he was sure that he wrote this memo only a few days after he observed the incident, and that he must have misdated the memo. I asked Dave if I could look at his computer, where he had saved the document.

I noted that the computer screen displayed a notation that this document was last saved on July 24, 2008, consistent with Dave's statement that he had written the memo on July 24, and had inadvertently dated it August 24 instead of July 24.

Refer to transcript for details of the interview.

**Franklin "Frank" Gomez, VPD**

On 8/24/2008 at 1818 hrs I spoke with Vancouver Police Officer Franklin Gomez at the Vancouver Police Department East Precinct. This interview was tape recorded, with Frank's permission. Frank gave me the following information:

Frank recalled the incident around mid-July, where he was contacted by Dustin Nicholson of the NRT. Officer Nicholson asked him to help the NRT with a traffic stop on a vehicle. The driver of the vehicle was suspected of trafficking in meth. Frank made the traffic stop and arrested the driver, and located meth, cash and other evidence.

Frank drove the driver back to VPD East Precinct. The driver spoke Spanish, and part of Frank's job was to interpret for the driver. Frank asked his sergeant if he could continue with the investigation, and received a go-ahead. Frank had his wife drop some street clothes by the office so he could change out of his uniform.

Frank said the idea was to go back to the driver's apartment because the driver had admitted to having around a half-pound of meth back there. Frank said they waited at East Precinct for his wife to bring the clothes. While they waited, there was conversation between the NRT officers around, but Frank did not recall anything specifically. Frank said that he was not actually in the office for much of the time they were waiting, though. Frank said that he spent most of the time outside by the red truck belonging to the suspect, because one of the drug dogs had "hit" on one of the tires in the bed of the truck.

Frank recalled that Dustin Nicholson, Sgt. Chylack, Jeff Wilken, DOC Officer Tanis Smith were there. Frank did not recall any specific conversation between Jeff and Tanis; he was aware that they were talking back and forth but he did not recall any conversation that was inappropriate or that had a sexual overtone. Frank did not recall any conversation about anyone getting into anyone's pants.

Frank did recall seeing Tanis in the parking lot, talking on the phone, at one point.

Refer to transcript for details of this interview.

After the taped portion of the interview was concluded, Frank stated that he was aware the Vancouver Police Department has a policy that directs employees to report incidents of sexual harassment, and directs other employees to encourage the reporting of sexual harassment.

Frank said that he was talking with Tanis after the NRT broke up, and she started to tell Frank about an incident where Jeff handcuffed her to an office chair and rolled her into the men's locker room at East Precinct. Frank said he stopped Tanis and asked her if she had reported it; she said that she had told Lt. Chapman about it.

Frank said that Tanis implied that there had been other issues, but that she was afraid of reporting them because she did not want to be thought of as a "rat." Frank said he did not know specifics of any other incidents between Tanis and Jeff.

### **Adam Millard, VPD**

On 8/24/2008 at 2228 hrs I interviewed Vancouver Police Officer Adam Millard at the Vancouver Police Department West Precinct. This interview was tape recorded, with Adam's permission. Adam gave me the following information:

Adam recalled an incident that took place after a shift briefing, where Jeff Wilken said he had played a practical joke on his last day working with NRT, that involved handcuffing a DOC officer. Jeff said the DOC officer was laughing and he was laughing, and that they went in and out of the building. Jeff said that memos were requested of anybody who saw the incident and it might turn into an IA.

Jeff said that the DOC officer had no problem with what was going on at the time that she was laughing at it and it was "fun and games." Jeff said that someone else didn't find it funny and complained.

Adam said that Jeff talked about it just that one day. It was Jeff's first or second day back after days off camping. Adam did not know the DOC officer's name; just that it was a female. Jeff has not talked about any other incidents involving this DOC officer.

### **Greg Hibbard, VPD**

On 8/24/2008 at 2247 hrs I interviewed Vancouver Police Officer Greg Hibbard at the Vancouver Police Department West Precinct. This interview was tape recorded, with Greg's permission. Greg gave me the following information:

Greg recalled an incident that took place after line up, where Jeff talked about handcuffing a female DOC officer to a chair, as a joke. Jeff said he rolled her outside the building, and possibly into another room. Greg thought it may have been into the men's locker room. Greg said Jeff was just describing his last day, that they were joking around and that Jeff said he was getting a complaint from it.

Greg said Jeff thought they were all having fun, everybody was laughing. Greg did not recall anything else about what Jeff said.

Refer to tape transcript for details of this interview.

**Tim Martin, VPD**

On 8/24/2008 at 2257 hrs I interviewed Vancouver Police Officer Tim Martin, at the Vancouver Police Department West Precinct. This interview was tape recorded, with Tim's permission. Tim gave me the following information:

Tim recalled that about 2 weeks ago, during a shift briefing, towards the end of shift briefing, Jeff Wilken talked about an incident involving Tanis Smith, the DOC Outstation Officer at East Precinct. Tim said Jeff was only with the squad for a day or two. Jeff basically described something that "might be coming towards him." Jeff said that he and Tanis were messing around in the NRT office at East Precinct, and that he had handcuffed her into a chair and rolled her into the men's locker room. Jeff thought it was a big joke and that they were having fun.

Refer to tape transcript for details of this interview.

**Ron Stevens, VPD**

On 8/24/2008 at 2306 hrs I interviewed Vancouver Police Officer Ron Stevens, at the Vancouver Police Department West Precinct. This interview was tape recorded, with Ron's permission. Ron gave me the following information:

Jeff Wilken was on a squad recently with Ron for a couple days. Prior to that Ron had worked with Jeff off and on, possibly 4 or 5 or 6 years ago. Ron was aware that a female DOC officer had filed a complaint against Jeff; Ron did not know this officer's name. During the shift briefing, Jeff made a comment that there was an issue regarding a night they were working over at East, and they were "screwing around" and Jeff put the female officer in a chair, handcuffed her to a chair, and that it was all fun and games then.

Ron said Jeff told them that a supervisor either came upon it or learned about it and told them to knock that off, and told Jeff to uncuff the officer or get her off the chair. Ron said Jeff's description was pretty vague, and that Jeff's whole demeanor was that he was just horsing around at work. Jeff did not indicate that the DOC officer was upset; he gave the impression that they worked together, they were friends and it was just fun and games.

This is the only incident Ron had heard of between Jeff and the DOC officer.

Refer to tape transcript for details of this interview.

**Jon Pfister, VPD**

On 8/24/2008 at 2316 hrs I interviewed Vancouver Police Sergeant Jon Pfister, at the Vancouver Police Department West Precinct. This interview was tape recorded, with Jon's permission. Jon gave me the following information

Jon is aware of an incident that took place between Jeff Wilken and DOC Officer Tanis Smith. Tanis has never confided in Jon regarding any issues she had with Jeff. Jeff has not personally talked to Jon about any issues regarding Tanis.

Jon said that it was either the first day Jeff was on shift here, or within a day or two of Jeff coming to shift, that during a shift briefing, Jeff talked about an incident with Tanis. Jeff told them that towards the last of the NRT, Jeff and Tanis were goofing around in the office, and Jeff handcuffed Tanis to a chair and was pushing her around the precinct. Jeff ended up pushing Tanis through one of the doors of the men's locker room. Jon said there are double doors to the men's locker room; Jeff told them that he had pushed her through one door but not the other door that goes into the locker room. Jeff told them she did not get into the locker room.

Jon said Jeff appeared to think it was a big joke, that it maybe was a joke that maybe he shouldn't have done. Jon said Jeff did not mention Tanis being upset at what happened. Jon thought Jeff may have said something to the effect of Tanis had gone to one of the lieutenants at the precinct in case somebody had wanted to complain, that somebody might have thought it was wrong, that it wasn't that big of a deal to her. Jon did not know if that was what Tanis told Jeff, or if that was just Jeff's impression about what happened.

Refer to tape transcript for details of this interview.

### **Spencer Harris, VPD**

On 9/4/2008 at 2253 hrs I spoke with Vancouver Police Officer Spencer Harris at the VPD West Precinct. Spencer declined to be tape recorded. Spencer gave me the following information:

Spencer was on the West Precinct NRT from its inception in January, 2005, until the NRTs were disbanded in July of this year. During the time the NRTs were in operation, they write and executed "400 some warrants." Many of these warrants involved both NRT teams, after the East Precinct NRT was formed last year.

The two NRTs did warrants together on occasion. Spencer has not personally witnessed any incidents where Jeff or Tanis acted inappropriately. He said he was not aware of the incident where Jeff had supposedly put underwear on Tanis' head. Spencer said he had heard of the handcuffing incident but had no first hand knowledge of it nor had he heard about it from either Jeff or Tanis.

This year, the West NRT members were Sgt. Duane McNicholas, Brian Billingsley, Jeremy Free, Beth Graves (from DOC), and Spencer.

Spencer said he knew who the members of the East Precinct NRT were. He knew Tanis; he had seen her before as a DOC Officer, before she was assigned to the East Precinct NRT.

Spencer said that he had no recollection of any incident where Tanis may have told him that Jeff Wilken had grabbed her neck. He said that he thinks he would have recalled this if he had been told of it or had witnessed it. Spencer said that he tended to concentrate on his work when he had a search warrant to work on or paperwork after a warrant. He said he probably would not have paid attention to goings on around him if he was working on his paperwork.

Spencer said that he did not socialize with the East NRT members. He said he does not drink and "I'm not involved in shenanigans." He said he was not at the Red Robin lunch when the NRT teams were disbanded.

Spencer said he had not personally heard Jeff make any comments to Tanis or to any other female that were inappropriate or off color. He said that Jeff does make off color remarks, and that he had heard that Jeff had made a comment about crapping himself, but could not recall if he heard it "first or third hand." Spencer did not recall any specific comments or statements made by Jeff that he had heard.

Spencer said he had not witnessed any incidents between Jeff and Tanis that could be construed or interpreted as harassing or inappropriate. He said that neither Jeff nor Tanis had ever confided in him any issues or concerns about inappropriate behaviors by each other or by anyone on either NRT.

### **Brian Billingsley, VPD**

On 9/4/2008 at 2253 hrs I spoke with Vancouver Police Officer Brian Billingsley at the Vancouver Police Department West Precinct. Brian agreed to give a taped interview. Brian gave me the following information:

Brian was assigned to the West Precinct NRT in July, 2007. He knows Tanis Smith as the DOC Officer who had been assigned to the East NRT. Brian worked with Sgt. McNicholas, Spencer Harris and, for about 6 months, Eric McGarrity. Eric McGarrity left the West NRT in January and was replaced by Jeremy Free. Beth Graves was the West DOC Officer assigned to the West NRT.

Brian said he did not recall the search warrant at 15715 NE 87<sup>th</sup> Circle, or any incident where someone may have put a pair of underwear on Tanis' head.

Brian said he was not aware of any incidents that took place between Tanis and Jeff Wilken. He said he had never witnessed any incidents.

Brian said that he did attend the luncheon at the Red Robin, on the last day of the NRT teams. Brian said he recalled Sgt. McNicholas being there, along with Beth Graves. He did not recall if Spencer Harris or Jeremy Free were there. He recalled Steve Lobdell, Pete Muller and Fili Matua, all from CCAT, were there. He thought Tanis might have been there, but did not recall if Jeff Wilken was there. Brian said he did not recall any talk or any incident involving Victoria's Secret or a Victoria's Secret credit card.

Brian said he has never personally witnessed any incidents that took place between Tanis and Jeff, nor has he seen anything between Tanis and any other officer that seemed inappropriate, harassing, hazing or off color.

Refer to transcript for details.

Following the taped statement, Brian added that he had never heard anything harassing or off-color or that was over the line between Tanis or Jeff. Brian said that, as guys, they may have talked about things that were crude, but that he never heard anyone be inappropriate around Tanis or any other woman.

### **Leonard Gabriel, VPD**

On 9/4/2008 at 2351 hrs I spoke with Vancouver Police Officer Leonard Gabriel at the VPD East Precinct. Leonard declined to be tape recorded. Leonard gave me the following information:

Leonard had 6 years of law enforcement experience working in Hawaii and Guam before being hired at Vancouver Police Department. Leonard was hired here about 7 years ago. Leonard worked patrol here until the VPD East Precinct NRT was organized; he worked for about a year on that team before the NRTs were disbanded.

Leonard was aware of the incidents involving Tanis and Jeff. He said that coming from where he had used to work, he felt the incidents were pretty insignificant, considering that he had been exposed to much more serious corruption and issues where he used to work, such as officers committing crimes on duty.

Leonard said that he worked with Sgt. Chylack, Jeff Wilken and Dustin Nicholson when the East Precinct NRT was organized. Initially Jenn Thomas from DOC was assigned to the NRT, but she left after a short time to go work mental health cases. Leonard did not know why she made this move. Leonard did not recall how much time elapsed between Jenn's move and Tanis being assigned to the East NRT.

Leonard did not recall exactly when Tanis was assigned to the NRT. He recalled that Jeff was going through his divorce at that time. Leonard said that "we all got along pretty well" when Tanis came to the NRT and that there were no issues between anybody of which Leonard was aware. Leonard said that Dustin is a closer friend to Jeff than he is.

Leonard said that he and Jeff co-own a business, 'Fisticuffs,' but they don't hang around together much there. 'Fisticuffs' will have been open for 2 years in December. Leonard said that Jeff is more like an investor in the business than a manager. Leonard said, "He's not into fighting." Leonard said this has created some problems; "I have a problem with him not pulling his load." Leonard said that it takes quite a bit of time to manage the business and Jeff is not participating as much as he should. Leonard said that sometimes he doesn't see Jeff there for 3 or 4 months.

Leonard said that Jeff always makes jokes; Leonard said, "I don't listen" to Jeff because he doesn't appreciate Jeff's humor. Leonard said that he did hear Jeff say he had crapped himself; Leonard thought Jeff said he did it for a dare. Leonard said he thought Jeff said this in front of a people, and that Jeff had said it in front of people he was comfortable with.

Leonard said that he had heard this story from other people, when Jeff was not around. Leonard said he heard that it possibly happened on a camping trip.

Leonard said he has never heard any jokes or comments from Jeff about Tanis wanting to sleep with him (Jeff).

Leonard said he learned from family back home that his grandfather, in Hawaii, might be dying, so he took time off and went home to see his grandfather. He was gone around 5 or 7 days in Hawaii. The last week or so of the NRT was during the time Leonard was gone. Leonard said when he came back he was assigned to patrol. Sometime later, he got together with Tanis, and heard from Tanis about the handcuffing incident. Tanis also told him that Jeff had been saying to her that Tanis wanted to sleep with Jeff. Leonard said he asked Tanis why she didn't tell them (Leonard and the other guys) what Jeff had been doing or saying.

Leonard said Tanis told him that she did not want to get Jeff into trouble, and that she had not wanted people to not like her. Leonard said that fit with Tanis' character; he described her as wanting to fit in because she wants to be liked and because she came from a different agency.

Leonard said he was not in town at the time the Red Robin luncheon happened, or when Jeff handcuffed Tanis to the chair. He only heard of these events later.

Leonard said he talked to Tanis when he got back because she wanted his help to contact a guy on her case load, and he was on patrol then. It was then that she asked him, "did you hear what happened to me?" Leonard had not heard, and Tanis explained about being handcuffed and rolled into the men's locker room.

Leonard said Tanis also told him then about Jeff grabbing her by the neck, at the West Precinct. Leonard said Tanis said she had been standing outside the West Precinct and "Jeff grabbed her by the neck and surprised her." Leonard said she said she told Jeff, "What are you doing; you scared me." Jeff replied, "Yeah, I like it like that."

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Leonard said Tanis told him that she came inside the precinct and either told him or Spencer Harris about the incident, and that she couldn't recall whom she had told. Leonard told her that it must not have been him, because he did not recall that happening at all.

Leonard said he did recall the incident when Jeff put underwear over Tanis' head. Leonard said he had been assigned to do the evidence at that search warrant, so he was seated in the NRT van, waiting for people to bring him evidence to log in. Leonard said Tanis came out of the house, angry. Leonard said that she got into the van and said, "You're not going to believe this. Jeff threw underwear on my head." Leonard described Tanis as being "pissed" about it. Leonard said he told Tanis, "that's kind of gross" and "that's sick." Leonard left it at that. He said he did not recall if Sgt. Chylack came and talked to her in the van about it.

Leonard said Tanis had told him about some sexual stuff that Jeff had described to her. One time Tanis came to Leonard and said that "Jeff told me what 'donkey punch' was. Leonard said, "I didn't know what it was." Leonard said that he seriously didn't know what it was, and Tanis did not tell him what Jeff's description of that particular act was. Leonard said he got the impression at that time from her description of what Jeff told her that she was more "Oh, my God" shocked, rather than offended.

Leonard said that Jeff does say "stupid stuff now and then" but he mostly ignores it. Leonard said Jeff says inappropriate stuff to Tanis and others; he said, "I may not agree with the joke, but if you're okay with it, what would I do?"

Leonard said that Tanis is "credible" and if she said an incident happened, he would believe her. Leonard said Tanis never told him any of this while it was happening (except for the underwear incident), Leonard said he and Tanis are friends; had she come to him and complained about Jeff's behaviors or comments, "If she said something to me I would have put a stop to it."

Leonard said he has coffee regularly until this got reported, because they are friends. He said he called her up for coffee after she reported this, and she told him that she shouldn't talk to him right now, because of the complaint. Leonard said that he did not try to talk to her about the complaint; he just called her for coffee because they are friends.

Leonard said he did not recall any other incidents that he either witnessed or that Tanis described to him, involving comments or behaviors by Jeff that offended or bothered Tanis. He said he had nothing to add beyond what we had talked about already.

Leonard said he has tried to "stay neutral" about things between Tanis and Jeff.

**Jeremy Free, VPD**

On 9/6/2008 at 2034 hrs I spoke with Jeremy Free at the Vancouver Police Department East Precinct. Jeremy declined to be tape recorded for this interview. Jeremy gave me the following information.

Jeremy has been employed by Vancouver Police Department for 5 years. He has known Tanis from the time she was assigned out to the east precinct as a DOC Outstation Officer. Jeremy has known Jeff Wilken for the whole time he has been employed by Vancouver Police Department. Jeremy said he did not know how long Jeff had been employed by Vancouver Police Department.

Jeremy was assigned to the West Precinct NRT in January, 2008. He had only been on the team for about 6 months when he was involved in a shooting over near the Target store; he was off for two months following that shooting. Jeremy said the shooting was on May 22.

Jeremy said he did not recall participating in any search warrants the day before the shooting. He said he did not recall being at an address on a search warrant before the shooting, and had not heard of the incident where Jeff supposedly put underwear on Tanis' head. He acknowledged that if the other team members (Fili, Sgt. McNicholas, Brian Billingsley) had been there, he might have been there.

Jeremy said that he never heard of any incident where Jeff may have grabbed Tanis by the neck, or otherwise touched her in any way that upset or bothered her.

Jeremy said he did not recall if he was at Red Robin on the last day of the NRT. He said that "I could have been there" but did not actually recall it. I asked Jeremy if he recalled the warrant written for the rooster; Jeremy said he did and that he actually wrote this search warrant. Jeremy said that he had returned to limited duty then, and wrote this warrant because it was a case he had been working on and it just needed to be finished. Jeremy said he did not go out on the warrant service that day because he had not yet been cleared to return to full duty then. Jeremy again said he did not recall going to Red Robin for lunch after this warrant was served. Jeremy said he never heard of any talk or joking involving a Victoria's Secret card or lingerie, from anyone.

Jeremy said that he could not recall Jeff ever making any off color remarks to anyone. Jeremy asked me what I meant by "off color." I told Jeremy that I was asking if he ever heard Jeff tell any jokes or make any statements that could have been found offensive by someone. Jeremy said he had not. I asked Jeremy if he ever heard Jeff talking about crapping himself. Jeremy said he had heard this story, but that he did not recall from whom he heard it. Jeremy said he did not recall the setting in which he heard this story or how long ago he heard this story, or anyone else who might have been around when this story was told.

Jeremy said that he had never witnessed any incident that involved behavior by Jeff or anyone else that could have been interpreted or had the appearance of sexual harassment. Jeremy said that Tanis had never told him of any problems she had with Jeff or with

anyone else in the department, nor had he ever heard of any incidents occurring involving Tanis and any member of the Vancouver Police Department.

**Duane McNicholas, VPD**

On 9/8/2008 at 2035 hrs I met Sgt. Duane McNicholas at the Vancouver Police Department West Precinct. Sgt. McNicholas and I spoke briefly about my reason for contacting him. Sgt. McNicholas expressed the opinion that this investigation should have been conducted by an agency with no connection to any of the subjects involved. Sgt. McNicholas said that, while he trusted the Sheriff's Office to conduct a professional investigation, Tanis Smith is married to a Deputy, and that fact alone should have led the Vancouver Police Department administration to seek a different agency to review the case.

Sgt. McNicholas said that the NRT teams did over 500 warrants during the course of the existence of the teams, and that they really did work to improve the quality of life for the citizens of the area. Sgt. McNicholas said that he had concerns that the great work the teams did might be overshadowed by this complaint.

Sgt. McNicholas said he was aware that a complaint had been made by DOC Officer Tanis Smith against VPD Officer Jeff Wilken.

Sgt. McNicholas also expressed his belief that the members of the NRT groups were all friends as well as co-workers, and that it had never been his understanding that anyone had taken offense to joking around.

Sgt. McNicholas agreed to a taped interview. During this interview, Sgt. McNicholas gave me the following information:

Sgt. McNicholas indicated that the VPOG had received a communication from the Vancouver City Attorney's Office that officers who did not cooperate with the investigation might be subject to disciplinary action, and that he felt he was being ordered to answer questions.

Sgt. McNicholas also stated that he was a 23-year-veteran of the Vancouver Police Department, and that he was not comfortable that Tanis' husband was a detective with the Sheriff's Office and that could appear to be a conflict with the Sheriff's Office conducting the investigation. He felt this investigation should have been conducted by a neutral and detached agency.

Sgt. McNicholas also stated that he had a lack of confidence in the administration of the Vancouver Police Department, he would be declining to answer any questions related to the performance of anybody at the West Precinct NRT.

Sgt. McNicholas has been a member of the West Precinct NRT since its inception, January 2005, and until it was disbanded in July, 2008. The East NRT was formed around July, 2007. Sgt. McNicholas sometimes supervised the East NRT team if their sergeant was not around, otherwise he was not the direct supervisor of the East Precinct NRT.

The West NRT worked with CCAT on numerous occasions.

In December, 2007, the West NRT personnel included Officer Harris, Officer McGarrity, Officer Billingsley and DOC Officer Graves. In January, Officer McGarrity left and Officer Free took his place.

The West NRT did, on average, around 8 or 10 search warrant during the months of May, June and July, 2008. The team may have done as few as 3 or as many as 15 during a month, but he believed the average was around 8 or 10.

Sgt. McNicholas did not have a recollection a search warrant served May 21, 2008, at 15715 NE 87<sup>th</sup> Circle, where Fili Matua, Brian Billingsley, Leonard Gabriel, Sgt. Chylack, and that the West Precinct NRT van was used as the evidence van. Sgt. McNicholas did not specifically recall this warrant. He had not heard of any incidents connected with this search warrant, or any other, where an officer may have taken a pair of underwear from this house and put it over Tanis' head.

Sgt. McNicholas did not recall any incident where he was speaking with Tanis Smith outside the West Precinct, and Jeff Wilken may have grabbed Tanis by the neck. He never heard Tanis complain to him or to any other officer complain about such an incident.

Sgt. McNicholas recalled the last warrant that NRT served, where a rooster had attacked him. Sgt. McNicholas explained that it was allowable to have a chicken in the city limits, but not a rooster; there had been a number of code violations involving the address of the rooster warrant. Sgt. McNicholas said that Officer Free had written this warrant. Officer Free was on limited duty and had been instructed to complete any investigations that he had started prior to the officer-involved shooting that he had been involved with in May.

Sgt. McNicholas said Officer Free had no part in the investigation at the scene or the execution of the warrant; Officer Free was merely the affiant for the search warrant.

Sgt. McNicholas said they went out to lunch at Red Robin, but he did not recall if it was that day or a different day; he recalled it was towards the end of the NRT. All of the West NRT was there. He thought that the majority of the East NRT was there, except for Sgt. Chylack. Sgt. McNicholas did not recall Officer Nicholson being there, but said that Officer Nicholson very well could have been there. He recalled that the majority of CCAT was there. He recalled that Officer Jeff Wilken and DOC Officer Tanis Smith were there. Sgt. McNicholas said neither of them were seated next to him; they may have been down the table or across from him somewhere.

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Sgt. McNicholas said he did not recall who sat next to him at the long table where they were seated. He said it was a large group from three separate teams. Sgt. McNicholas did not hear any joking or discussion about a Victoria's Secret credit card. He did not recall hearing any conversation or discussion between Tanis and Jeff. Sgt. McNicholas said he did not recall hearing any conversation among anyone about someone trying on lingerie or modeling it for any other team member.

Sgt. McNicholas said Tanis has "absolutely not" taken him aside and told him that she had an issue with any other member of the team. Jeff has never talked to Sgt. McNicholas about any problems he has had with any other member of the team. Sgt. McNicholas has never personally observed anything that could be construed as over the line, or harassment of any sort between Tanis and Jeff. No members of the NRT have ever come to Sgt. McNicholas and told him of any like incidents that should be addressed.

Sgt. McNicholas said that his impression of the East NRT team was that they were not just co-workers but that they were friends. They appeared to be people that hung out together after work and they all appeared to be people in a good mood. Sgt. McNicholas said that he may be speaking out of turn, as he usually just saw the East NRT on operations.

Sgt. McNicholas said it caught him by surprise that a member assigned to that team had these concerns, as it never came across that way. Sgt. McNicholas said it appeared to him that the members of the team enjoyed the fact that they worked hard, they made a difference in the community, and they enjoyed being around each other.

Sgt. McNicholas never witnessed any incidents that appeared to be an issue between Tanis and Jeff. He has never witnessed or heard any concerns regarding Jeff's behaviors towards any other officers.

Refer to transcript for details of this interview.

After the taped interview, Sgt. McNicholas told me that he had talked to Beth Graves when she was first assigned to the West NRT. He said he told Beth that if any of the guys did or said anything inappropriate to her, to let him know and he would take care of it. Sgt. McNicholas said that if Tanis had ever said anything to him about being harassed by Jeff or anyone else, he would have seen to it that it was stopped. Sgt. McNicholas said that no one told him about any problems or concerns.

### **Bryan Acee, VPD**

On 9/10/2008 at 1450 hrs I interviewed Officer Bryan Acee, at the offices of the VPD Major Crimes Unit. Bryan gave me the following information:

Bryan has been in law enforcement for 11 years. He worked for LAPD, before being hired at Vancouver Police Department. Bryan has been with VPD for about 4 ½ years.

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Bryan said that he didn't work much around the East Precinct NRT and that was on purpose. He said that there were some concerns about some of the members of the team, but did not elaborate about these concerns. Bryan said that he respected Jeff Wilken's work as a professional, and said that Jeff was good at interviewing. Bryan said that Jeff's moral compass was set in a different direction than his own, and he chose not to associate with Jeff when possible.

Bryan said that he respected Tanis because she was willing to go out and "violate" offenders, rather than being too soft on them and just giving warnings.

Bryan said he mostly did not socialize with the members of the East NRT. He said that it was his understanding that their activities after hours included activities that he did not participate in, such as visits to strip clubs.

Bryan said that he has never had an affair with Tanis or anyone else associated with NRT, and that he has never hinted or discussed this. Bryan said he believes he knows the source of this rumor, however. Bryan said that when the announcement was made that the NRT teams were to be disbanded, a bar-b-cue was held at Sgt. McNicholas' house. Bryan went to this (as a representative of CCAT); this was possibly the only social event he attended with NRT members.

Bryan said he stationed himself at the bar-b-cue, mostly to avoid the drinking and such. He noticed that Jeff was behaving fine, in contrast to the stories he had heard of Jeff's wild behaviors. Bryan said that Jeff was sitting there drinking a soda, and Bryan commented to him that the stories he had heard about Jeff must not be true.

Bryan said that Tanis and Gordon were dating at that time. For some reason, Gordon was angry at Tanis, and Gordon was not at the party while Bryan was there. Bryan said that Gordon showed up later to pick up Tanis. Bryan said he walked down the driveway to talk to Gordon when Gordon arrived, and that Tanis walked down the driveway with him to see Gordon. Bryan said that Tanis left with Gordon, and Bryan walked back to the house alone. When Bryan got back to the house, he said that "everyone asks where did you two sneak off to?" Bryan said that since he came back alone and Tanis did not walk back with him, some people started making remarks about them. Bryan said the comments were without merit.

Bryan said that he has not personally heard Jeff make any remarks or seen Jeff exhibit any behaviors that could be considered inappropriate or harassing. He said that Tanis had not personally told him about any issues with Jeff or any other member of the NRT. Bryan said that he avoided the East Precinct NRT as much as possible, and that he believes call records will show this.

**Dustin Nicholson, VPD**

On 9/10/2008 at 1712 hrs Detective Eric O'Dell and I interviewed Officer Dustin Nicholson, at the Clark County Sheriff's Office Central Precinct. Dustin agreed to a tape recorded interview. Prior to the taped portion of the interview, Dustin gave us the following information:

Dustin is aware that the Sheriff's Office in conducting a criminal investigation into incidents involving Jeff Wilken and Tanis Smith. Dustin said he came to talk to us because he believes that his administration is going to discipline officers who refuse to cooperate with this criminal investigation.

Dustin thought it was a potential conflict of interest that the Vancouver Police Department had asked the Clark County Sheriff's Office to investigate this case, given that Tanis' husband is a detective for the Sheriff's Office.

Dustin said he had been with the NRT at East Precinct since the East NRT opened, in July, 2007. Dustin said he was off duty for quite a bit of time prior to the end of the NRT in July, 2008.

During the taped portion of the interview, Dustin gave us the following information:

Dustin had not heard that Tanis had filed a complaint about Jeff Wilkin. What he had heard was that Tanis had gone and told a Lieutenant that something had happened, not to complain about Jeff Wilken, but instead to just let him know.

Dustin has not talked to Tanis since the last day he worked for NRT. Dustin thought he had taken June 25 through June 27<sup>th</sup> off work. He checked his cell phone for his calendar, and then said that he went camping from the end of June through July 3, and then was gone July 16 – 20<sup>th</sup>.

Dustin initially said he was not present for the rooster warrant that Jeremy Free wrote; a moment later he recalled that he had been there during the execution of that warrant. Dustin said that several DOC Officers, including Tanis, and several VPD Officers, including Duane McNicholas, Mike Chylack, and Jeff Wilken.

Dustin said he did not go out to lunch with the group to Red Robin later.

Dustin said that he had heard something about a Victoria's Secret credit card, but not from Tanis or Jeff. He did not recall from whom he heard about this. Dustin said all he heard was that Tanis had a Victoria's Secret credit card; he did not know why the subject came up in conversation, other than possibly in connection with this investigation.

Dustin said he did recall the hot pop for meth and money, where Frank Gomez assisted. Dustin said the suspect was an Hispanic, in a red truck; he vaguely recalled that a dog "hit" on the tires in the back of the truck.

Dustin said he thought that Jeff made a comment about getting into Tanis' pants. He said he could not recall the context of the comment, but that it was something like Tanis saying she could not fit into her pants and Jeff saying "that he probably could." Dustin said he did not recall if Tanis had any reaction to this comment. He said he was sitting at his computer at the time; his back was possibly to Tanis and Jeff.

Dustin has worked briefly on a graveyard shift with Jeff before. He had met Tanis before she came to the NRT, at a VPOG golf event. Dustin has known Tanis' husband, Gordon, for a long time. They both worked for Clackamas County at the same time, although at different levels. He knew Gordon and Gordon's ex-wife, Summer.

Dustin said there was a farewell bar-b-cue at Duane McNicholas' house after it was announced that the NRTs were to be disbanded. Bryan Acee was there, as well as Tanis, and most of the NRTs and CCAT. At the event, there was some joking around about Tanis flirting with Bryan. Dustin did not recall who made the comments, only that comments were being made. Dustin did not think that Tanis was actually flirting with Bryan.

Gordon was not there. Dustin left before Gordon arrived, or before Tanis left.

Dustin said that Jeff is a "jokester." He said that any comment could be taken wrong, depending on the audience. Dustin said he was present Jeff had crapped himself. This took place as a result of a bet for money, either for \$80 or \$180, at TGI Friday's. Dustin did not know if Tanis was there; he thought this was before the East NRT was formed.

Dustin said the only comment of a sexual nature he had heard Jeff make in front of Tanis was the one about getting into her pants. He said he only recalled it because we had brought it up to him. Dustin also said that it was only a sexual comment "if it was taken in that manner." I asked Dustin what other meaning that could have had; Dustin said that Jeff is skinny and maybe he meant that he could have fit into Tanis' pants.

Dustin was asked if there was ever any comment made by Jeff that was outside the boundaries of good taste. Dustin said, "My boundaries? No." He then said that he does not get offended by what Jeff says. He said that he would not take his mom on a camping trip with Jeff, though. Dustin said that if his mom got to know Jeff, she might think his comments were funny and then he might invite her.

Dustin said that Jeff is a jokester and always trying to get people to laugh.

Dustin said he does not recall any incident where he was directly there when Jeff made a comment that Tanis was offended by or might have been offended by. He was not present when Jeff was talking about "donkey punch" or "chili dog" as sexual positions. Dustin said he heard about it later when Tanis did not know what a "chili dog" was, so she asked someone else over at DOC. That person did not want to tell her; when she finally convinced that person to tell her, she said that was gross, but did not act offended. Dustin said he did not recall who the DOC Officer was.

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Dustin said Tanis never talked to him about having an issue with comments that Jeff made, or having issues with something Jeff had done to her.

Dustin said that Tanis might have made the comment that Jeff was “dumb” because of somethings Jeff had said, but not that she was offended by him.

Dustin said that he was at the search warrant when Jeff put underwear over her head. He was not in the room when it happened, but Tanis told him as she walked out of the room. Dustin said Tanis told him that Jeff had put underwear on her head; Dustin asked her what she did and she told Dustin that she punched Jeff. Dustin said he did not know why Jeff put the underwear over her head, other than to be funny. Tanis did not seem comfortable about it, but did not seem overly upset with Jeff for it. Dustin said he did not recall Tanis ever coming and talking to him about it later. He said that she may have told him that she told Gordon about it, but she never told Dustin that she had an issue with what Jeff did.

Dustin said that he felt that Tanis had punched Jeff and they moved on. Dustin said that if someone had put underwear over his head at a search warrant scene, he would have punched him and moved on.

Dustin had not seen Jeff do this kind of thing before, so he did not have an opinion as to whether this was the kind of prank Jeff typically did. He said that as long as he has known Jeff, Jeff has always been more towards the “extreme of tried to be funny,” like “shitting yourself just trying to make some money.”

As far as Dustin knew, no one talked to Jeff about his behaviors.

Dustin said that he hasn't seen Tanis since the handcuffing incident; she has not told him anything about it.

Dustin said he recalled Tanis telling him about Jeff grabbing her by the throat. He said he was at Central Precinct (now the VPD West Precinct) when that happened, and Tanis came in said that Jeff grabbed her by the throat. Dustin said he did not recall Tanis asking him to look at her neck. He said he did not remember much more about that incident.

Dustin said Tanis did not tell him about the handcuffing incident and he did not recall from whom he heard the story. Dustin said that what he heard had happened was that it was the last day of NRT and Jeff was behind in his paperwork and evidence. Tanis was sitting behind him, chipping at him about how he should have done it earlier and should have worked harder, and should have been more organized. Sgt. Chylack told Tanis to keep going because she was having fun with chipping at Jeff. Jeff finally stood up and handcuffed her and pushed her down the hallway into the men's locker room. Dustin said he has not talked to Jeff about that.

Dustin said that about that time Jeff was put on admin leave and told not to talk to anyone about it. Dustin said he heard that Sgt. Chylack went down and unhandcuffed her, and she went to Lt. Chapman to let him know what happened, because "Hendo" (whom Dustin identified as Sgt. Dave Henderson) had seen what happened, and Tanis didn't want "Hendo" to be offended or be upset.

Dustin said he was surprised that this has gone to a criminal investigation. He said that he did not think Jeff was singling Tanis out because she is a girl. Dustin said that he got "his fair share" of stuff from Jeff. Dustin said that Jeff was always giving Dustin a bad time and giving Leonard a bad time and giving Sgt. Chylack a bad time. Jeff would tease Sgt. Chylack about his bad hearing and bad memory, and Leonard about his lack of memory.

Dustin said that Jeff never did any physical to him or to any of the others "that sticks out in my mind." Dustin said that he looked at it as they were kind of a specialty unit and they were just having a good time.

Dustin said that he is surprised that this has gone this far, because in the last two weeks of the NRT Tanis was upset that she might be removed from East; when she found out that she could stay at East she seemed happy.

### **Mike Chylack, VPD**

On 9/11/2008 at 1540 hrs Detective Eric O'Dell and I spoke with VPD Sgt. Mike Chylack at the CCSO Major Crimes Unit offices. This interview was tape recorded with Sgt. Chylack's permission. During the interview, Sgt. Chylack gave us the following information:

Sgt. Chylack will have been with the VPD for 14 years, come November 1. He was a supervisor for the Violent Crimes Unit, an auto theft task force and a burglary task force. He had been assigned to the "downtown bikes" until he was promoted to corporal.

Sgt Chylack said he was the supervisor of the East NRT from its beginning in July, 2007, until it was disbanded. Jen Thomas was the first DOC officer assigned to the East NRT; Tanis Smith replaced Jen when Jen chose to go work a mental health case load.

Sgt. Chylack said he had heard about Neil Martin being handcuffed to a van at one point, but that this took place before Sgt. Chylack came to NRT. He was not aware of any issues that arose from this incident.

Sgt. Chylack agreed that Jeff is known for occasional off-color remarks. He had heard the story of Jeff crapping himself, but was not there for that incident. Sgt. Chylack said Jeff will usually check out his audience before saying things that might be off color.

Sgt. Chylack said that he heard about the 'chili dog' and 'donkey punch' comments. It was his impression that everyone was just joking around. He recalled Tanis saying to

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him, in a group setting, that he should go ask Jeff what Jeff said about 'chili dog.' Sgt. Chylack said that Tanis had told other DOC Officers, and even asked Sgt. Chylack to do her a favor and take a can of chili and a hot dot and take it to another DOC Officer assigned to Drug Court, to see what the man would say. Sgt. Chylack said he would, but they never actually did this. Tanis told him she would, one of these days, pick up the chili and hot dog for the joke, but never did.

Sgt. Chylack said Tanis had not appeared disgusted or offended or shocked by Jeff's comments about 'chili dog' or 'donkey punch.'

Sgt. Chylack said that it did not appear to him that Jeff had specifically picked on Tanis; the things that Jeff would say to her were the same kinds of things he would say to Dustin or Jeremy or any of the other guys.

Sgt. Chylack recalled the search warrant at 15715 NE 87<sup>th</sup> Circle. He said he did scene photography because there was no need for 2 sergeants at a search warrant scene. He recalled that Leonard Gabriel was doing evidence because Leonard had injured his shoulder and could not be part of the entry team.

Sgt. Chylack said he did not witness the underwear incident but that he heard about it when they were all in the van together afterwards, driving somewhere. Tanis said something like, "I can't believe you did that to me." She appeared to be joking with Jeff. Jeff told her that the underwear came out of the "clean drawer." Sgt. Chylack said it appeared that everyone in the van was laughing about the incident. He said Tanis did not specifically talk to him about this incident, and she did not talk to him later about the incident. Sgt. Chylack said he did not talk to her in private about this.

Sgt. Chylack said he had not been aware of the choking allegation until he heard about it about a week ago. He did not recall specifically from whom he heard it; he said that people have been talking. Sgt. Chylack said that he had talked to Leonard Gabriel, to Tanis twice, and others.

Sgt. Chylack said he had not talked to Tanis about the neck squeezing incident, nor had she ever brought it up to him. Sgt. Chylack said he had talked to Tanis since he heard about it, but they did not discuss any of the allegations. He said he offered to go out and have a beer with her when this was all over.

Sgt. Chylack said he recalled the controlled buy where Frank Gomez assisted with a traffic stop in the Lowe's parking lot. He said that Jeff interviewed the driver and got him to admit to everything. Sgt. Chylack recalled the truck had a column shift and no AC, and that it was a truck the suspect's boss had given him. Sgt. Chylack recalled that they went to the suspect's apartment and got the rest of the guy's drugs.

Sgt. Chylack said that he did not recall hearing any talk by Jeff as to whether Frank Gomez could fit into Tanis' clothes, or of Jeff saying that he could get into Tanis' pants.

Sgt. Chylack said that he recalled the rooster warrant that Jeremy Free had written, that was served either the last day of, or a day or two before, the NRT teams. He thought that Jeremy was with them in the van when the warrant was served. He recalled that Dustin Nicholson was there, and that Sgt. McNicholas was there. Sgt. Chylack recalled that Sgt. McNicholas was attacked by the rooster; that the rooster went right around him and went for Sgt. McNicholas.

Sgt. Chylack said that he did not go to Red Robin with the group afterwards, as he had a lot of paperwork to do.

Sgt. Chylack said the handcuffing incident took place the next day. He said that it was towards the end of shift, and Jeff was getting ready to go to West Precinct. Sgt. Chylack said that Tanis was chipping at Jeff about Jeff being so far behind on his stuff, and he encouraged Tanis to keep at Jeff. Sgt. Chylack said he was typing, and he heard something to the effect of "what are you doing?" He turned and saw that Tanis had one hand cuffed to the chair arm, and that Jeff was in the process of handcuffing her other hand to the chair. He did not recall Tanis asking him for a handcuff key.

Sgt. Chylack said Jeff started pushing Tanis out of the cubicle area, and he told Jeff not to take Tanis outside. He said that people coming into the precinct might get the wrong idea if Jeff wheeled Tanis outside.

Sgt. Chylack said he had no idea that Jeff was going to wheel Tanis into the men's locker room. He heard a commotion and came out into the hallway. Sgt. Chylack said he saw Sgt. Henderson, and possibly another officer. Sgt. Chylack said he unhandcuffed Tanis using his own cuff key. He did not know what happened to Tanis' handcuff key. He thought that both handcuffs that Jeff used were Jeff's.

Sgt. Chylack said that it appeared to him that this was all in a joking attitude. He said he did not see Tanis resist or kick at Jeff. Sgt. Chylack said he was concentrating on typing because he was behind.

Sgt. Chylack said Tanis told him that she was concerned that Sgt. Henderson would be upset. Sgt. Chylack said he offered to go talk to Sgt. Henderson, but Tanis declined to have him do this.

Sgt. Chylack said that he took a couple days off after that, after working one more day. He went to D-Mac's birthday party, and to Dustin Nicholson's wedding. He went to Riffe Lake and was there for a couple of days. On the way back from Riffe Lake, Sgt. Chylack received a call from Lt. John Chapman. Lt. Chapman asked him to write a memo about the handcuffing incident.

Sgt. Chylack said that he also got a call from Tanis. Tanis told Sgt. Chylack that Gordon was upset at what happened and that Gordon didn't want Jeff to come to Tanis and Gordon's wedding. Sgt. Chylack said he got the impression that it was Gordon who was upset at all this, not Tanis.

Sgt. Chylack said that about a week or so before the NRTs were disbanded, Duane McNicholas had a bar-b-cue at his place. Sgt. Chylack recalled using his debit card to buy hot dogs and buns for this. He heard later that Tanis and Gordon were feuding about then; he did not see Gordon at the bar-b-cue. He did not see Tanis flirting with anyone there.

Sgt. Chylack said that he had not heard Jeff say anything that Tanis could have construed as sexually harassing in nature. He said that the off-the-wall comments Jeff made were in fun, and that even the handcuffing incident was "pretty jovial." He never heard Tanis tell Jeff to stop. Sgt. Chylack said that if Tanis had been concerned with anything and had mentioned it to him, he would have stepped in.

Sgt. Chylack said that after this all came out, he asked Tanis why she hadn't come to him with her concerns. Tanis told him that she hadn't wanted to get him into the middle of it.

Sgt. Chylack was asked how he or Jeff knew the underwear that Jeff had put onto Tanis' head was clean. He said that he didn't know, but that Jeff had said it was. Sgt. Chylack said he was told that it came out of a clean pile or drawer or something. He said that, if someone had done that to him "there would be some expletives flying."

Refer to transcript for details of the interview.

### **Jeff Wilken, VPD**

On 9/17/2008 at 0900 hrs Jeff Wilken and his attorney, Jack Green, came to the CCSO Major Crimes Unit offices. At 0905 hrs Detective Eric O'Dell and I spoke with Jeff Wilken. This interview was recorded, with Jeff's permission. Jeff gave us the following information:

Jeff has been with VPD for almost 11 years. He was an officer with the Romeoville Police Department in Illinois before that, for almost 3 years. He was in the Army before that, as an MP, with the 10<sup>th</sup> Mountain Division.

Jeff worked patrol from 1997 until 1999, and then went to the Street Crimes Unit. Sgt. Duane McNicholas and Troy Price were also in this unit. Jeff was assigned to the NRT in July, 2007.

Jeff told us that CAT worked more with the West NRT than with the East NRT. Jeff estimated that 70% to 80% of the time CCAT worked with the West NRT.

When Jeff first went to the East NRT, DOC Officer Jen Thomas was on the team. The others were Sgt. Chylack, Leonard Gabriel and Dustin Nicholson. Jen's education or experience is with the mental health field, and so she decided to go work with the mental health clients. Jen left around October. A matter of weeks went by, and Tanis came to replace Jen, in November. Jeff had not met Tanis before this. He knew who Gordon was,

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but had not worked with him. Jeff recognized Gordon's name from MDC calls and reading police reports.

Jeff said took a lot of time during November through January, because of his divorce. There were jokes then that Jeff never worked with Tanis before that because he had so much time off. Even after Jeff came back, he said he seldom did DOC contacts with Tanis, because he had so many CIs to work. He estimated he went with her to less than 5 DOC checks with just Tanis. Most of the time Tanis went with Dustin to make her DOC checks.

Jeff described Tanis as "one of the guys." He said she is younger than he is. He said she had a drive to do the job and did not back away from work or challenges. Jeff said Tanis had a good work ethic. He said it was fun to work with her.

Jeff said he had never had a complaint made against him for use of profanity. Tanis made it clear that she had no problem with the way Jeff talked to people. Jeff said that, to him, she was "one of us." Jeff said that Tanis, as well as Jen before her, acted like cops.

Jeff knows of horseplay that occurred in the past with the specialty groups. He recalled that Neil Martin had been handcuffed by DOC Officer Brian Ford, because Neil has a mouth on him and likes to remind people of their mistakes. Brian twice handcuffed Neil to put him in his place; one of these times was in the office and the other time was to the NRT van.

Jeff said that he is also aware of times when people have sent emails, from unattended computers, to members of the administration. Jeff said he heard that Bryan Acee once sent an email from Boynton's computer, telling command staff that they needed more work.

Jeff said he felt comfortable enough around Tanis that he could joke with her. She seemed comfortable in conversations with him about her personal life, and sharing her personal experiences with him. Jeff said they talked about how Tanis had become involved with Gordon Conroy, that Gordon was still married when they started the affair. Jeff said that his own girlfriend had been concerned about Jeff's co-workers, and whether Jeff's co-workers would accept her since some knew Jeff's wife. Tanis told Jeff that she was worried about being accepted by Gordon's friends and their wives. Some of the wives of her co-workers were uncomfortable with her affair with Gordon, as they knew Gordon's wife, and that Gordon's wife was pregnant with twins when Tanis and Gordon started the affair. Jeff said that Tanis told him that she had only been married a short time; Jeff could not recall if Tanis said they had been married only 8 months when the divorce happened, or 8 months when the affair with Gordon started.

Jeff said that, around the tail end of the NRT, possibly between July 10 and July 13, they did a controlled buy. This was around 137<sup>th</sup> Avenue, north of 49<sup>th</sup> Street. They learned that "Mexicans" were going to be showing up to a house with drugs. They did surveillance on this house, then went north to the 6000 block of NE 137<sup>th</sup> Ave. They

were waiting for another vehicle, when Tanis looked over her shoulder and told Jeff that she used to live near by, before the divorce with her husband.

Jeff said that Tanis told him that she had taken Gordon to this house, where her husband at that time and she had been living. She told him that they had sex in another bedroom, not the master bedroom. Jeff said he told her he could not believe that she would do this.

Jeff said Tanis told him that she had told her husband everything, that she and Gordon had slept here at the house. Tanis told Jeff that her husband punched her in the face and gave her a black eye. She told Gordon, and Gordon called her husband and told him that if he ever touched her again Gordon would kick his ass.

Jeff said they never talked about this again. This conversation led him to believe they were friends.

Jeff said this was the incident where Frank Gomez made the traffic stop for them, after the "bad guy" drove by. Jeff talked to the driver; he agreed to talk to them. Jeff drove the suspect's truck to the East Precinct, and Tanis drove their UC car. The suspect admitted having more drugs at his apartment. Jeff said they went to the suspect's apartment and got drugs and money there.

Jeff did not recall any conversation that involved Frank Gomez fitting into Tanis' pants, or joking about someone getting into Tanis' pants. Jeff said that "fitting in her pants or getting in her pants, would be, to Jeff Wilken, two different things." Jeff said that he did not have a recollection of a conversation like that at all.

Jeff said he would not make a joke about getting into Tanis' pants sexually.

Jeff said he is 40, and he has a girlfriend who is 25. He said his girlfriend does not have a lot of knowledge about cops. He said his girlfriend is aware he worked with Tanis; she was a little insecure about this. Jeff said he told his girlfriend that he did not find Tanis attractive, but considered her a friend. He said he took Tanis to Esther Short Commons, where he used to live, to meet his girlfriend. Jeff said his girlfriend worked there. After, Tanis told him that she thought his girlfriend is beautiful.

Tanis told Jeff that Gordon was really jealous of her working out there with cops. Jeff said that, realistically, it could have something to do with how they met and their affair. Jeff said he recalled telling Tanis that he was learning from his mistakes, that he was not putting himself in bad situations again, like going out for beers. He said Tanis told him that she was learning from her mistakes, too, and that life was good.

Jeff said there was an NRT party on July 3, at Duane McNicolas' house. Earlier that day, they all went to visit the businessman who sponsored the NRTs. They thanked him for everything he had done for the teams. After that, they went to Billygan's. About a week before, Tanis had bet Jeff a beer that he could not get a particular suspect to confess. Jeff won the bet.

While they were at Billygan's, Jeff asked Tanis about the beer she owed him. No one had more than one beer, that Jeff knew. Jeff had ridden with Tanis and Leonard up to Billygan's, in her car. After lunch, Dustin Nicholson went to get a case of Diet Coke. Jeff, Jeremy Free, Leonard and Tanis all walked over to get a bottle of rum.

Jeff said he had decided not to drink anymore that day. The others discussed how big a bottle of rum to get. When they walked back to the car, Tanis asked Jeff to drive her car. She was proud of her new Dodge Charger. Tanis is small, so Jeff had to slide the seat back. Leonard sat in the back seat; Tanis sat in the front passenger seat.

Jeff said they got to McNicholas' house. Others from the CCAT and NRTs showed up. Tanis was drinking; Jeff thought he might have had only one more beer. Jeff said that everyone was commenting and joking that he wasn't drinking. Jeff said that his reputation is that "Jeff Wilken tends to be the life of a party a lot of times." He said that he tends to be the life of a party.

Jeff said that Leonard, Dustin, Acee and others were joking about Jeff not drinking. Jeff said that at some point, Beth Graves sent a text message around that consisted of a picture of two women on a bed, in the "doggy style position" on their hands and knees; visible on the image was the women's buttocks, vaginas and thighs. This message was forwarded to Jeff's cell phone by Beth; the caption was something like, 'How about these two biscuits with your breakfast' or coffee or something.

Jeff said that Beth and he had socialized off duty, but he has never socialized off duty with Tanis. Jeff said his girlfriend has been with him when he and Beth socialized. Beth was comfortable with Jeff's girlfriend; she told Jeff's girlfriend that the picture was of Beth and Tanis. Jeff said his girlfriend asked if Beth was serious. Jeff said he told her, no. Jeff said Tanis was drunk; she also added – slurring her words – that it was not her and that Beth was just kidding. Jeff said he deleted the picture.

Jeff said he noticed that Tanis and Bryan Acee were talking; Jeff's girlfriend asked if Bryan Acee was Tanis' boyfriend. Jeff said he and his girlfriend left a while later. As they walked through the garage out to where the cars were, Jeff suddenly saw Beth standing up, by an SUV. Jeff said he then saw Bryan Acee and Tanis behind this same vehicle. When they see them, Jeff said that, as a cop, their facial expressions led him to believe that something had been, or would have gone one.

Jeff said that Beth walked off, and Acee walked off with her. Tanis came up and gave Jeff's girlfriend a hug, and then gave Jeff a big hug. Jeff said he told Tanis to be safe, meaning that he did not know what they were doing, but "don't be stupid." Tanis said, "we're still friends, right Jeff."

Jeff said that on their next days back at work, either Tuesday or Wednesday, Tanis told him that Gordon was pissed off. She told him that Gordon had shown up and found Tanis and Acee back in a secluded area by a shed, and that "it didn't look good." Jeff

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said that it didn't look good to him when he and his girlfriend walked by them by the SUV.

Jeff said that he also told Tanis that "she really fucked me over there." Jeff said that he had been assuring his girlfriend that Tanis is a safe person for Jeff to work around, and then they saw Tanis and Acee by the SUV, and the girlfriend knew that Acee is not Tanis' boyfriend. Jeff said that Tanis told him that nothing could happen or would happen, because Acee is very good looking, but nothing happened.

Jeff said that Tanis then told him Gordon was upset with her when he found that the seat of her car had been moved back.

Jeff said that he never asked Tanis if she wanted to fuck Bryan Acee. He said that, after the McNicholas' party, he asked her if anything happened there between her and Acee, but that he never asked her that question. He said he never asked Tanis if she wanted to fuck him (Jeff).

Jeff said that the panties incident did take place at a house that had two search warrants served on it. He said that he recalled Duane McNicholas, Fili Matua, Mike Chylack, Jeff Kipp (then supervisor for CCAT), Spencer Harris, Brian Billingsley, Tanis and Jeff were there. He recalled that Leonard Gabriel was doing evidence. Jeff said that while they were doing the search, someone brought a box in that had a sex device in it. He said that they hadn't found "dope" in the house yet. Jeff said that at some point, he and Tanis are in the bedroom along with several other officers.

Jeff said that, as they were leaving the bedroom, Tanis is right ahead of him, and Jeff saw a laundry basket with clean, folded up clothes in it. Jeff said he grabbed a pair of women's underwear and put them on top of Tanis' head. Jeff said that it was funny, and that he would have done that to anyone who had been walking in front of him at that moment. Jeff described Tanis' reaction as "laughing" and that she called him "an idiot, you're an asshole." Jeff believed that one or two others heard or saw this.

Jeff said that Mike Chylack never talked to him about this. Mike was assigned to take pictures during this search warrant. Jeff said that he did not ride back in the raid van with the others; he had brought his patrol car to the search warrant and he drove that back.

Jeff said that the next time anyone ever talked to him about the incident was on Monday, August 11, when he and Leonard Gabriel had a conversation over the phone. It was that afternoon that he was told he was being assigned to Evidence, on administrative leave.

Jeff described the handcuffing incident as "funny." He said that it was the last day of NRT and he was behind on his paperwork. They were back at the office after doing the chicken warrant where Duane McNicholas was attacked by the rooster.

Jeff said that he had worked with Tanis so long by this point that he considered her to be like a sister, a partner, a friend. He said that they joked around all the time. Jeff said that

he saw Tanis' hand cuffs on her desk, and he just went up and took the cuffs and handcuffed her left wrist to her chair. He said that he had his own handcuffs, and used them to handcuff Tanis' right hand cuff to the chair. Jeff said that she was laughing and that Mike Chylack, who was right there, was also laughing.

Jeff said that he pushed Tanis in the chair out of the NRT cubicle area and towards the doors to the parking lot. Jeff said that his initial plan was to push her outside, but he realized as he got towards the door that he did not have his key fob with the electronic key, and that he would not have been able to get back inside. Jeff said that about that same time, he was by the men's locker room.

Jeff said that right before he handcuffed Tanis, he had been in the men's locker room and knew that no one else was in there. He pushed Tanis and the chair in through the first door, which the janitorial staff may already have left open. Jeff said that the whole time, Tanis was telling him "where you gonna go. Don't put me in there, Don't put me in there. Jeff, don't, don't, don't." Jeff said that she was laughing the whole time, "hysterically laughing." Jeff said that Tanis did not tell him to "knock it off" or to stop. He felt that she was enjoying the joke, and was only concerned because she did not know that no one was in the locker room.

Jeff said that just as he pushed Tanis in, and then stepped out of the locker room, he saw Sgt. Henderson. He said that Sgt. Henderson's comment was, "Oh, no, Wilken, I'm not going to be part of this IA." Jeff said that Sgt. Henderson pulled Tanis out of the locker room, and Tanis was still laughing. Jeff said that he unhandcuffed Tanis, and she stood up and Sgt. Henderson left.

Jeff said that as he and Tanis walked back, he said to her that he was concerned that it was Henderson who had seen this, and that he was worried that Henderson might not know they were joking around. Jeff said he told Tanis that he was going to talk to Sgt. Henderson about it later. As they got back to the NRT cubicles, Mike Chylack was still there, laughing. Jeff said that he and Tanis were still laughing.

Jeff said that Tanis then went and got her cell phone and immediately called Gordon. He heard her tell Gordon about the handcuffing incident. Jeff questioned her about this; knowing that Gordon is a jealous guy, but Tanis told him that it would be okay, and that Gordon was laughing about it on the phone.

Jeff said that, after the NRT was disbanded, he was up camping with his friends, including the McNicholases and the Chylacks. While there, Mike Chylack got a call, and then came and told Jeff that Lt. Chapman asked him and Sgt. Henderson to write memos about the handcuffing incident. Jeff said that Mike Chylack also told him that Gordon did not want Jeff to be at Tanis and Gordon's wedding.

Jeff said that he went in to work the following Monday, and talked to John Chapman by phone. Lt. Chapman told him that he had to write up the handcuffing incident. Lt. Chapman told Jeff that Tanis had come and talked to him about the incident. Lt.

Chapman also told Jeff that he believes Tanis thought she was doing Jeff a favor by talking to Lt. Chapman about it.

Jeff said that either that day, or the next, Jeff vented to the guys at briefing about "how fucked up things can be sometimes."

Jeff said that he also talked to Leonard Gabriel, and Leonard told him that Tanis had broken down while in Leonard's car, and was telling Leonard about the panties on the head, the handcuffing thing and that Gordon was pissed off. Jeff said Leonard told him that he was at Gordon and Tanis' wedding and that Gordon approached him about what Jeff did. Leonard told Jeff that he did not want to talk about it, and Gordon agreed, being that this was Gordon and Tanis' wedding day.

Jeff said that he did nothing out of malice. He said that he believed that everything he did was harmless.

Jeff said that when he was sent home on full admin leave, he talked to Lt. Chapman by phone. He was told this time that Jeff Frice from the DOC had come in with a written complaint, and that Lt. Chapman had to send that up. Lt. Chapman said that Jeff was being criminally investigated for the allegations.

Jeff said that, in hindsight, what he did "probably wasn't smart." He said that he believed he knew with whom he was interacting and that "I know in my head and my beliefs I did nothing wrong." Jeff said that he believes that Gordon did not have the right to make an issue of this when Tanis never said she was bothered by it. Jeff said that if Tanis was truly bothered by what had happened, she had the opportunity when she talked to Lt. Chapman the first time to tell him about all the incidents she wrote up.

Jeff said that Tanis never told him to knock it off, or not to do something, or that she did not like what he was doing. He said that he believed that if Tanis really had a problem with anything he was doing that Tanis would have told him.

Jeff said that, when the handcuffing thing happened, Tanis did not swing at him or try to kick him, in jest or otherwise. He said that she did not drag her feet as he pushed her in the chair or otherwise try to stop the chair. Jeff said he did not recall throwing Tanis' handcuff keys out into the hallway after cuffing her.

Jeff said that he must not have had his handcuff keys with him, because he did not have his key fob to get back into the building. He said that maybe Sgt. Henderson had unhandcuffed Tanis.

Jeff was asked about the incident at West Precinct where Tanis alleged that he grabbed her by the neck. At this point, Jack Green asked for a break. During the break in the interview, Jeff consulted in private with his attorney, Jack Green. After the break, Jack informed us that he was advising his client not to comment about the alleged incident at the VPD West Precinct where Jeff had allegedly grabbed Tanis by the neck. Jack said

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that he believes his client's answer to questions about such an incident to be that he did not recall that happening.

Jeff said that he was at the Red Robin luncheon. He named the people whom he believed were there at the luncheon. Jeff said that Tanis was seated to his right, and that when she was going through her wallet to get her card to pay her bill, he saw her Victoria's Secret card. He said he made a "smart ass comment" about the card, and said something to the effect of "Oh, I didn't know you had a Victoria's Secret card. Let's go there and buy a bunch of shit." Jeff said it was a general joking kind of comment. Jeff said that Tanis did not say anything to him that indicated she was offended by this; he believes she was laughing.

Jeff said that Tanis has shared details of her personal life, like her affair with Gordon, and stories about how Gordon's 7-year-old son watches her naked sometimes, and how she has to be careful about that.

Jeff said he recalled the conversation about 'donkey punch' and 'chili dog.' Jeff said that years ago a list came out of 25 to 40 sex things you would never do with your wife or girlfriend if you cared for them. Jeff said that every once in a while he hears a new one. Jeff said that Mike Chylack actually brought this conversation up, and asked Jeff to tell Tanis what they were. Jeff hesitated at first, because he didn't know Tanis well then, but Tanis said it was okay. Jeff then described what those things were. Tanis gave no indication that what he described was anything other than funny. Jeff said this took place at the NRT offices at East Precinct.

Jeff said that if anyone, including Tanis, had ever told him that he was making Tanis uncomfortable, he would have stopped. Jeff said that Leonard Gabriel was the first one to ever do so, and that was in August, when he and Leonard talked.

Jeff said that he has never touched Tanis, other than the handcuffing thing and the panties thing.

Jeff said that he believes that he never told her something to make her scared.

Jeff said that he would never do anything to intentionally embarrass someone, where they could not save face somehow. He said he is not mean-spirited and not an evil person.

Jeff said that he and Dustin Nicholson were interviewing "Tweedle Dee and Tweedle Dumb" and got the idea to have them put on Chylack's flannel shirt and Tanis' DOC vest. He then took digital images of them and sent them to Tanis' cell phone. They text message back about them; she told him that "you're an ass." Jeff said that he texted back to have Chylack look closely at the picture, so that he could see one of the people is wearing Chylack's shirt. Chylack called Jeff "a dickhead."

Jeff was not aware of Tanis ever masterminding a practical joke.

Jeff described crapping himself for \$60, while in a camping trip with coworkers. Jeff said it was a "good running joke for a while."

Refer to tape transcript for details of this interview.

Following the taped portion of the interview, Jeff said that Dustin Nicholson was not at the first incident where Jeff had crapped himself, while camping at Rife Lake. Jeff said that Dustin was at a later incident, at TGI Friday's. Jeff said that a challenge came up at dinner there, and he collected \$110.00 by convincing the others at the dinner that he had crapped himself. Jeff said it was easier this time and he didn't have to provide as much proof, because of the prior incident.

Jeff said that all he did this time was go to the bathroom and take a dump, and then not wipe himself afterwards. When he felt it was time to "prove" he had crapped himself, Jeff said he took a napkin and, while at the table, wiped himself with it and showed the others at the table; this convinced them that he had crapped himself and he collected the \$110.00.

Note: During the interview with Jeff, I inadvertently placed the first tape, side 'A', back into the tape recorder at a time when I intended to use a new tape. A few seconds of the second portion of the interview (which began at 1039 hrs, and should have been on tape #2) was recorded over the first portion of the interview, which had begun at 0905 hrs.

### **Tanis Smith (Tanis Conroy), DOC**

On 9/17/2008 at 1302 hrs Tanis Smith and her attorney, Tom Boothe, came to the CCSO Major Crimes Unit offices. Detective Eric O'Dell and I spoke with Tanis about possible dates when the incident at West Precinct, where Jeff had grabbed Tanis by the neck. I provided copies of reports I had located involving the two NRT groups in June. Tanis looked at the reports; she said she could rule some of them out as not being the incident because of the time, or because she had specific recollection of that particular incident.

Tanis was not able to identify which incident could have been the warrant service after which Jeff grabbed her neck. She said that she recalled the warrant was served in the morning, and that it was still daylight out, and sunny, when Jeff had grabbed her by the neck.

Tanis was shown copies of the following VPD reports:

V08-10641 6/03/2008 Tanis said this was too late in the day.  
V08-10816 6/05/2008 Tanis said this was too late in the day.  
V08-11078 6/10/2008  
V08-11082 6/10/2008  
V08-11218 6/12/2008  
V08-11269 6/12/2008 Tanis said this was too late in the day.  
V08-11288 6/13/2008 Tanis said she knew it was not these incidents because she

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V08-11300 6/13/2008 recalled racing Spencer Harris on this date, between the service of these warrants.

V08-11312 6/13/2008 Tanis said this was not the warrant.

V08-11585 6/17/2008 Tanis said she thought this was too late in the day.

Tanis agreed to a taped interview. During this interview, Tanis gave Detective O'Dell and I the following information:

Since our last interview, Tanis has formally changed her name to 'Conroy.'

Tanis said when she first made the report to Lt. Chapman, she was "really scared" so she just told him that the handcuffing thing happened. She told him that Sgt. Henderson, who has a reputation as a "by the book" guy, had seen the incident and she thought that Sgt. Henderson was upset by it. She did not recall if Sgt. Henderson said anything about an IA coming out of this. Tanis said she went to Lt. Chapman because she figured that he might take her complaint seriously.

Tanis said that Lt. Chapman said he was "really sorry that this happened to you." He also told her that if he was in Gordon's shoes, he would have been upset about it, too.

Tanis said that she had a conversation with Sgt. Chylack; he told her that Lt. Chapman had told some people to write memos about what happened.

Tanis said she talked to her DOC supervisor, Jeff Frice, either the same day she told Lt. Chapman or a day or so later. Prior to that, she never reported any of the incidents to anyone at DOC.

Tanis said that she only told Neil Crannell, who works at the VPD East Precinct, about how frustrating it was to be with the NRT but still having to do DOC work. She and Neil talked a little about the handcuffing incident, but she was not sure if she ever told Neil about anything else.

Tanis said she had gone out with VPD Officer Tim Martin once, to do some DOC contacts on suspected gang members. This was right after the handcuffing incident. Tanis said that there was gang training on the Friday after the handcuffing incident, and that on the following Monday, Sgt. Henderson had Officer Tim Martin go out with her to make some contacts. Tanis said that during their time together, she briefly talked about the handcuffing incident, but not much, because she believes that Tim and Jeff Wilken are friends.

Tanis said that Tim Martin told her that later that night (the last night of NRT), Jeff got on the air ("over the radio, over Dispatch) and played 'Taps.' Tanis said this was an example of Jeff "crossing the line again." Tanis said she did not hear it herself, as she had gone home by then.

Tanis said she does not like Rees Campbell, and would not talk to him about her personal life. She denied ever telling Rees anything that ever happened between her and Jeff.

Tanis said that she never told Neil Martin anything about what had happened between her and Jeff on the NRT. She said that Neil Martin had come up to her at Dustin Nicholson's wedding, and told her that he was glad that the NRT was over, for her sake.

Tanis said that the day of the party at the McNicholas' house, she drove her personal car to Billygan's, with Leonard Gabriel riding in the front seat and Jeff Wilken riding in the back seat. After lunch, Jeff Wilken drove her car to the McNicholas' house, with Leonard riding in the back seat. Tanis said that at that party, she was "pretty drunk" and was too drunk to drive home. Tanis said she did not recall any images on anyone's cell phone of two naked women, or that anyone said that one of the women was her.

Tanis said that Gordon came to the party, and was upset because she had been drinking and could not drive her own car home. He was upset because that meant that they would have to make another trip all the way up to the McNicholas' house to retrieve her car later. She said she did tell Gordon that Jeff drove her car, but that Gordon was not upset about this.

Tanis said that she did meet Jeff's girlfriend when Jeff and her went by some downtown apartments. She said that this girlfriend was also with Jeff, at the McNicholas' party.

Tanis said she has talked with Beth Graves since I interviewed Beth. She said she talks to Beth nearly every day, as Beth is Tanis' lead officer. Tanis said she had talked with Beth "a little bit" about not wanting to be in the same place Jeff was, but did not seem to recall any specific conversations she ever had with Beth about incidents with Jeff. She said she was sure she had a conversation with Beth about being uncomfortable around Jeff, but that she did not recall Beth's response to that.

Tanis said she "might have told" Jeff some things about her personal life, like her affair with Gordon, but nothing that wasn't already known by everyone. She denied ever telling Jeff that she had taken Gordon to the house that she and her then-husband lived in while she and Gordon were having an affair. She denied ever telling Jeff that her then-husband had hit her and given her a black eye, and denied that this incident had ever occurred.

Tanis said that if Jeff knew any of this, it probably came from Rees Campbell. Tanis said that Rees would have heard it through the grapevine.

Tanis said that Gordon did not know that she was going to tell Lt. Chapman about the handcuffing incident until after she had done so. She said the rest of the complaint came out when she told DOC Supervisor Jeff Frice about the handcuffing, and then told Jeff Frice that there was more. Jeff Frice made her tell Lt. Chapman about the rest of the incidents.

Tanis said that it was Gordon's decision to call attorney Bill Baumgartner, because he and Bill are friends. It was through Bill that Tanis and Gordon were introduced to Tom Boothe.

Tanis said that she never initiated any practical jokes while at NRT. She said that she did not witness a lot of practical joking at the NRT. She said that she had heard of a prior incident where a DOC Officer had handcuffed VPD Officer Neil Martin, but did not witness this incident.

Tanis said that she felt she was teased more because she is a woman than because she is a DOC Officer. She said she occasionally heard, mostly from patrol officers, complaints about DOC.

Tanis said that she hadn't initiated any teasing with Jeff, except for the last day of NRT (the day of the handcuffing), and that Mike Chylack was encouraging her that day, because she was standing up for herself.

Tanis said she had spoken with Leonard Gabriel since all this came out. She said that she did not believe that Leonard was trying to influence her in any way. She said that he probably just felt frustrated because he felt caught in the middle between Tanis and Jeff.

Following the taped interview, Tanis and Tom left. As they were leaving, I recalled that Jeff Wilken had admitted sending a digital image to Tanis of two "tweekers," one wearing Tanis' DOC vest and the other wearing Mike Chylack's flannel shirt. I asked Tanis about this; she said she had forgotten this, and two other similar incidents.

Tanis said that the first incident took place in May or June, when she was supervising a woman who was a prostitute, Julie Proper. Tanis and Dustin Nicholson were out making a contact, and Dustin received a text or image message from someone. Dustin opened the message and began laughing. When Tanis asked what was funny, Dustin handed her his phone. Displayed on the phone was a digital image of Julie's advertisement (implying prostitution services) from Craig's List. Tanis saw that the message had been sent from her personal cell phone, which she had left on her work desk back at the NRT East cubicle.

Tanis said she knew this was around May or June, because she stopped supervising Julie Proper in June.

Tanis said the second incident was about a month later. At that time, Tanis and Sgt. Chylack were out doing field work, and Tanis received a digital image on her personal phone from a number she was not familiar with. Tanis later learned this number was Jeff Wilken's personal cell phone number. The digital image was of two subjects, whom Tanis later learned were confidential informants being worked by Jeff and Leonard. One of the subjects was wearing Tanis' DOC work vest, and the other was wearing Mike Chylack's undercover shirt or jacket.

Tanis said she was "pissed" and "upset" about this, but did not confront Jeff about it. Tanis said that Mike, who usually "laughed at everything," got upset later when he figured out that one of the CIs were wearing his undercover flannel shirt. Tanis said she did not recall Mike's words, but he was swearing, and she knew he didn't like that the CI was wearing a piece of Mike's clothing. Tanis said Mike later said that he went and washed it because the CI had been wearing it.

Tanis said the third incident took place around the same time, and took place when she was in the office at East Precinct. Tanis said she received a digital image on her personal cell phone, again from Jeff's number. Tanis said that Jeff had a CI in the office he was working, and he took a digital image of the woman's butt and sent it to her from his personal cell phone. Tanis said the image showed the woman's butt crack and thong underwear showing. She said the woman was wearing pants, but the way the woman was positioned in her seat, and leaning over, much of the woman's buttocks were exposed.

### **Mike Chylack, VPD**

On 9/21/2008 at 2050 hrs I spoke with Sgt. Mike Chylack by telephone. Sgt. Chylack gave me the following information:

Sgt. Chylack recalled the digital images sent by cell phone of the CIs or dopers wearing clothing belonging to members of the NRT. Sgt. Chylack said that all of them at NRT usually kept their undercover coats or shirts or jackets on the back of their chairs, so the team members could grab them quickly if they needed to go out.

Sgt. Chylack said that the first series of images were sent to Leonard Gabriel, and were of some dooper wearing Leonard's jacket. Sgt. Chylack said, "We did to him" and that "he's all mad at us" and took his shirt home and washed it "like 20 times." Sgt. Chylack said it was funny, and they expected that there would be retaliation from Leonard over it.

Sgt. Chylack said the next images that he recalled came while he and Tanis were out making DOC contacts, and she got an image on her cell phone of the CIs wearing her vest and his jacket. Sgt. Chylack said "she started to laugh" and said, "You, too, Sarge." Sgt. Chylack looked and saw the CI or dooper wearing his hoodie. Sgt. Chylack said he took it home and washed it a bunch of times.

Sgt. Chylack said that all of them were involved in this back and forth stuff; he did not think anyone had been seriously offended by any of it and that they all thought it was funny.

### **Evidence Recovery / Digital Images from 15715 NE 87<sup>th</sup> Circle**

On 9/22/2008 at 1210 hrs I received evidence item 1372-004, VPD case V08-9794, noted as a "CD with digital photographs of crime scene" from the VPD Evidence Unit. This is described in VPD V08-9794 as digital images taken by Sgt. Mike Chylack at 15715 NE 87<sup>th</sup> Circle, on 5/21/2008.

These digital images appear to depict views of 15715 NE 87<sup>th</sup> Circle, and include views of various rooms in the residence. The digital images include images of damage to an exterior door frame, a fence, a bathroom with graffiti written on a wall, living room area with dislodged curtain, entertainment center with dislodged doors, view from residence into garage (showing connecting door with what appears to be spray-painted graffiti), a damaged window and dislodged curtain, views of bedrooms and contents, drug paraphernalia, and other images.

Laundry baskets in two rooms were visible, including in one room that may have been the master bedroom. I did not see views of neatly folded clothing, as described by Jeff Wilken, depicted in the 34 digital images on the CD-R.

I made a copy of this CD-R and placed it into CCSO Property as evidence item 3216-20. I sealed the evidence package, initialed the original seal, and returned the evidence item to VPD Evidence Unit on 9/23/2008.

### **Rees Campbell, DOC**

On 9/23/2008 at 1142 hrs I spoke with Rees Campbell, of DOC. This interview took place at 8008 NE Fourth Plain Rd. Rees gave me the following information:

Rees has never personally witnessed any interactions between Tanis Smith and Jeff Wilken.

Rees said that he has worked with Tanis for years, since she came to DOC. They are both Level II Corrections Officers.

Rees said that when Tanis was first assigned to the East Precinct NRT, he pulled her aside and told her that she was going into something that she had not dealt with before, and that the guys assigned to the NRT type teams are "very assertive people." Rees said he advised Tanis that the DOC often had a different way of dealing with offenders than police agencies did, and that she might have some serious transition issues. Rees said that he told Tanis that the guys on NRT type teams are guys that "live and die for each other" and form very tight knit groups.

Rees said that the DOC has a different philosophy than police agencies; most police agencies are not into rehabilitation, but rather people going to jail. Rees said he told Tanis that she would have to please the VPD administration, the VPD Officers she worked with, the County Deputies she worked with, and the DOC. Rees said he advised Tanis that all the departments except the DOC would have the attitude that she would have to "throw people in jail."

Rees talked to Tanis occasionally after she went to NRT. Every time Rees talked to Tanis and asked her how things were going, she told him that she liked the job and "loved the guys she worked with."

Rees said that Tanis did tell her about issues that Jeff was having with his divorce and other things going on with guys in the unit. He said he told her "not to get involved with rumors."

Rees said that everything he ever heard from Tanis led him to believe that "she loved working with Wilken."

Rees said that he first heard about the handcuffing incident either the day it happened or the day after it happened. Tanis had come into the DOC office and "walked up to me" and asked Rees if he knew what Jeff had done to her. She told Rees that "he handcuffed me to a chair and put me into the men's locker room." Rees said Tanis "thought it was hilarious" and that Jeff was "just joking" with her.

Rees said he asked Tanis if there were any issues about what Jeff did; she told Rees, no, there were no issues, and that everything was fine.

Rees said that some time after that, Tanis told Rees that Jeff had grabbed her by the throat; Rees said as Tanis told him, she was "laughing through it" and said that "it was fun."

Rees said that, perhaps a day or two after Tanis told him about the throat incident, "she brought up the handcuffing thing again." Rees said that Tanis described it as "just coworkers having fun" and "having a good time." Tanis did tell Rees that "Gordon was pissed" though, about it. Rees said he asked her what she felt about it, and Tanis told him that "I don't have a problem with it, but Gordon's not happy."

Rees said that the only things Tanis ever told him about Jeff were that Jeff was the "best cop she ever worked with." She described him as "fun to be around." Rees said that Jeff does have a weird sense of humor, but that he is not one to do anything inappropriate.

Rees said that some days later, after Tanis got back from her honeymoon, she walked by Rees at the office, and acted stand-offish. Rees said it was apparent to him that Tanis was "kind of ignoring me." Rees said Tanis gave the appearance that "she didn't want to talk to me."

Rees said that a day or two later, he confronted her about her attitude, asking her what was going on. Rees said Tanis told him that "I want to apologize." Rees asked her for what. Tanis said, "I know you're mad at me." Rees said he asked her for what. Tanis then told him that she thought Rees was mad at her about the complaint she filed. Rees said he told her that he wasn't, that it didn't mean anything to him.

Rees said that the only two issues Tanis ever told him about were the throat incident and the handcuffing issue. She never mentioned any other things that went on with between her and Jeff.

Rees said that he and Tanis are not friends, but he has been around her enough at work to get a sense of who she is. He described her sense of humor at the office as the kind who would "grab you by the arm with an arm-bar" hold, just for fun. Rees said that he did not know Tanis really well. They are co-workers, he does not supervise her. Rees said that he believes that if something was bothering Tanis, "I think she would come up and say something."

Rees said that Tanis was not someone who would confide in him personal things going on in her life.

Rees said that when he had the original conversation with her about the handcuffing, she told him that her husband, Gordon, knew about it. During one of the later conversations, Tanis said that Gordy had found out more and was unhappy.

Rees said that all Tanis ever had to say to him about working for the NRT was that it was a "wonderful" team. When the team disbanded, she hated the fact that she wouldn't be working with them anymore.

Rees speculated that Tanis was not the one pushing the complaint, that it was her husband, Gordon. Rees noted that Gordon probably owes a lot of child support to his ex-wife, and that there might be financial reasons to pursue a complaint.

Rees said that he is friends with Jeff Wilken, and has done a lot socially with him over the years. Rees said that Jeff did not call him about the details of Tanis' complaint against him. Rees said that Jeff did get ahold of him and told him that someone might be getting ahold of him about Tanis' complaint.

### **John Chapman, VPD**

On 9/24/2008 at 1138 hrs I spoke with Lt. John Chapman of the Vancouver Police Department, East Precinct. Lt. Chapman gave me the following information:

Lt. Chapman said Tanis approached him on July 22, about an incident that took place a few days before. Tanis told him that she and Jeff Wilken were joking around, and Jeff handcuffed her to a chair and wheeled the chair in through the first door into the men's locker room. Tanis "was very clear" with Lt. Chapman that this was "just a joke that got out of hand." She told him that she just wanted him to know that this took place before Lt. Chapman heard it from someone else.

Lt. Chapman said that Tanis said she did not want to get anyone in trouble, but that some other people had seen it and she did not want Lt. Chapman to hear it from somebody else.

Lt. Chapman said that he knew that Jeff Wilken was going to be off duty for a few days, and so would not be having any contact with Tanis for a while. Lt. Chapman said he called Sgt. Henderson and Sgt. Chylack and asked them to write memos about their knowledge of the incident.

Lt. Chapman said he wrote up what he had learned, and forwarded the memo, including the memos from Sgts. Henderson and Chylack, to the Professional Standards Unit.

Lt. Chapman said he noted, when he received Sgt. Henderson's memo, that it was dated August, instead of July. He noted this to Sgt. Henderson.

Lt Chapman said that he talked to Tanis again shortly after the day she came and talked to him about the handcuffing. He was not sure if this was the very next day, or a couple of days later, but recalled that it was not too long after she talked to him first about it. Tanis asked Lt. Chapman if he was mad at her. Lt. Chapman assured her that he was not mad at her and that she had not done anything wrong in telling him of the incident.

Tanis told Lt. Chapman that she had talked to Sgt. Chylack and told him that she had talked to Lt. Chapman. Lt. Chapman told her that he was going to have to write the incident up, but that she was not in the wrong for telling him about it.

Lt. Chapman said he later got a message from Tanis' supervisor at DOC, Jeff Frice. Lt. Chapman and DOC Supervisor Frice later talked, and DOC Supervisor Frice told Lt. Chapman that about a week after Tanis told Lt. Chapman, she told DOC Supervisor Frice that "there might be more" incidents involving Tanis and Jeff Wilken. DOC Supervisor Frice told Lt. Chapman that he was going to have Tanis sit down and write up the other incidents that she was reporting. It was Lt. Chapman's understanding that Tanis did this the day after he spoke with DOC Supervisor Frice.

Lt. Chapman said he also called Jeff Wilken, and let him know that Tanis had told him of the handcuffing incident. Lt. Chapman said he wanted to let Jeff Wilken know that he had forwarded a complaint to the PSU. Lt. Chapman said Jeff told him that he had heard a rumor that Tanis reported it to Lt. Chapman. Lt. Chapman said he told Jeff that the handcuffing was, by definition, "harassment in our policy."

Lt. Chapman said that Jeff Wilken was assigned to the West Precinct after NRT was disbanded, and not under Lt. Chapman's supervision any longer.

Lt. Chapman said after he got the complaint from Tanis, he went to try to meet with Jeff Wilken in person. Jeff was on an accident call, and then went to the hospital working follow up on that call. Lt. Chapman was not able to catch up with Jeff, and so delivered the news to Jeff by phone about the complaint. He said that he told Jeff what Tanis had reported, and that Tanis had not wanted to get anyone in trouble, but that he was going to write it up.

Lt. Chapman did not get the sense from anyone that this complaint was driven by someone else other than Tanis. Tanis did tell him that she had told her fiancé, Gordon, about it, and that "he was mad."

Lt. Chapman said he had not been aware of any problems or issues among Tanis and any other member of the NRT. He said that he thought Tanis was a good fit on the team, and that he thought they had all worked together well. Lt. Chapman said that he heard no complaints from anyone, directly or indirectly, about members of the team, prior to Tanis coming to talk to him.

Lt Chapman forwarded copies of two memos he wrote related to Tanis' complaint. He said he did not have copies of the memos authored by Sgt. Chylack and Henderson.

### **Investigative Findings**

Tanis Smith reported that on May 21, Jeff Wilken placed a pair of panties or underwear on her head; these panties were found in a bedroom of a house being searched. Fili Matua witnessed this incident, and said Tanis Smith appeared upset about it. Leonard Gabriel stated Tanis Smith came to him immediately after it happened, and told him about it; Leonard believes Tanis was upset that it happened. Tanis stated she was, and is, angry about the incident, but said she told Sgt. Mike Chylack at the time that she did not want disciplinary action taken against Jeff Wilken from this incident. Tanis stated that Mike Chylack approached her, asking if she was mad about it. Mike Chylack said he did not recall talking to Tanis Smith about this in private, or asking if she was mad about what happened. Jeff Wilken stated this incident occurred, but that he believes the underwear he placed on Tanis' head were clean and had come from a clean pile of clothing in the house. Jeff Wilken said he believes Tanis was not angry about this incident and that he would have done it to anyone who had been present right there.

Jeff Wilken reported that he and Leonard Gabriel participated in taking digital images of suspects or informants wearing clothing or equipment belonging to Tanis Smith and Sgt. Mike Chylack, and sending these images to Tanis Smith's cell phone. Tanis Smith acknowledged this occurred, and said that this upset both her and Mike Chylack. This incident appeared in "retaliation" for a previous incident in which Mike Chylack and possibly other member of NRT had sent similar images of suspects or informants wearing clothing belonging to Leonard Gabriel. Tanis Smith did not mention this incident to investigators until it was brought up to her. Tanis Smith did not directly inform Jeff Wilken, Leonard Gabriel or her supervisor that she was upset at this action. Mike Chylack stated that he was not offended by this incident. Leonard Gabriel did not mention this incident during his interview.

Tanis Smith stated that two other images, one of an advertisement for prostitution services (placed on Craig's List by a person supervised by Tanis) and one of partially exposed buttocks of an informant being interviewed by Jeff Wilken, were also sent to cellular telephones. The prostitution advertisement was sent from Tanis' phone, without her permission or prior knowledge, to a cell phone belonging to Dustin Nicholson. The other image was sent from Jeff Wilken's cell phone to Tanis Smith's cell phone. Tanis did not directly inform Jeff Wilken or her supervisors that she was upset by these actions.

Tanis Smith reported that Jeff Wilken assaulted her, sometime in June, 2008, by grabbing her by the throat and squeezing. Tanis Smith stated she told Jeff Wilken that this frightened her, and that Jeff Wilken replied that he knew it did and that was why he did it. No other officers reported witnessing this incident, although Dustin Nicholson reported that Tanis approached him and reported to him that Jeff had done this. Tanis did not report this to a supervisor. Jeff Wilken, on advice of his attorney, declined to answer questions about this incident.

Tanis Smith reported that Jeff Wilken grabbed a Victoria's Secret credit card from her hand at a Red Robin luncheon in July, 2008, and made comments before a group that they should go and have Tanis model lingerie for Jeff. Other people present at the luncheon heard these comments, including Brian Ford and Pete Muller. Jeff denied making these specific comments, but acknowledged that he did make a comment about going shopping with Tanis for items from Victoria's Secret. Tanis did not directly tell Jeff Wilken that she was offended by his statements or actions.

Tanis Smith reported that Jeff Wilken handcuffed her to an office chair, in the presence of Sgt. Mike Chylack, and then wheeled her down a hallway and part way into the men's locker room of VPD East Precinct. This incident was witnessed in part by Neil Crannell and Sgt. Dave Henderson. Tanis Smith stated that she tried to kick at and punch Jeff Wilken, but that she also laughed (because she didn't know what else to do) during the incident. Tanis reported being embarrassed. Tanis reported this incident to Lt. John Chapman approximately 4 days after the incident, initially telling Lt. Chapman that she did not want to get anyone in trouble, but that she wanted him to know about it before he heard it from someone else. Jeff Wilken and Mike Chylack indicated that they believed Tanis was not offended or upset at what they considered a joke or horseplay.

Tanis Smith reported that Jeff Wilken made comments about sexual positions, statements that she wanted to have sex with Bryan Acee or Jeff Wilken, or that Jeff Wilken could get into her pants; comments she stated were made either when Jeff Wilken was alone with her or in the presence of others. Jeff Wilken stated that Tanis Smith never indicated these statements were unwanted, or that he did not make the exact statements that she alleged.

Statements by other officers indicate their understanding, from comments made by Tanis Smith, that her fiancé (now husband), Gordon Conroy, was more angry or upset that these incident took place than Tanis ever appeared to be.

While Tanis Smith told investigators that she was upset by many of Jeff Wilken's actions or comments that took place between April/May and July, 2008, it does not appear she took steps at that time to either confront Jeff Wilken or report acts of harassment. It does not appear that Tanis Smith (now Tanis Conroy) ever directly informed Jeff Wilken that his comments or actions were unwanted at the time the majority of these comments or actions took place. It does not appear that Tanis Smith (now Tanis Conroy) directly informed her DOC Supervisor, Jeff Frice, or other supervisors at the Vancouver Police Department that she felt harassed or assaulted by Jeff Wilken's actions or comments.

Tanis Smith told investigators that she feared reported these incidents at the time because she did not want to be considered a “rat” and wanted to fit in and be accepted within the NRT group to which she was assigned. She stated she also feared retaliation of the type that she believed Navin Sharma had experienced.

Sgt. Mike Chylack was aware of some – if not most - of the incidents reported by Tanis Smith. It does not appear that Mike Chylack chose to take action on his own initiative from events he witnessed between Jeff Wilken or Tanis Smith, apparently believing that if Tanis Smith was offended she would have told him, and that Tanis Smith considered the incidents as just horseplay and harmless in nature.

Refer to PA for review.

# **EXHIBIT 9**

**TORT CLAIM NOTICE: Tanis Conroy**

June 15, 2009

**TO :** City of Vancouver  
Tort Claim Agent  
Tim Haldeman  
2<sup>nd</sup> Floor  
610 Esther St.  
Vancouver, WA 98660

**Claimant :** Ms. Tanis Conroy

**Actual Residence  
of Claimant :**



**Claimant's  
Residence for  
Six Months  
Prior to Time  
Claim Arose :**



**Time, Date and Location of Incidents:**

The incidents upon which claimant's action will rely occurred from the spring of 2008 until present and are set forth in greater detail under Details of Incident. Quotations are claimant's present recollection of what was said by the speakers.

**Witnesses and Participants:**

Brian Billingsly, Tanis Conroy, Michael Chylack, Brian Ford, Jeremy Free, Leonard Gabriel, Frank Gomez, Beth Graves, Spencer Harris, Dave Henderson, Steve Lobdell, Fili Matua, Pete Muller, Dustin Nicholson, and Jeff Wilken.

**Details of Incident:**

Tanis Conroy is a Washington Department of Corrections officer. She supervises high risk offenders. Conroy was assigned to the Neighborhood Response Team ("NRT"), Vancouver East Precinct in December 2007.

In April 2008, Conroy was on surveillance duty with Offc. Jeff Wilken. While in the car, Wilken asked Conroy if she knew the meanings of sexually derogatory slang terms such as a "chilidog" or a "donkey punch." Conroy responded by ignoring Wilken. Wilken persisted, volunteering explicitly detailed descriptions. Conroy told Wilken that was "sickening" and that she "[didn't] want to hear anymore".

On May 21, 2008, while NRT was serving a drug search warrant at 15715 NE 87<sup>th</sup> Circle, Conroy was searching the master bedroom with Wilken. Without warning, Wilken came from behind Conroy and covered her head with an article of clothing. Upon removing the article from her head, Conroy realized that Wilken had placed a pair of women's underwear (a thong panty) on her head. Conroy did not know whose panties these were or whether they were clean or worn. Conroy confronted Wilken, telling him she was upset about what he had done. Wilken responded by joking, "I took them from the clean pile." Sgt. Chylack and Offc. Fili Matua, who were also in the room, witnessed the event and laughed along with Wilken about the assault. Conroy was embarrassed and offended by this event. Conroy left the house and got into the van.

In June 2008, NRT (West Precinct) had finished serving a search warrant with Conroy's assistance and returned to the Vancouver Police West Precinct. Conroy was outside speaking with Duane McNicholas, the sergeant in charge of the Vancouver West NRT team, when Wilken walked up to Conroy, grabbed her by the throat and squeezed. The contact lasted only a second; it shocked Conroy. Conroy told Wilken that he scared her. Wilken's response was a cold "I know", then he walked away.

Soon after, Conroy asked Offc. Spencer Harris if he saw any red marks on her neck. Conroy told Harris about what had happened outside. Harris was dismissive of the event. At this point, Conroy stopped talking about Wilken's inappropriate actions because she felt "no one wanted to hear about it", because the reaction of her peers and supervisor led her to fear retaliation and a souring of the work environment..

Throughout July of 2008, Wilken and Conroy were alone together in the team's undercover vehicle. Wilken made sexually derogatory comments to Conroy. Because her efforts to alert coworkers and her supervisor had failed, Conroy did her best to ignore Wilken in the hope that he would give up and leave her alone. On more than one occasion, Wilken claimed Conroy told him she wanted to have sex with him. Conroy told Wilken clearly that she did not. Wilken reacted angrily and repeated to Conroy several times that she did tell him that she wanted to have sex with him. Because arguing with Wilken was hopeless and her supervisor had laughed at Wilken's previous assault, Conroy again tried to ignore Wilken and focus on her job. Wilken told Conroy that she had told him that she "wanted to fuck him". Conroy told him that she did not say that, but Wilken continued to insist that she had. Wilken angrily raised his voice and repeatedly insisted that Conroy had told him she wanted to "fuck him". Conroy felt increasingly unsafe.

On July 15, 2008, Conroy, Wilken, Sgt. Chylack and NRT officers Dustin Nicholson and Frank Gomez finished a controlled narcotics buy and were standing in front of the East Vancouver Precinct waiting for Gomez to get undercover clothing. (Gomez had just been patrolling, was wearing his uniform and needed someone to bring him some other clothes to wear while taking a suspect home.) After waiting for minutes, Wilken asked Conroy if Gomez

could "fit into [her] jeans." Conroy responded by saying, "Come on Jeff, are you serious?" Wilken then asked Conroy, "Can I get into your pants?" Conroy told him "No". Nicholson, Gomez and Sgt. Chylack were all present, but again no one said anything.

In mid July 2008, NRT was being disbanded. On July 16, 2008, the unit served their last search warrant. Afterwards, the group went for lunch at Red Robin. They sat at a large table; Wilken sat himself next to Conroy. Conroy tried to ignore him. While they got their wallets out to pay for their meals, Conroy took all of her credit cards out of her wallet while searching for the credit card she intended to use to pay for her lunch. Wilken grabbed Conroy's Victoria's Secret credit card out of her hand; Conroy immediately took it back. Wilken told Conroy, "let's go on a shopping spree, you can try on things and I will tell you what looks good for Gordon." (Conroy's husband is Clark County Sheriff's Deputy Gordon Conroy.) When Conroy told him "no", Wilken said, "come on, that's what friends do for each other." Conroy responded, "who said we were friends?"

Conroy was embarrassed by the incident. Pete Muller, who was sitting across from Conroy, blushed and would not look at her after the incident. Later, in the NRT office at the East Vancouver Precinct, Conroy confronted Wilken, telling him that he had really embarrassed her. Wilken responded, "I know!"

On July 17, 2008, Wilken, Sgt. Chylack and Conroy were in a cubicle at the NRT office at the East VPD station. Wilken was harassing Conroy. Conroy was embarrassed and upset. Conroy confronted Wilken, which Conroy had found to be an effective, though temporary, way to get Wilken to leave her alone. As Conroy was telling Wilken to stop his crude behavior, Wilken walked over to Conroy's desk, picked up her handcuffs and handcuffed Conroy's right hand to the arm of the chair she was sitting on. Wilken threw the handcuff key out of the cubicle. Conroy repeatedly attempted to pull her hand out of the handcuff and repeatedly told Wilken to let her go. Conroy told Wilken she was claustrophobic. In response, Wilken walked over and tightened the handcuff around Conroy's wrist, making it impossible for Conroy to be released without the handcuff key. Using her feet to push the chair, Conroy maneuvered towards Sgt. Chylack, whose back was turned to her. Conroy asked Sgt. Chylack for a handcuff key. Sgt. Chylack laughed, and told Conroy that he "didn't have a key". Wilken walked over to Conroy, while Conroy was in front of Chylack's desk, and handcuffed Conroy's free hand to the other arm of the chair. Wilken then pushed the chair and Conroy around the office, despite Conroy's protests and pleas to be released. Sgt. Chylack did nothing.

Wilken pushed Conroy, still handcuffed to her chair, into the men's locker room sleeping area, and left her in the dark, unlit men's locker room. Wilken walked out, leaving Conroy chained to the chair. Conroy worked the chair towards the door, worked the door open and got herself out of the locker room. As she left the locker room, Conroy saw Sgt. Dave Henderson and asked him to help her get uncuffed from the chair. Sgt. Henderson reached for his keys and asked what was going on. Wilken told Sgt. Henderson "I'm just joking with her". Sgt. Henderson told Wilken to "knock this shit off, it's not funny." Sgt. Chylack came around the corner and said "get her uncuffed". The incident was reported to Lieutenant John Chapman.

Conroy had had enough. Wilken's inappropriate and harassing behavior would not stop, even after confrontation. Despite multiple witnesses to Wilken's assaults on Conroy, no one did anything. Conroy filed a complaint. Conroy went through two interviews with the Major Crimes

Unit, but nothing was done. Conroy voluntarily underwent a third interview, this time with VPD IA investigators. Nothing has been done, despite the passage of more than ten months since her complaint.

Since filing her complaint, Conroy has been advised that Wilken, well-known within VPD for publically defecating on request without any official reprimand or discipline for his actions, defecated in a search warrant home and stuck a D.O.C. business card in the feces.

After Conroy filed her complaint, the Department of Corrections removed her from her station for her safety. Conroy is now fearful of retaliation by other officers because she still has city cases that she supervises and believes that when she is in the city of Vancouver, she will receive delayed or no back-up from Wilken's officer friends and supporters, and that the VPD command staff has taken little action to correct Wilken's behavior. Conroy is aware of how other officers have had delayed back-up in similar situations.

**Claimant's injury:**

Tanis Conroy has experienced significant emotional trauma including stress, difficulty falling asleep, nightmares, sleep interruptions, anxiety, intrusive thoughts, fear of retaliation, diminished self worth and other psychological and physical symptoms. Tanis Conroy has further experienced damage to reputation.

**Legal Basis:**

29 U.S.C. § 206(d); 42 U.S.C. § 2000e, *et seq* (Title VII of the Civil Rights Act of 1964), RCW 49.60.010, *et seq* (Washington Law Against Discrimination); RCW Chapter 41.24; and common law tort claims including negligent retention, negligent supervision, assault, battery, public policy tort, battery with sexual motivation, retaliation, intentional infliction of emotional distress, negligent infliction of emotional distress, and outrage.

**Amount of damages claimed:**

Ms. Conroy cannot presently calculate her total damages, which are ongoing. Solely for purposes of permitting the City and its insurers to set a reserve adequate to pay Ms. Conroy's damages, related fees and costs, and such other amounts as may be claimed, complainant's counsel identifies a sum of \$500,000.

DATED: June 15, 2009.



Thomas S. Boothe, WSB No. 21759

Attorney for Claimant  
7635 SW Westmoor Way  
Portland, OR 97225-2138  
(503) 292-5800  
tsb@boothehouse.com

STATE OF OREGON            )  
                                          ) ss:  
County of Washington        )

I declare under penalty of perjury that the foregoing Tort Claim Notice: Tanis Conroy is true and correct to the best of my knowledge, information and belief.

Tanis Conroy  
Tanis Conroy

SUBSCRIBED and SWORN to before me this 15<sup>th</sup> day of June, 2009.



Emily J. Smith  
Notary Public - Oregon  
My commission expires: February 22, 2013

Conroy.T (Tort Claim Notice)

# **EXHIBIT 10**



ARTHUR D. CURTIS  
PROSECUTING ATTORNEY

CURT WYRICK  
CHIEF DEPUTY

DENNIS M. HUNTER  
CHIEF CRIMINAL DEPUTY

E. BRONSON POTTER  
CHIEF CIVIL DEPUTY

SHARI JENSEN  
ADMINISTRATOR

October 27, 2008

Kevin J. McClure  
Vancouver City Prosecutor  
City of Vancouver  
210 E. 13<sup>th</sup> Street  
P.O. Box 1995  
Vancouver, WA 98668-1995

Re: CCSO Report No. S08-12091  
Suspect: Jeff Wilken

Dear Kevin:

The referenced case was forwarded to this office by the Clark County Sheriff's Office for consideration of charges of Assault in the Third Degree, Malicious Harassment and Unlawful Imprisonment. The allegations arise from workplace conduct involving a City of Vancouver Police officer and a Washington Department of Corrections officer while the two were assigned to a Neighborhood Response Team.

Because the alleged conduct occurred within the City of Vancouver and involved a City employee, I was asked by your office to make the charging decision for any potential City misdemeanor charges, as well.

After a thorough review of the evidence and statements reflected in the report and after consultation with my senior colleagues, I have determined not to initiate either felony or misdemeanor charges in this matter.

The interjection of the criminal justice procedures and remedies into workplace disputes is a rare occurrence, reserved for the most extreme and egregious cases. In most cases, as here, the interests of justice may be better served by leaving the parties to their abundant private remedies.

**CRIMINAL DIVISION**

1013 FRANKLIN STREET  
(360) 397-2261 OFFICE

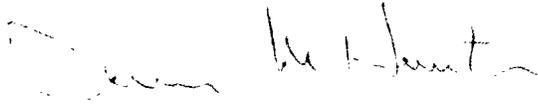
PO BOX 5000

VANCOUVER, WASHINGTON 98666-5000  
(360) 397-2230 FAX  
000508

Kevin J. McClure  
October 27, 2008  
Page Two

If you have any questions concerning the foregoing, please feel free to contact me.

Best regards,

A handwritten signature in black ink, appearing to read "Dennis M. Hunter". The signature is written in a cursive style with a large initial "D" and "H".

Dennis M. Hunter  
Chief Criminal Deputy Prosecuting Attorney  
Special Assistant City Attorney

DH:ml

cc: Arthur D. Curtis, Prosecuting Attorney  
Ted H. Gathe, City Attorney  
Detective Kevin L. Harper, CCSO Major Crimes

000509



ARTHUR D. CURTIS  
PROSECUTING ATTORNEY

CURT WYRICK  
CHIEF DEPUTY

DENNIS HUNTER  
CHIEF CRIMINAL DEPUTY

E. BRONSON POTTER  
CHIEF CIVIL DEPUTY

SHARI JENSEN  
ADMINISTRATOR

## MEMORANDUM

DATE:	November 21, 2008
TO:	Tony Golik, Deputy Prosecuting Attorney
FROM:	Denny Hunter, Chief Criminal Deputy
SUBJECT:	State v. Perkins; [REDACTED]

Dear Tony:

As you know, Detective Jeff Wilken is currently on admin leave while some type of disciplinary investigation is underway at VPD. Detective Wilken confirmed to me some time ago that the investigation stems primarily from conduct alleged in CCSO Report No. S08-12091. You have asked whether [REDACTED]

I am informed that the disciplinary investigation is ongoing and that no findings have been made or proposed. I have reviewed the referenced report and have determined that the allegations do not bear on Detective Wilken's credibility or truth-telling.

Based on the foregoing, it is my considered opinion that [REDACTED]

Best regards,

dh

**CRIMINAL DIVISION**

1013 FRANKLIN STREET • P.O. BOX 5000 • VANCOUVER, WASHINGTON 98666-5000  
(360) 397-2261 • (360) 397-2230 (FAX)

000510

# **EXHIBIT 11**



**POLICE DEPARTMENT  
CITY OF VANCOUVER, WASHINGTON**

**OFFICE CORRESPONDENCE**

**TO:** Officer Jeff Wilken  
**FROM:** Acting Assistant Chief Sutter  
**SUBJECT:** Notice of Paid Administrative Leave  
**DATE:** August 14, 2008

Due to a pending criminal investigation in regards to alleged actions directed at a co-worker while assigned to the NRT it is necessary for me to place you on paid administrative leave effective immediately. Furthermore, I am relieving you of your duty belt, issued weapons, department ID, card keys, badge, and radio.

While on paid administrative leave you are relieved of all job responsibilities and your access to all VPD facilities is restricted without authorization from the Office of the Chief or his designee. Your normal work week schedule during the administrative leave period is Monday through Friday, 0900-1700. You are to remain available to report to work within one hour of notification during the above noted hours. You will report directly to Commander Delgado until removed from this leave. You are required to check in with Commander Delgado via phone at 487-7415 each work day until notified otherwise. Your scheduled reporting time will be between 0900-0930 hours each business day, Monday through Friday. During the period of paid administrative leave you are directed to not have any direct contact with the complainant, nor will you discuss this matter with any former NRT members.

Any modification to this order will be made by me. If you have any question or concerns regarding this order, please contact me directly.

Issued by: Chris Fetter Date 8/14/08  
Received by: ORIGINAL SIGNED Date \_\_\_\_\_  
Witnessed by: \_\_\_\_\_ Date \_\_\_\_\_

# **EXHIBIT 12**

Clark County Sheriff's Office  
Major Crimes Unit  
Vancouver, Washington  
Tape Recorded Interview  
Case No. S08-12091

Person Interviewed:                   Officer Jeff Wilken  
Date/Time of Interview:   September 17, 2008/0905 hours

---

KH:           =     Detective Kevin Harper  
EO:           =     Detective Eric O'Dell  
JW:           =     Jeff Wilken  
JG:           =     Jack Greene, Attorney

---

KH:           We're at the Sheriff's Office, Major Crimes Unit. I am  
Detective Kevin Harper with the Clark County Sheriff's Office Major  
Crimes Unit. With me is Detective Eric O'Dell, also with the  
Sheriff's Office Major Crimes. Sitting in on this interview is Jack  
Greene, an attorney for Jeff Wilken, and we are interviewing Jeff  
Wilken.

Jeff, do you understand that this is a tape recorded statement?

JW:           I do.

KH:           And do I have your permission to tape record this statement?

JW:           Yes, you do.

KH:           Has anyone made any threats or promises to you regarding this  
statement?

JW:           No, they have not.

KH:           Okay. We set up this meeting, and I appreciate your coming,  
coming in to talk to us about some incidents that took place while  
you were on the Neighborhood Response Team of the Vancouver  
Police, East Precinct?

JW:           Correct.

KH: Okay. And that's what we're going to be focusing on. About how long have you been with VPD?

JW: Almost 11 years.

KH: Okay. And you came from Chicago area?

JW: Just south of Chicago, yes.

KH: Okay.

JW: Romeoville, Illinois. I was a cop there almost three years.

KH: Romeoville, IL?

JW: Yes. Next-door to Juliet. But that was back in the 1800's. Romeo and Juliet.

KH: Got it. Okay. So you were an officer for three years there?

JW: Almost three years, yes.

KH: Okay. You came out here because you like our climate better?

JW: Yeah. Vancouver, when they did the annexation, came to the Chicago area recruiting laterals to transfer, and when I was in the Army, I was a military police officer. I always wanted to be at Fort Lewis. I was on the East Coast. And it was an opportunity for me and my wife to pack up the U-Haul and move out west.

KH: Okay. So 14 years law enforcement experience, give or take?

JW: Eighteen. I have five years as a military police officer in the U.S. Army with the 10th Mountain Division, Fort (unintelligible), New York.

KH: Okay. I assume you went through an equivalency exam when you came out here --

JW: Yes.

KH: -- with the academy?

JW: Three academies. The military police school, the Cook County Sheriff's Academy in Illinois, and then the equivalency academy here in Washington.

KH: Okay. When you got out here, patrol first?

JW: I was a patrol officer when I got here in '97, until 1999. And then I was a detective for a year in the Street Crimes Unit.

KH: Who'd you work with in Street Crimes?

JW: Duane McNicholas and Troy Price.

KH: Okay. D-Mac and Troy?

JW: Right.

KH: How long did Street Crimes last?

JW: One year.

KH: Was that a set period of time for Street Crimes or --

JW: No, it was going to go longer, but they decided to move some people and there, it's obviously, we continued to see -- internally, they continued to promote and then realized we're patrol short, and they had to make a choice. They could take three people out of the Gang Task Force, which was working with the county at the time or take Street Crimes, and they made the decision, since the Gang Task Force was a joint partnership, to stay there and disbanded Street Crimes.

KH: Okay.

JW: Under the belief that we were going to be coming back in a couple months. But that never happened until NRT started back up. They just renamed it.

KH: Right. Okay. So when did we assign to NRT?

JW: July of 2007.

KH: Now, West had an NRT before you guys, is that right?

JW: Correct. Sometime in '05 or '06, NRT came back. It's still a Street Crimes unit. Your TDU unit is the same type of unit and they just renamed it NRT and started it as a citywide unit working out of Central Precinct. The problem was, Central as busy as it is, still it was focusing on Central. And then as a couple years went by and

saw the success, they decided to put a true East Precinct unit out there.

KH: Makes sense, given the splitting of the city and the number of people there.

JW: Right.

KH: Now, there's only one CCAT team, is that right?

JW: Yes.

KH: Okay. And CCAT was based at West Precinct? I'm just trying to get your organization --

JW: Yeah. But they're not now, and I don't think at any point they truly were working out of that precinct. I know they were work out of the DOC location up on Highway 99. That's where their offices are.

But if they're doing work within Vancouver for whatever reason, they seem to always to go West Precinct to do -- again, we're going to call it Central. The city now calls it West. I'll still slip up and call it Central. But that's typically where CCAT will show up if they need to use a MDC or doing work in the city, they'll head there instead of heading all the way up north into the county.

KH: Okay. I understand about mixing up precinct names, because I do that myself. The only thing that reminds me is I drove by the old West.

JW: Yeah. It's not --

KH: Pile of rubble today.

JW: Correct.

KH: Okay. So D-Mac, he's -- he's not CCAT. He's NRT?

JW: Correct.

KH: Okay. So he went from Street Crimes to NRT, and you guys, I guess what I'm trying to figure out, when your teams worked together, CCAT would come over to West NRT?

JW: I would say 70, 80 percent of the time they were more associated with West Precinct. If they had something going on, typically they'd call West Precinct for assistance.

KH: Okay. How about when you guys needed muscle for entry?

JW: Then we got NRT West and if it was something bigger, we may ask CCAT to give us a guy or two. Maybe the whole unit if it was something worthwhile.

KH: Okay. Who was on NRT East?

JW: Sergeant Chylack is the supervisor, myself, Leonard Gabriel, and Dustin Nicholson. We were the officers, and then of course each unit had the DOC officer assigned.

KH: Okay. And who was -- now, when you first started, was there someone else there?

JW: Yes. We had Jen Thomas, is who started with us first.

KH: Was there someone else on NRT East when you first started?

JW: No.

KH: Okay. So that -- Chylack and Leonard and Dustin and you --

JW: Were the original East Precinct.

KH: Got it. And why did Jen leave, do you know?

JW: My recollection is that she has worked or has prior -- I think maybe her education and experience is as a mental health counselor or something in the mental health field. And DOC was opening up a -- I'll word it as a mental health probation officer.

So she was going to have the opportunity to use a lot more of her training and past experience as a mental health caseworker and use that as a DOC officer. I know she had some concerns about working with much more violent people, but she really liked the opportunity to use what her education was and she really liked the mental health side of it. So she only worked with us probably through October.

KH: Okay. And then --

JW: And then she got accepted. She put in for that, got accepted into that position, and left.

KH: So there was a gap when you didn't have a DOC officer assigned to NRT?

JW: A matter of weeks.

KH: Okay. When did Tanis come to work?

JW: Beginning of November, would be my guess.

KH: Okay. Did you know Tanis before that?

JW: I'd never met her before.

EO: Did you know Gordon Conroy prior to that?

JW: Never met him before. I had heard his name.

KH: In what context?

JW: Just as a deputy. I mean, working patrol all these years, on MDC's, you know, seeing the names and other officers being involved and would be in pursuits or, you know, some call, reading an EPR report and, you know, seeing that officer would be the one involved.

KH: Okay. Did, back in fall of '07, you had some stuff going on personally in your life, I guess, and I'm told that you ended up taking a lot of time with things. And having been through a divorce myself, I can certainly understand. Were you around much during the Christmastime, I mean, November, December, January, or you had a little bit of time off then?

JW: Yeah, I pretty much took a lot of time off. The tail end of November, more like December, beginning of January.

KH: Okay. So Tanis was established in the unit before you were kind of working back full-time again?

JW: Yeah. I -- and I'm sure we'll get there, but I know that we joked in conversation about the first couple of months. You know, she never even saw me, never worked with me. She was more associated with doing the DOC checks with, like, Dustin Nicholson or Leonard Gabriel.

KH: Okay. And then after you kind of got your feet back on the ground, did you do DOC checks with her? Or was that mostly Leonard and Dustin?

JW: Yeah, I probably -- I mean, she would ask all the time, but I typically had a lot more informants and search warrants going on than the other two guys. And if I had to give an estimate, I probably went to less than five houses with just me and her.

I may have went with other officers as a group if we were going to do a DOC check. But just, you know, jumping in the car with her and going to check houses, you know, I can only -- I can't think of five. I can probably think of two off the top of my head that I went with her on. But there's a couple I can't remember. That's why I would say less than five times that I've gone to do a DOC check with her.

KH: Okay. What's Tanis like? What's her personality, what's her demeanor usually?

JW: The best way to describe it is -- and again, again, we'll get to where we are today. But looking back then, she was one of the guys. She's younger than me. I worked with a lot of young officers, both male and female, and she looked like she had a, you know, very high, determined drive to do a good job and always wanted to be in the middle of what's going on.

She really doesn't back away from work or challenges that go on, and it was something that appealed to me about her work ethic that, you know, she really liked to work.

There's a lot of us that, as the years go on, that when we come to work, we just come to work for a paycheck. Either for personal reasons or for professional experiences. You know, sometimes we just get beat down in the job.

And I can't sit here and tell you how long she's worked. Never got into what her experiences were, but, you know, I know it hasn't been that long compared to those of us in this room. And it's good to see an officer, be it DOC or a police officer, that comes to this job that still wants to do a good job for the right reasons. So it was fun to work with her.

One of the best things that she sold me on right from the beginning is she -- I can't tell you how she interacts in her personal life. I've never had anything involved with her in her personal life. And I

can't tell you how she interacts in a DOC setting with just her supervisors or coworkers.

But I can tell you that she made it pretty clear to us in the very beginning, both individual and amongst the group, that working with criminals, she had no problem getting in these people's face. She had no problem -- too many years in Chicago, too many years in the Army, and too many years being a cop, how I have never had a complaint maybe it's, you know, the way I talk, either with profanity, you know, sometimes on a call, you know, in an interview with someone, someone's lying to you, things like that, you know, tell them that they're a damn liar. You know.

KH: Get in their face?

JW: Yeah. I've always been able to do that type of interaction with people, and not have it be offensive. And Tanis made it pretty clear in the beginning that, you know, she has no problem talking to people that way.

And I actually watched her on search warrants, you know, people that she would have on her caseload or someone she would recognize from someone else's caseload. You know, calling them a fucking liar. You know, "You're fucking up your life." You know, "When the fuck you gonna get your head out of your ass?"

So to -- to me, she was one of us. And I respected her in that sense, that she wasn't afraid to go to work and be involved with what was going on.

KH: Okay. That's pretty (unintelligible).

EO: How about the female prior to that, Jen Thomas?

JW: Same way.

EO: She --

JW: Jen Thomas. Jen Thomas -- they could have been, you know, raised in the same house, you know, in that sense. Jen was pretty hardnosed in dealing with the people that were on her caseload. Like I said, I guess if they were secretaries I would be shocked that the spoke they way they spoke or they acted the way they acted.

To me, the only difference between me and them is I was a male and they were a female. They were cops. They acted that way,

they talked that way, they interacted with each of us that way. And again, I know this is going to be a drawn-out interview and I'm not going to jump ahead, but I was comfortable and they made me comfortable in that setting that, you know what, they're just one of us.

KH: Occasionally people that work together in high stress situations in a tight-knit group, there will be horseplay, teasing kind of going on. Outside of what we're here to talk about, do you know of any incidents that occurred amongst members of your group, or the CCAT and NRT groups, or things like that?

JW: (Unintelligible).

KH: Okay. As far as examples? What's some examples of the teasing and horseplay?

JW: Well, there's some that jump straight off to my head. One of them is a prior neighborhood response team detective Neil Martin had interaction with the CCAT, DOC guys. Ford. And I can't remember Ford's first name. He's --

KH: Brian?

JW: Brian Ford. Good guy. College football player. Big. I mean, one guy that you want to go to a fight with, as long as he can run to the fight with you, he's the one that you want fighting with you.

KH: So what happened with Neil and Brian?

JW: Brian -- Neil has a mouth on him, likes to give shit to people. Like, you know, goes on every day at work. They joke around and, you know, giving people a hard time when maybe you screw up a little bit or say something stupid. Neil is one of the first people to, you know, call you on it. And --

KH: Courteous enough to point that out to you when you screwed up?

JW: Correct. And by doing so, Brian Ford had to put Neil Martin in his place, the way I see it. And I believe there is two separate occasions where Neil Martin had been handcuffed. I think once was in the NRT office and another time was in the NRT raid van.

And it's -- no one's going to come to your rescue. Everyone's going to laugh with everyone and, you know, pretty much you're out on your own at that moment, and it was a good time, funny when it

lasted, and everybody kisses and makes up, and understands, you know, it's made in jest and it's just the camaraderie that's going on and joking around. And --

KH: Did anyone have an issue with those two incidents that you're aware of?

JW: No.

KH: Okay. Anything else you can think of that may be an example of horseplay or --

JW: I can tell you that -- I don't know if horse happened in the Sheriff's Department, but the most fatal thing an officer can do is walk away from your computer when you're working on it and go to a call, go to the locker room, and be in there for a little bit, go up front and speak with someone, because when you come back, if someone's kind enough, they'll tell you, but usually it's when you're getting email responses back from lieutenants or commanders or other sergeants and asking why was that important, and then you review what was in your outbox.

KH: Sent mail.

JW: And you find that someone had jumped on there, and in your email it's written as if you're applauding your coworkers and how great it is, and you're hoping to educate them a little bit further. And, you know, maybe the sergeant is a little old, but they still have a lot of potential left. It's a very common thing.

The other one is, you know, if someone does something kind of goofy at a search warrant, they either think they find dope or they write a bunk warrant, and they find no dope, you know, the "C-brief" what we call them, basically the day's events may come out and that gets brought up.

It'll get brought out in a funny sense but still be professional in a sense that you hope the lieutenants, commanders and chiefs have been off the road long enough they actually forgot this stuff, so when they read it, it makes no sense to them. But the officers that are out there every day, as soon as they read it, it dawns on them, you know, someone screwed up out there or someone did something they shouldn't have done.

KH: Someone wrote a hummer.

JW: Exactly. It's the way -- you guys have been doing this job a long time. I'm not educating you guys. It's serious every day we go to work. Be it the calls or be it, you know, our own personal experiences doing this job. And we'll lose our sanity if we don't make fun of some of the more serious things that go on in life.

And I've been to enough dead body calls and homicides and suicides that some of the sickest and stupidest things that go on in life, when we're there, we say some of the stupidest and most idiotic things to each other. If someone else was there, they'd be offended. But when we're there, we laugh.

And we go home, but we don't tell the same jokes to our family. But we say it to each other. And that's how it is working with those guys.

KH: Okay. So you're aware of just your normal camaraderie, horseplay, pranks amongst the groups.

JW: Yes.

KH: Nobody's taken offense in the past, that you're aware of? Has anyone been disciplined for something like that, that you're aware of? Computer pranks or --

JW: No. I think the best case scenario is --

EO: No, "Why did you do that?" (unintelligible).

JW: The best thing that's ever happened is what I heard was Bryan Acee had sent an email off Corporal Duane Boynton's when Duane Boynton was an NRT, basically saying, "Hey, I'm new to NRT. If anyone has anything, it's kind of slow, but if anyone has any follow-up," basically asking for work. And sending it out citywide to all the cops, detectives, lieutenants, everybody. And the next thing you know, the lieutenant's going up to Duane Boynton saying, "The commander and the chief are wondering," and they were serious, "is this really taking place? Is it that slow?"

So Boynton was all freaked out saying, "No, I didn't send that." Told Acee and Acee ended up calling the commander himself saying, "Look," you know, "it was joking around. I sent the email." So I mean, there's no discipline. Maybe someone being polite enough just to say, "Don't do that stupid shit anymore."

KH: Okay.

EO: Don't leave your computer unlocked or your car --

JW: Right. You don't walk away from patrol cars at calls and forget about it, because when you come out, it's going to be parked down the street, and the rookie or the new guy is going to think it's gone and actually stolen, when in fact -- it happened a lot more back in the day. Some people, you know, it kind of gets filtered out as the years go on. I mean, for whatever reason, it doesn't happen as often. Maybe because people learn early, with good FTOs.

KH: Really sets the whole thing (unintelligible).

JW: Right.

KH: Okay. So Tanis is coming in the group, she's been here about three months by the time you're back full-time in January-ish.

JW: Correct.

KH: You and Tanis get along okay. You respect the kind of work she does. She would get into people's faces. I'm paraphrasing what you said.

JW: Yes.

KH: Am I on the right track?

JW: You are.

KH: No problem, you know, confronting people with their, their issues.

JW: No problem.

KH: Okay. Well, I'm assuming at some point you're comfortable enough working around her, that you started including her in your circle of people you'll horseplay with?

JW: Correct.

KH: Is that a fair assessment?

JW: Fair assessment that I was able to -- I was comfortable enough that based on the interaction between me, her and other officers, both at the office and out in the field, conversations, jokes, nothing that Jeff Wilken ever seemed to be a sensitive issue with Tanis.

She was very comfortable in conversations with me about her own personal life and made me comfortable, once -- I'm not going to sit there and disclose to her things that are going on in my personal life, especially at that time of what was going on in my life, because I don't know her.

But once she started sharing with me things that were going on in her personal life, her own personal experiences and how she has reached the point she is right now in her life, it made me trust her in the sense that I could sit down and say, "You know what, you're not the only one that's done stupid shit in your life, and here's some things that I've done."

EO: Can you give us some kind of example?

JW: The conversations that she shared with me about how she had become involved with Gordon Conroy. She had admitted to me that Gordon was married -- let me back up. She had heard me bring up about -- I don't know how it had come up, but basically my girlfriend concerned about interacting with, you know, officers and coworkers and their wives in a, in a setting. It may have been after the Christmas party or something in that nature.

And she went on to tell me that she had a hard time the same way about being accepted by, you know, Gordon's best friends, even his friends and their wives, because he had been married for so long. Those wives knew his wife, those friends knew him to be married to this woman. And when they had an affair, some of his friends were offended by her, but more specifically the wives were appalled and complained, well "We're not associating."

And she shared with me that, you know, he was married, had a child and his wife was pregnant with twins when they started this affair, and that she had only been married, I don't know if she had only been married eight months before the divorce happened or only married eight months when she started the affair with Gordon. And that's when they were working together up at West Precinct.

KH: Okay.

JG: I don't mean to speak out of turn, but I think there is some more incidents that you can explain about.

EO: Well, if you've got a good for example.

JG: Yeah. You want to tell them about the incident where you're waiting on a bust and then he pulled into a house?

JW: Yes. This would have been really at the tail end of NRT, so this would be into – end of, oh, actually, beginning of July. In fact, I can tell you the date. NRT ended on July 15th, I got the search warrant signed on the 16th, so take three days back. So somewhere between June, or July 10th and July 13th.

We did a controlled buy, and after the buy we learned from the informant, we're at 137th Avenue north of 49th Street. We do the buy, she's riding with me, it's a female CI, we go and meet the -- we follow the CI, we get the dope, she searches my CI, I search the car, we interact with the CI, the CI says, "Hey, I'm letting you know when I was there, bad guy called up. Mexican drug dealer. I know he deals with the Mexicans. Says he's out. Guy said he'd be there within an hour." He goes, "If you get to sitting on that house, you're going to have Mexicans showing up." It's, like, "Okay."

And we all headed back out there, sat on the house, started watching it. Right at an hour, an hour and two minutes, Mexican shows up, pays no attention to us, pulls into his private drive, and it's, like, "Okay." We start checking the plates. And we're in an undercover car. All plainclothes.

So we're comfortable. Okay. The guy's suspended. Actually, I think he may even have a warrant. Anyway, he was at least suspended. So me and Tanis were up at 137th, and we go north to about 6000 block. We were south of Fourth Plain in that subdivision that's on the right-hand side, which would be the east side of the road.

We pull in there and we're going to pick up the vehicle after another car. So we're waiting and we've probably got about five minutes to kill. And when we're there, I had just pulled in and we parked, and I'm looking straight ahead, and waiting for the suspect vehicle to go by.

And she, I remember, looks over her shoulder, and she goes, "Holy shit." She looks over her shoulder. I said, "What?" She goes, "This is where I used to live." And I said, "Really?" And I said, "You and Gordon?" She goes, "No, this is where I lived with my husband."

And then she laughed and she goes, "But Gordon's been here." I said, "What do you mean?" She goes, "Well, this is where I took

Gordon that first time when my husband was out of town." And I laughed and I said, "You actually took someone to your house?"

And she goes, "Yeah." She goes, "Don't worry. We didn't have sex in our bed," meaning her and her husband's. She goes, "We had sex in the other bedroom." And I said, "Man, there's a lot of things I've done in my life," I said, "but I would never stoop to the level of bringing --" and we're saying this in the joking sense. It wasn't like I was trying to, you know, say, "You're an idiot."

KH: (unintelligible).

JW: Right. It was, like, you know, "Holy shit, I can't believe you'd do that," and I'm laughing. I said, you know, "I wouldn't do that." I go, you know, "Did he ever find out?" And she goes, "Yeah. When I told him everything, I admitted that me and Gordon had slept here at the house."

And I said -- I had, you know, the basic conversation continues to the point where she tells me that her ex-husband ended up punching her in the face and gave her a black eye. And I was, like, you know, "Did you ever report it to anybody?" And she goes, "Well, I told Gordon and Gordon called him and said he ever touched me again, he was going to kick his ass."

And I was, like, "Well," I said, "I can understand the guy being a little pissed off that, you know, you brought some man home to your house." And somewhere right about that same time, you know, we laughed a little bit more and then bad guy drives past and we never talked about it again.

But again, it would be another example where she's telling me things about her personal life. We're talking about her sex life and her affair and the interaction between her and Gordon and her being assaulted by her ex-husband, you know, which showed me the sense of she's comfortable enough to trust me to tell me this. It's probably not something she would tell her own boss or someone else, but she's telling me in the car.

KH: Was that the night when Frank Gomez helped you guys out?

JW: Yes.

KH: Okay. So the suspect was in a red truck?

JW: Yes. This is the one that ended up stopping the vehicle.

KH: Okay. So tell me the rest about that, that you recall.

JW: Then the guy goes by, we start tailing it into Orchards. Gomez finally catches up, stops it. Bad guy gets arrested. We kind of wanted to sit back for a little bit, because we weren't sure what we had. Then Gomez confirmed that, yeah, you know, there was dope. Found dope inside the car. Found a couple containers of MSN.

I go up, start talking to bad guy, bad guy agrees to at least talk to us initially. "Yeah, I'll talk."

KH: Is he an English speaker?

JW: He is.

KH: Okay.

JW: So we get the truck, because we're thinking we may need to let bad guy use it if we're going to do anything with it. We get out evidence. I drive the truck back. Tanis drives the car back. Gomez takes bad guy; Chylack was in a vehicle, and I think Dustin Nicholson was in another vehicle.

So we all head back to East Precinct, long duration interview, finally get the guy to tell us a little bit more. We start showing him pictures. He admits, "Yeah, I've got more dope. Probably maybe a half pound, quarter pound of meth at my house up in Hazel Dell."

And he's willing to give us consent. The problem is, is he's concerned about having, number one, white people, and number two, cops going into his apartment in broad daylight because the apartment complex he lives at, there's a lot of drug dealers, a lot of Hispanics.

So Gomez is helping, I dress down and we're waiting for dark. Dark comes, we get us all dressed down, and we end up going up to his apartment, recover the drugs, get some money, give him a seizure form, leave. Let him stay with the directions that he's going to be calling us and pursuing one of his Mexican much higher-ups that are bringing in pounds into the city.

KH: He forgot to do that, didn't he?

JW: Not the first day. The first day he called me, but I also knew we were getting at the tail end of NRT, so I was trying to finagle as much as I could, plus work everything out. But yes, long story short he's out there somewhere, still up there in --

KH: He had a lot on his mind. That's why he forgot.

JW: He did.

KH: During that time when you're waiting for the, this long interview, and he's rolling to haveing more, more dope at his house, was there discussion about Frank changing into street clothes? Gomez changing into street clothes?

JW: I'm sure there would have been, because I know he was in uniform and he went with us in clothes.

KH: Do you remember the conversation that took place between you and Tanis and Frank about whether or not Frank's clothes would fit Tanis?

JW: Whether Frank's clothes would fit Tanis?

KH: Yes. I mean, Tanis's clothes would fit Frank. Sorry. I got that backwards.

JW: I don't recall having a conversation about that.

KH: Okay.

JW: I'm not saying it -- I mean, Tanis is small and Gomez, I mean, Gomez was working with the county, he's a small guy.

KH: So if you work for the county, you're a small person?

JW: If you're Frank Gomez. I said, knowing that you worked with him, you might know how big Frank Gomez is.

KH: Okay. Okay. I understand now.

JW: I don't remember having a conversation about that, but --

KH: Was there joking going on about someone getting into Tanis' pants?

JW: Not that I recall having that conversation with her. Fitting in her pants or getting in her pants would be to, Jeff Wilken, two different things. I don't remember having any conversations like that. But understanding what the first question was about --

KH: Getting in --

JW: -- getting in her clothes --

KH: Apparently -- well, what was described to us, was, and actually, it dovetails pretty nice into what you were talking about the house and Tanis talking to you about the house she used to live at, because that makes the pieces fit in much better. The question was posed both ways. Could you physically fit into that pair of jeans and can I get into your pants. Do you recall any conversation like that, around that --

JW: No. At all.

KH: Could it have happened? Is that the kind of joking Jeff Wilken might do?

JW: What -- ask the specific questions. If I would joke saying, "Could he fit in your pants"? Could Frank Gomez fit in Tanis's pants?

KH: Right.

JW: That would be something Jeff Wilken would joke about. In other words, about them being the same size. And it would not be a joke against Tanis. It would be a joke against Frank Gomez.

KH: Understood.

JW: Yeah.

KH: Would Jeff Wilken make a joke about Jeff Wilken sexually getting into Tanis's pants?

JW: No.

KH: Okay.

JW: Never.

KH: But you don't recall --

JW: I know for a fact Jeff Wilken would not say that.

KH: Okay. Well, interesting. I heard the story before, but not all the pieces you supplied, so --. Okay. So that's good. Any other examples like that you can think of where she's disclosed some pretty personal things about herself that would lead you to believe that she's considering you a friend or more than just a casual coworker?

JG: Do you want to talk about Bryan Acee?

JW: Yeah. That's -- I mean, she and I had -- before I get to the Acee part, I've got to back up a little bit further. I have a girlfriend. I'm 40, my girlfriend is 25. My girlfriend doesn't have a lot of knowledge in the sense of how us cops work. All she knows is war stories that we like to tell girlfriends.

In the course of this, she is, my girlfriend is, aware that I work with a female DOC officer. All she ever hears is, "Tanis." "Tanis this, Tanis that." "Me and Tanis were doing this." "Tanis this." You know?

So being a young female, knowing that a 40 year old cop been doing a lot of time is with this female, she's a little insecure in the sense of who this Tanis is. And I explained to her, "Look. Number one," and whether it means anything to my girlfriend or not, doesn't matter.

But for number one I say, "Look, I do not find Tanis Smith attractive. To me, Tanis Smith is like Kathy McNicholas, as one of my good friends at work." You know, female coworker, like one of the guys. She's like a little sister. You know, somebody that you want to screw around with, joke around with, have fun with at work.

Tanis Smith calls you up at 3 o'clock in the morning and said, "Hey, I have a problem," you're going to want to help her, because you believe you can call her up at 3 o'clock in the morning if you have a problem.

So I think one day, me and Tanis, we had done something in this side of town. Don't know what we did, but we were on this side of town, because I used to live with my girlfriend at Esther Short Commons, right down here on Ester and 8th. And that's where my girlfriend works. She was the manager.

So me and Tanis, I go, "I gotta swing by, go upstairs, I'll get us a soda at the apartment." She's, like, "Cool." So when I said, "Do you mind coming in? I'd like you to meet my girlfriend. She's right in the office." She was, like, "No, that'd be cool."

So we walked in, I introduced the girlfriend -Tanis, Tanis - girlfriend. And I'm like the perfect chance. Number one, now my girlfriend gets a chance to see truly who this woman is. Number two, give her a few minutes alone with her and talk to her, and at least calm that fear while I go upstairs and get some sodas.

Come back downstairs, get in the car, me and Tanis. And Tanis is like, "Your girlfriend is beautiful. Your girlfriend is sweet." And I said, "Thanks." I said, "I appreciate you meeting her," I said, "because it alleviates a lot of the issues of me having to work with you all the time and going home and telling a story, and then suddenly realizing maybe I shouldn't have said you were around, because, I mean, I throw your name out there."

So we always had this understanding that, you know, I have this girlfriend and I'm aware of Gordon. So about my girlfriend in the conversation was, I let her know, you know, Tanis is like a little sister, coworker, she's got a deputy who's a coworker, you know, TDU. Now in TDU. I'm --

KH: He had been CCAT, right?

JW: Yeah, I guess he was. And then he ended up going to TDU. I don't know why all that transpired, but he had to bounce around there. I maybe saw Gordon less than five times, three times maybe, for search warrants or at calls.

But Tanis, hearing this from me, said the same thing to me about her interaction with Gordon, which was Gordon's really jealous about me being out here working with the cops.

KH: Do you think that have something to do with the history behind that?

JW: It could be. I mean, realistically. You know? Here I am as a cop and I have an affair with you at work, and we both are married, why wouldn't you have an affair with another cop when you're not married. It's possible.

So she shares with me, you know, "Yeah, he's worried all the time. I always reassure him." And I told her, I said, in our conversation, I

said, "That is the worst thing about being a cop." I said, you know, "You get into this. The longer you do it, you realize, first of all, you don't trust anyone anyway. Second of all, you do stupid things in your own life and you learn from them and you realize now if you were able to do it and you did it with someone, I could understand why Gordon would have those fears."

And I remember specifically telling her I'm doing my best to learn from the stupid things I've done in my personal life. And the biggest one is I'm not putting myself in situations. I'm not going out to the bar after work. I'm not interacting outside of my personal life with other women. I just, you know what, I screwed up my marriage. I have a girlfriend I love. I've got great kids. I'm 40 years old. Be responsible and do the right things in your personal life and go forward.

And the interaction with Tanis was she learned from her own mistakes and you know what, life is good right now. She's happy, I'm happy, we're doing things the right way. And I even brought it up to her. I said, "That's why I don't go out after work with the guys, like when everybody's leaving here, going out for beers, I don't do it.

And I know and Tanis and Gordon would go out with some of the guys from NRT and CCAT. But if it wasn't involving my true personal friends, which would be like Duane McNicholas and Kathy McNicholas, Mike Chylack, and in that setting, Brett Bailey, we weren't doing that. I didn't just go out and barhop with my coworkers, because I didn't want my girlfriend thinking I was being stupid. And I am not bringing my girlfriend around a lot of those guys right now. So we get to this NRT party.

KH: Now, is this the party where they've announced that NRT is going to be disbanded, but they had just announced it, like three or four or five weeks before the actual disbanding?

JW: The party happened on July 3rd. It was the day before the Fourth of July. The true NRT's last --

KH: At D-Mac's house?

JW: At D-Mac's house.

KH: Okay.

JW: That day, we all come to work, we go to Central, both NRT teams and CCAT, we all load up in the vans and patrol cars and we go to the guy who sponsors NRT. Some rich guy in Vancouver. His name slips to my mind, but he's given -- he bought the raid vans, he's given cash donations. Just --

KH: What's his name so we can solicit him?

JW: He's at Washington and 35th, 36th, somewhere up there.

EO: He's broke now.

JW: No --

KH: That's why they disbanded.

JW: Yeah. So we all go up there pretty much saying, you know, this. You're looking at us. We are because of you. You were able to give us the money and all our successes. We went up and took pictures with him and basically thanked him for everything he had done for us.

So we do that. We leave. We go back and change, and we're going to go to eat lunch. We had -- and I don't want to worry anybody, but we had this huge home invasion shooting that happened in May. Major Crimes did not come out. We at NRT did it. I was primary investigator, worked for five days. We worked nonstop. I had like 50-some odd hours of double time. My paycheck was, like, almost eight grand. It was -- yeah, we all worked great. Life was perfect.

The problem was I didn't sleep at all. And the whole time it was, like, you know, what, three suspects in custody, confessions, one guy's a third striker. Let's celebrate. The problem is we never got to it. We'd all talk about, "Let's one night after work just go for a good steak and use the money we earned." And we never did.

So the decision was, before this NRT party, is we're going to go out for that dinner, but we're going to do it for lunch. We end up at the restaurant up north, next to the Shilo.

KH: Billygan's?

JW: Billygan's. We end up there, and it's the NRT teams. We go there. And prior to going there, within a week or two, I have a pretty good

reputation at work for my interview abilities. People you're not going to get to confess, I always get and I always get a confession.

East Precinct has a room like this that has video and audio, so my partners, I would go and do the interview, they would sit there and watch. And they'd be a little drawn out, but when it was all done and over with, I'd come out, talk my shit, and win whatever the bet was.

And me and Tanis had a bet that I wouldn't get somebody to confess. And it was a beer. And I win this bet. And of course I'm not going out with her outside of work, oh, I don't think I'm ever going to get paid. Well, we end up at Billygan's, and I bring it up jokingly, I said, "Hey, remember that beer you owe me." She's like, "Oh, yeah, that's right."

So we're all off-duty. Everybody left guns, everything, we're done, that way we can -- 2 o'clock in the afternoon we can all drink beer and everything's good. We sit down, we order, we eat, I drink a beer. It never gets put on my bill and everybody's getting ready to leave.

KH: You're saying Tanis has picked up the beer?

JW: No. Well, I thought. But we never told the waitress. And when I got my bill, the beer was actually on my bill. And I joked around and said, "Look, I'm actually still paying for my own beer." She had a beer. Pretty much everyone, for the most part, that I recall, had at least one beer. But no one had, I don't think anyone had more than one, to tell you the truth. Just one beer, we all eat good, and we knew we were going to D-Mac's.

So I actually drove my under -- my patrol car to East Precinct.

KH: Okay.

JW: But rode with Tanis and Leonard Gabriel in Tanis's car to lunch, because I know my girlfriend at 5 o'clock, when she gets off work, is coming to D-Mac's party, so that's my ride home. So I don't want to take a second car to D-Mac's.

So Tanis drives me and Leonard Gabriel to lunch, and then after lunch, we all walk -- me, Jeremy Free, Tanis, Leonard Gabriel. Dustin Nicholson went to get diet Coke, diet Coke. Those guys are going to buy a bottle of rum.

KH: Okay. I'm going to flip the tape real quick.

JW: Okay.

KH: The time is 0949 hours and I'm just going to flip it over so we don't run out. (End of Tape 1, Side A).

Beginning of Tape 1, Side B:

KH: Okay. The time is 0954 hours. Same persons are present now as were here when we began the interview. We took a short five minute break or so, and we're back on tape.

Jeff, you were just telling us about heading up to the party. You rode up with Tanis, Leonard, and Dustin came up separately?

JW: Yes.

KH: Okay. And he went to get diet Coke, someone grabbed rum --

JW: He went to get a case of diet Coke, I had accompanied them right next-door to the liquor store and they were -- between Tanis, Leonard and Jeremy Free, we're trying to figure out which big bottle of rum they wanted to buy. They pick. I'm not going to drink anymore. I actually -- I don't know why, but I mean, I had no desire to do much drinking that day.

And so they do that. We walk from there, me, Tanis and Leonard, back to Tanis's car. And Tanis asked, "Will you drive my car?" And I was, like, "Sure. I'll drive." No big deal. Because she's all proud of her new Dodge Charger, and she actually had let me drive it once before at work when we had gone to Wendy's for a lunch run.

And she hands me the keys. She sits up front and Leonard's in back. You've met Tanis. She's, like, 5'2" at the best. So she sits pretty close to the steering wheel. I get in, have to slide the seat back, and we drive, uneventful drive, to McNicholas's house.

KH: And Chylack stopped to buy some hot dogs and buns, right?

JW: Yes. At some point. I mean, everybody's getting everything they're supposed to be getting. We end up at McNicholas's house. We were there an hour or two hours. Had been out back, sun is hot as hell, sunshine in everybody's face. So we decide, let's move up front. The front of the house is nice and shady.

We do that. About this time, more people are showing up. Beth Graves is there, some of the CCAT guys are showing up. Pete Muller shows up. Mike Whitney, who's a lieutenant in Vancouver, shows up.

And in the meantime, Tanis has been drinking. All the other guys have been drinking. I think I might have had one more beer while I sat there. In fact, this is a pat on my back. It's unheard of me to go to one of these things and not have four or five or six beers. I'm a very sociable person. I like to drink beer when we're having these parties. And that day I just was not in the mood to drink.

KH: Was Acee commenting on it?

JW: Yeah, everybody was joking about it. I mean, like I said, you know, a lot of these guys go camping with me and I, you know, whether it's a good reputation or a bad reputation, Jeff Wilken tends to be the life of a party a lot of times, and Jeff Wilken is usually the one that people, if something needs to get spiced up or livened up, "Let's get Wilken to do it." I tend to be the entertainment for a lot of people.

And it was a very unusual day that day that Jeff Wilken wasn't drinking. And I just had no desire to. I mean, my girlfriend was coming there, I didn't want to be slop ass drunk because, again, new girlfriend. Early on in relationships, you tend to talk a lot of shit about your past, and then later when you realize your relationship is getting more serious, you realize, "Damn, why did I admit to some of the stupid ass things I did in my life?" Because now you've got to truly show that you are a different person. So I want to be aware of that.

So Leonard, Dustin, Acee, everybody, Kathy McNicholas, everybody's laughing, "Wilken ain't drinking. Wilken ain't drinking." In the meantime, Beth Graves is sending a text message around, and the text message is a picture of two women on a bed, they're in a, I'm going to call it a doggy style position.

They're basically on their hands and knees, their heads are facing to the back of the picture. And as you're looking at this picture on your cell phone, you're basically seeing their buttocks, their vaginas, and their thighs. And I don't think their heads are turned facing, you know, the camera. It's just you're seeing the back sides of these two women, and on a bed.

Now, I'm kind of bouncing around. At the time this picture comes, my girlfriend is sitting next to me. And some guys are seeing it and I'm, like, "What are you guys looking at?" And Beth, "Oh, you haven't seen it?" And it gets forwarded to me and it's since been deleted.

But I look at it and I was, like, "Holy shit." And I remember the caption said, you know, "How 'bout, how 'bout, how 'bout these two biscuits with your breakfast or your coffee," or "How about these biscuits with your coffee," type of thing. And I was, like, "Wow," and my girlfriend was, like, "What is it?" And I showed her.

And in the meantime, Beth has met my girlfriend on a few occasions. Beth has -- we've gone out. Beth I have socialized with off-duty. Tanis never. So Beth has met my girlfriend out in a bar before, when we've gone out, you know, having some beers.

So Beth being, being comfortable because she knows my girlfriend or whatever, jokes to my girlfriend and says, "That's me and Tanis." And my girlfriend, young, naïve and gullible, is, like, "Are you serious!" Because this is a pretty exposed picture.

And I looked at my girlfriend and said, "No, it's not them." And at that same time, Tanis is sitting right there, or standing right next to Beth, and Tanis is now drunk, and Tanis is, like, "No, it's not me. She's just kidding." And, you know, she's slurring her words and I was, like, you know, "They're just fucking around. It's no big deal."

And I end up deleting the picture. Because again, Jeff Wilken tried to maintain this image that I'm not a wild, out of control dude, and my friends can be somewhat reasonable, but --

KH: The old bait and switch routine with the new girlfriend.

JW: Yeah. But the problem, you know, we know cop parties and, you know, we tend to let our hair down a little bit. So I delete the picture. Everybody's still joking, laughing. And what I am paying attention to, again, I'm sober, girlfriend is sober, is Tanis and Acee are talking.

And they're, like, in their conversation, their own little world conversation. And my girlfriend is asking, "Oh, who's that? Is that her boyfriend?" I said, "No, that's Bryan Acee. He's," you know, "with the police department. Good guy." And I kind of tell a little history. He used to be with California Highway Patrol, blah, blah, blah.

So sun's starting to go down to the point, "Hey, let's move back to the backyard." We all move back to the backyard. Some more joking around and it's time -- it is not dark yet. It's probably an hour, hour and a half before dark. Me and the girlfriend decide we're going to leave. Everybody's, like, you know, "Stay, stay, stay. You haven't drank anything." And then, you know, I think they're going to do fireworks. And I was, like, "No," you know, "I want to go."

So me and the girlfriend get up, say our goodbyes, and as we walk through McNicholas's garage and heading up the driveway to where the girlfriend's car is parked, as we head up the driveway, all of a sudden I see Beth Graves standing up. Beth's a much taller woman than Tanis. And Beth is standing to the passenger side of a vehicle.

And I see Beth, and within a matter of a second or two, all of a sudden I see Acee and Tanis behind this same vehicle. It's an SUV. The vehicle is high so I just didn't see them. And me and the girlfriend see.

And when we see Acee and Tanis, I've got -- I will say on tape, they weren't doing anything inappropriate. But I will say, as a cop, their facial expressions, specifically Tanis', was -- it gave me enough of, "What the hell is going on," looking at both of their eyes, that I knew I needed to get my girlfriend in the car and get the hell out of there, because I don't know what was going on.

And I make a joking comment, I say, you know, "At least you've got Beth --" oh, remind, write this down or I'll just say, remind me about a comment that was made about at the point -- I'll just say it. There is moments where Beth and Tanis were joking around about threesomes with Acee, threesomes with Gordon. Those types of jokes and conversations were taking place there.

So when we go out there, I see Tanis and Acee really doesn't say anything. He's, like, "Oh, are you leaving us?" I said, "Yeah." I said, "Okay." And he kind of walks with Beth, and Beth just walks off. But Tanis says goodbye to my girlfriend, gives her a hug, comes up to me, and she's, like, "Oh," you know, "too bad you're, you know, leaving." I said, "Yeah, I'll see you at work." And she's, like, "Okay."

And she gives me a hug. And I said, "Okay." You know, "Be safe." And that was my way of telling her, "I don't know what you're doing,

but don't be stupid," because we've had some conversations before.

KH: And Gordy wasn't at the party?

JW: He was not at the party. So she gives me this little hug, and as she backs up and I say this, "Okay, be safe," she's, like, "We're still friends, right, Jeff?" And I'm, like, "Huh?" And she goes, "We're still friends?" And I said, "Yeah, we're still friends." And she's, like, "Okay," and she turns and she walks off, and me and the girlfriend get in the car.

And as we drive away, the girlfriend is, like, "What was that about?" And I go, "What do you mean?" She goes, "Why is she worried about you guys being friends?" I said, "She's drunk." She goes, "I thought that wasn't her boyfriend." And I'm, like, "It's not. It's a guy we work with." I said, "They were probably just out there talking." I said -- and I even tell her, I said, "If Beth wasn't out there, then I can understand being concerned."

The girlfriend -- I'm not trying to educate anybody, but Beth is a lesbian. Beth has been married before and Beth freely acknowledges this. We joke around about it. Beth jokes about being a lesbian. Beth has joked with my girlfriend about being a lesbian. Doesn't make me uncomfortable. It's peculiar to me.

And I say, "Beth's out there. Nothing's going on." Girlfriend's wising up, said, "Beth's a lesbian. Beth jokes around about being with Tanis." I was okay, maybe that wasn't the best point to make.

So we drive away. And for several minutes, I'm reassuring my girlfriend that yes, it looked bad, Tanis and Acee behind that vehicle, but nothing's going on. They're, they're friends. Maybe they're just talking. Maybe they're just getting away from them. Who knows. It's fine, it's okay, it's no big deal.

But there was not a doubt in my mind that, again, a person who has no knowledge of these people for anybody, all she sees was enough for her to question what was going on between them.

So again, that's Thursday, Friday's Fourth of July party, or Fourth of July fireworks. Weekend happens, we go back to work the beginning of the week.

KH: Do you guys work Tuesdays or Mondays?

JW:

Tuesday through Friday. When we end up back at work -- now, I can't tell you if it was Tuesday or Wednesday, but really early in that week, I can't tell you how we get on the conversation, and it could have been about the same time as all the drug stuff with the Mexican.

All I know is as our conversations go, we bring up -- the party gets brought up. And she tells me, "Gordy was pissed off." And I'm, like, "What was he pissed off about?" She goes, "Oh, I was so fucked up, Jeff." I said, "Yeah," I said, "you were pretty drunk when we left."

She goes, "Yeah. Me and Acee were --" the way I believe, is in the backyard towards -- the McNicholas's own an acre. They have a very well-kept, manicured yard. And in the back they have this big patio, and that's where typically everyone sits.

So they've got a big yard. And in the back there's a shed, some trees and a play set and stuff. I think there's a bench that sits by the shed. The way I took it, the way she described it, is they were back by that shed area, talking when Gordon showed up.

And Gordon was pissed off. And she was drunk, and when he showed up there that she was back there with Acee. And I was, like, "Well, you weren't doing anything, were you?" And she goes, "No, we were just talking, but it didn't look good." I said, "Well," I said, "you know, it didn't look good either, when we were leaving and you and Acee were back behind that vehicle."

And she just looks at me, and I, again, because she's a friend and based on our conversations, I felt very comfortable telling her, I said, "You know, you really fucked up over there." And she was, like, "What are you talking about?" I said, "Here I am always reassuring my girlfriend that you are a safe person to work with," I said, "and here you are with Acee back there and we're leaving and she knows Acee's not your boyfriend." You know, "Thanks." In that joking around.

And she said, "Well, I'm sorry, but we were just back there bullshitting." I said, "That's fine," I said, "you know, it doesn't matter." I said, "But I will tell you, when I left and I saw you guys," I said, "I will tell you that something had happened or was about to happen, because you both looked like a deer in the headlight looks." I said, "It didn't look good." She's, like, "No."

And she just -- her response, I was, like, "Really?" And she's, like, "No, nothing happened." I said, "Tanis." And she's, like, "No, nothing." And she's getting all stumbling on her words and stuff, and I was, like, "Come on." I said, "It's me." I said, "Do we need to go in the interview room?" And she said, "No, I ain't admitting to shit."

I said, "Come on, Tanis." I said, "I'm not trying to get in your business," I said, "but don't sit there --" and she's, like, "Look, I'm not saying nothing would happen or could happen, because he's very good-looking," she goes, "but nothing happened."

I said, "Okay," I said, "that's fine," I said, "but understand all our conversations about not doing stupid shit." I said, "When we put ourselves in situations," I said, "it causes this explanation later," I said, "and if you feel guilty about it, understand, you know, you're dealing with the same profession that I am, and if I suspect something, there ain't a doubt in my mind he's going to suspect something. You know, you need to be smart."

And then she brings up, in this same conversation, about when Gordon showed up there, they leave, he drives, they left her car. Then she goes, "And Gordon's all pissed off, questioning me about the car." I was, like "What was wrong with the car?"

She goes, "Well, he asked me who drove my car?" "Who drove your car, Tanis?" She's, like, "No one. I drove." He's, like, "Tanis, who was fucking driving your car?" And she's, like, "No one, Gordy, I drove." He's, like, "No, you didn't. The seat was all the way back." And she's, like, "Then I remembered you drove it."

And I said, "So what did you tell him?" She goes, "Well, I told him you drove it." I says, "Okay, Tanis, he's pissed off, he's angry about Acee, he's pissed off and angry now that he thinks you're lying about the car, and then you just drop, "Oh, Wilken drove it." Did you explain to him that you had been drinking and you didn't want to drive and Gabriel was in the car, too?" "Yeah, it's fine. I told him. It's okay."

And I was, like, "Okay." I said, you know, "So be it," I said, "but understand this." And I kept razzing her, you know, about the whole, you know, interviewing and getting her to confess side of it. And then it just -- it went away. Nothing else was ever said about that party or the interaction that, you know, was going on at the party.

KH: When you and her had this conversation, were you guys out at the car by yourselves or was it in the office? When she was telling you about Gordon being pissed because you drove her car and that sort of stuff, issue with Beth and her and Acee by the SUV. Did you guys --

JW: I want to --

KH: -- do you remember where you guys were?

JW: It could have been a long, drawn-out conversation. In other words, it could have been pieced. But I know when I made a comment about, "Do you want to go to the office," the interview room, we were in the, in the station. But some of it may have continued on in the car.

Like I said, we were doing a lot of running around that last week, ten days, trying to get some warrants written. We were trying -- we knew our overtime was about to go away, so we kind of had to -- we needed to squeeze in as much shit as we could get in these next five to seven days.

So I knew I was running left and right, trying to do buys and trying to get warrants written and get reports done.

KH: Because you've got two weeks left at this point?

JW: Yeah.

KH: Or less than two weeks.

JW: Less. So I can't tell you specifically where we were for each conversation, but I know they probably went on both in the office and in the car.

KH: Okay. Did you ever ask her and find out that she wanted to fuck Acee?

JW: No.

KH: Okay.

JW: I know I asked her, you know, "Did anything happen," and she was, like, "No." And that's when she made the comment, "I wouldn't say nothing would happen or could happen. He's a good-looking guy. But nothing happened."

KH: Okay. Did you ever ask her if she wanted to fuck you?

JW: No.

KH: Or anything similar to that?

JW: No. I have no interest in that type of a relationship with Tanis, ever.

KH: Well, even in a joking manner.

JW: Okay.

KH: I'm, you know, I'm trying to pin down some specific statements that are being alleged.

JW: Okay.

KH: And those --

JW: That --

KH: That's not a conversation you ever had at any point with her?

JW: Me and Tanis, I can assure you, me and Tanis have never had a conversation about her and I ever having any sort of a relationship.

KH: Or her and Acee, other than that one at the party?

JW: That was the only time. I didn't even know -- I'd never known them to ever work together before. That was -- I mean, they actually caught me off guard how --

KH: How friendly they were at the party?

JW: They seemed to know each other. Let's put it like that. Like maybe they have worked together in the past. I mean, they knew each other and they seemed to converse well with each other.

KH: Okay. That's a nicely worded way to put it. Anything else along those lines you can think of? And just to clarify, you hadn't talked with Tanis about her and Acee having any sexual interest in each other, other than asking if anything happened after that party?

JW: Right. And that was specifically about, "When we were leaving and saw you two behind that truck, was anything going on."

) KH: Okay.

JW: That was it.

KH: It never went beyond that?

JW: No.

KH: Okay. There's nothing that could have been said that she could have somehow misinterpreted in some other --

JW: No, sir.

KH: -- meaning for that question?

JW: I do not believe so.

KH: Anything else along those lines as far as conversations you guys have had at events that you've been at that could have been spun?

JW: No, but I guess just one other conversation that I recall having. Like I said, we always talked.

KH: Sure. Well, you've got months --

JW: But a conversation -- right.

KH: -- together.

JW: A conversation that is relevant to this is, there, we have a gathering -- not a gathering. This would be an incident where myself, girlfriend, Duane McNicholas, Kathy McNicholas, Beth Graves, we go out. And in that time, Beth is a little flirtatious with my girlfriend. And I truly in my heart know it's harmless. "Yes, I'm a lesbian and you've got a cute girlfriend and I'm going to joke around and flirt with her."

KH: So she did it just to tease your girlfriend a little bit?

JW: Right.

KH: Okay.

JW: It's new and different to my girlfriend. Something that catches her kind of off guard. So at work after this weekend had occurred,

) when me and Tanis were talking, Tanis comes right out and tells me, she goes, "Yeah," she goes, "I actually won't go out and drink with Tanis, because I've gone out with her before and she's making moves on my sister and she's making moves on my sister." Beth Graves.

KH: Beth.

JW: Is making moves on Tanis's --

KH: Got it.

JW: -- twin sister. Or maybe older sister. One or the other. She has a couple sisters. And Tanis, you know, basically is saying, you know, that, you know, Beth's a lot of fun to party with and stuff like that, but you kind of got to have to be careful with her, you know, when you're out there drinking, because, you know, she's a little flirtatious, you know, and being a woman -- but it wasn't ever a statement to me that I'm completely offended and appalled by it.

) It's more like, "Ha, ha, ha," you know, "Beth's a lesbian and she flirts with you and she flirts with, you know, my family members. So I just don't want to put myself back out there in that situation." And I said, "Yeah," I said, you know, "I could see it catching my girlfriend off guard. Kind of being surprised."

KH: Sure. Especially not being involved in --

JW: Law enforcement.

KH: Right.

JW: And those things.

KH: Being an apartment manager or the Commons manager, you probably don't see this aspect of people very often.

JW: Right. So again, I mean, it's just another example of a conversation that she and I have had about personalities and the way we've acted outside of work. So I think that is all I wanted to add.

KH: Okay. Fair enough. Back in May, I think May 21st or so, you guys did a search warrant on a house you went to on May 21st, on 87th Circle. Two-story house. I believe you spent --

JW: Mexican house, yes.

KH: Okay. And this was the second time, I don't know if it was CCAT and NRT, or SWAT and NRT, but it was the second time an NRT group had been to this house.

JW: Correct.

KH: And you probably know the one I'm talking about here.

JW: I do.

KH: And Leonard Gabriel was in evidence, because he hurt his shoulder or something like that, and you guys were in D-Mac's van. Bread box or whatever you want to call it.

JW: Okay.

KH: And you were searching the master bedroom after the house was secured.

JW: Okay.

KH: And Gomez was there on SWAT, kind of securing, maybe he was -- I don't know, but he was. And there was a search of the house.

JW: Yes.

KH: And something to do with some panties.

JW: Okay.

KH: What was that?

JW: Myself, Duane McNicholas -- I'll name everybody that I remember being there. Myself, Duane McNicholas, Fili Matua, Mike Chylack, Jeff Kipp --

KH: What was Jeff's duty? Oh, he was CCAT?

JW: He was CCAT, yes.

KH: Okay.

JW: Spencer Harris, but I think he was downstairs the entire time, interviewing with or him and Billingsley were with the Hispanic suspect's family. But to just get to what was going on up there.

)

So we were all up there, we had been searching this place half hour, hour. It is -- we're getting ready to leave. Somewhere in the course of that, someone brings -- and I don't know who it was -- but I remember, like I said, these people, if I had to guess, it was either Fili Matua or Chylack. Those are the two I think it was.

Someone brings in a box in the bedroom. And in the box is something you'd buy in an adult porn store. Basically, it's them it's a rubbery latex supposed to feel like, made to feel like skin, from the lower back to the upper thigh, buttock, vagina area. Basically it's a sex device. And they bring it in to us. And, "Ha, ha, ha," laughing.

You know. If anyone has ever written a search warrant on a meth house, interacted with tweakers, porn is their life. If you go into a house and you don't find porn, you're not going to find meth. It always seems to be the running tool. So these people become sex freaks and that's their life.

)

So we haven't found -- first of all, we haven't found any dope. We haven't found anything. And someone decides, "Hey, there's something that is going hand in hand with dope and here's this." So it gets brought in the room. We laugh, "Ha, ha, ha, never seen that before."

We are leaving that bedroom, and we're kind of like in a line. There's like four or five of us leaving. I am behind Tanis. And as we're walking out to the right, there is a laundry basket with folded up clothes. They all appeared to me, recalling, to all be clean clothes.

On the top of these are folded up women's underwear. Funny as hell at the time. Stupid, looking back at it now. But I walk up and as we're walking up, I kind of grab the panties -- and I can say this from the bottom of my heart. It didn't matter if it was Tanis Smith, if it was Duane McNicholas, if it was Bryan Acee, Fili Matua, I didn't care who was in front of me at that time. It was, right now at this moment, this is going to be funny.

)

And I took those panties and all I did was just set it right up on top of her head. Didn't pull the elastic over her head. I set them just gently on her head. All I wanted her to do was feel it, reach up and it worked perfectly. She reaches up, pulls it, and it was like, ha, and it kind of, "Oh! Can't believe it."

And she threw it and she turned around and, "Oh," and she's laughing and, you know, she's, like, "You're an idiot, you're an asshole." But it wasn't shocked and appalled like I just killed her cat and turn around and look at me and punch me in the chest and say, "You're an asshole." It was smile, laugh, "Ha, ha, ha."

I'm sure another person or two may have seen it or heard it. And we went about our business. Nothing more was said to me about it. Nothing more was said to anyone that I was aware about it. And we went on.

And it would be one of those examples of the way, you know, you joke around, you do things to liven up what is going on at the moment, and that's what happened.

KH: Did Chylack ever talk to you about it?

JW: He did not.

KH: Okay. Was he there when it happened? Was he upstairs taking photos when it happened?

JW: You know, he -- at any search warrant, typically we have one person assigned to photos. You'll yell for him, he comes running, takes a picture, by then someone else is yelling for him. So where he could have been at that time I don't know. I know he was at the warrant, but I don't know where he was specifically.

KH: Do you know if Fili was there when it happened?

JW: You know, I hate laying people out, but my recollection is that there was more CCAT people up there at the time than cops. So more of the CCAT guys. I think Fili may have been there. God, I really think Fili was one of the first guys up there with us when we were leaving.

EO: Did you point out to anybody the laundry basket, or that was clean clothes? Or did you kind of -- you were right about porn and that? And also dirty clothes and meth kind of go hand and hand too --

JW: Sure, but I will tell you that this was --

EO: -- (unintelligible) clothes --

JW: This was a family --

EO: -- (unintelligible) found?

JW: This was a family that, again, I know I've put too much of this on this tape, but the people that we were dealing with is a very well organized Mexican group. And this was a mom and her kids and a husband, and the house was clean and organized, you had food, you had everything. It was like going into our homes.

KH: You said that there was no dope?

JW: Yeah. I mean, there was nothing there.

EO: Were there any pictures taken of the master bedroom, including the laundry basket?

JW: I don't know. I would assume -- typically, I've never been the photo guy, but typically we do overalls beforehand.

EO: Right.

JW: So my belief is yeah.

EO: And afterwards.

JW: If things got destroyed or how things were left. So yeah, there may be some photos.

KH: So they can't come back and complain to the cops that you punched holes in the walls?

JW: Correct.

EO: Okay. But you don't know about that. You hadn't checked with anyone yet?

JW: No, sir.

KH: Did Leonard Gabriel say anything to you?

JW: After this incident?

KH: Immediately afterwards. Like within half an hour, hour and a half?

JW: No, sir.

KH: Okay. After you dropped the underwear on Tanis' head and she reacted the way she did, did she stay up there searching or did she leave? Or were you guys done --

JW: We were leaving.

KH: Okay.

JW: We were on our way out.

KH: Did you guys ride back in the same van together, same vehicle together?

JW: No. I was a patrol car, because I was responsible for blocking intersections for SWAT. So I would have rode back in my patrol car by myself.

KH: Is that a marked unit?

JW: It's the black NRT cars.

KH: Okay.

JW: They're Impalas, low profile.

KH: They look like cop cars.

JW: Right.

KH: Just not -- don't have a star on the side.

JW: No black and white. They're just solid black car. Impala has a push bumper on it, a cage.

KH: All right. And nobody said anything to you at any point after that incident? Chylack, Tanis, Leonard?

JW: The first I heard about that incident was on Monday, August 11th, in the morning time, when me and Leonard Gabriel had a phone conversation and he had told me about a conversation that he and Tanis had. And that's when I -- I knew there was an issue with the handcuffing incident, but when he and I spoke on the phone, he was telling me other incidents, specifically this handcuff, or excuse me, the underwear on the head thing. And that she had been crying, saying that she didn't want me to get in trouble and it's out of hand.

I took it as he took it, that what was going on with the department and she was afraid I was going to lose my job and she didn't want this to happen, and she had been pretty emotional in the conversation with him, that she was a little shocked by how things had been transpiring.

KH: Okay. When were you placed on admin leave?

JW: The afternoon at 3:30 on August 11, I got called and was told I was being administratively reassigned to Evidence. And on Thursday the 14th, I got put on admin leave saying the allegations were now being criminally investigated.

All I know is that "in the paper there is a written complaint somewhere," and no one has ever told me what specific incidents they are. But the way you read the paper is that there's incidents. And then the conversation I had with Leonard where he mentioned the incident to me about panties and the handcuffing. And my conversation with Lieutenant Chapman.

KH: Okay. Anything else you can think of about the panties incident?

JW: No, sir.

KH: Okay. Tell me about the handcuffing thing.

JW: Oh, funny, again.

KH: Obviously.

JW: Again, funny as hell. Not funny today, but funny at the time.

KH: Last day of NRT, right?

JW: I believe it was.

KH: You're swamped with paperwork, trying to get things done?

JW: Yeah. And everybody's, you know --

KH: You guys did a chicken warrant.

JW: That day, we did. We did do a chicken warrant.

KH: D-Mac was attacked by this rooster?

JW: Luckily, I had already left, but yes.

KH: Okay.

JW: It was a crazy warrant.

KH: I hear it was a brutal, brutal scene.

JW: It was. Like I said, you know, we're now in July. So I mean, for seven months I'm working with this woman. She's like a sister, a partner, a friend. You know, she gives me shit, I give her shit, we joke around all the time. Razz each other. She buys me lunch, I buy her lunch. I mean, nothing made it, me feel that to liven up what was going on, of us being buried with paperwork, and knowing that she's two weeks from getting married and all the bullshit that, you know, we joke around about that -- you know what? I walked up to her -- I had gone to the bathroom and I had come back and she was sitting there.

And I actually had seen her handcuffs sitting on her desk, and I just went up and I took her handcuffs and I handcuffed her left wrist to her chair. And Chylack starts laughing, she's laughing. And I realize, hey, I have a pair of handcuffs on my belt, too. So I took my handcuffs and I handcuffed her right wrist to the chair.

And she's laughing and she's moving her wrists. And, you know, I may have said something, like, you know, "It's not so funny now. Ha, ha. Now I got you." And she's laughing and Chylack is laughing.

And her chair has wheels and I push her out of the NRT cubicle area, down the hall. And my plan was to go right out the door and just set her right outside the doors, because if she's handcuffed she's not going to be able to get back in. You need a key fob to scan to get into the East Precinct doors. So I thought, "It's about 6:00 to 6:30," you know, take her out and put her out there for a minute or two and just, you know, joke around with her.

And as I'm wheeling her down and getting closer to the door, it dawns on me, I don't have my key fob, either. If I push her outside, I'm not getting back in.

KH: You're both stuck outside.

JW: So about that same time, you know, I look and here's the men's locker room, it's a double door. You have the first entry that takes you in where there's a bunk room and a second entry that takes you in to where the bathroom and locker room that leads you to the workout room.

And for some reason I actually think the first door was open. Typically, when the janitors come through they'll leave that first door open to get the mop buckets and all that crap through. And I think that door was open. And I kind of just, as I'm wheeling her I just wheeled to the left, and I pushed her in the entryway of the bathroom of the locker room.

And she's, the entire time, at no -- I want this really clear. At no point did she say, "Jeff, knock it off. Jeff, stop. Jeff, let me go. Jeff, quit. Jeff, you're pissing me off." It was, "Ha, ha, ha," laughing, hysterically laughing. Like, "Where you gonna go? Don't put me in there. Don't put me in there. Jeff, don't, don't, don't." She again, not knowing if someone's in there, which I can understand. I knew there was no one in there, because I had just come from there. And I also knew no one was in the locker room, because all the patrol guys are out.

And I just push her in and she's not there a second when, as I'm stepping out, Dave Henderson, unbeknownst to me has been coming down the hall. And he sees this and he says, "Oh, no, Wilken. I'm not gonna be part of this IA." And I laughed, and I said, "There ain't gonna be no IA."

And Henderson pulls her out of the thing and she's, like, you know, still laughing. And I go up and I uncuff her. So as I uncuff her, she stands up and Henderson leaves.

Important note. Dave Henderson is a good friend of mine. But Dave Henderson, there's a chance he may know about this, but I would say it to his face. Dave Henderson, to me, would not have a problem -- and I'm not saying it's bad or good -- but a factual statement, Dave Henderson would not have a problem, if he thought that was a problem, to go to a lieutenant or commander.

KH: Is he a by the book guy?

JW: He is. And he's not one that's going to give you the benefit of the doubt, if he is going to get laid out. If it's me or him, it's going to be me, because he's going to make sure he looks good. So when he does this and he goes out the door, there has just been a recent

termination of Chris Kershaw in our department, and I know you guys don't know about it, but he was terminated probably about four months ago. Dave Henderson was part of that IA.

And one of the allegations was, did Kershaw lie to Henderson? So that -- Henderson, you know, when I see that, I'm like -- I say out loud what it is I'm thinking, and that is, "Anybody but Henderson." You know. Because I know I'm joking around, Tanis knows I'm joking around. But again, if you're not there throughout the entire thing of what's going on, you may, from the outside, look in and, "What the hell is going on?"

And he walks off. And I say to Tanis, "Man, anybody but him." And she's, like, "Why?" I said, "That's Henderson." I go, "He was the one that was involved with the Kershaw IA." And as we're having this conversation, we're walking back and talking, to the NRT cubicle. And she's, like, "Well, he's not going to say anything, is he?" And I said, "No, he's a good friend of mine," I said, "but it's just him."

And she's, like, "Well, you're not going to get in trouble, are you?" I said, "No," I said, "he knows we're joking around," I said, "but I don't want him to think, you know, it was anything more." I said, "I'll talk to him later." And she's, like, "Okay."

So as we come around the cubicles to where Chylack is, Chylack is this one person in life that you come across that you will do anything that you can to make him laugh, because once he starts laughing, he can't stop and he is one of those people that you will laugh at his laugh. He's just a joy to be around and work around.

And as we come around, he is still laughing. And as he's laughing, I'm still laughing, and Tanis is laughing. And she doesn't say a word to Chylack that I can recall. She doesn't say a word to me, outside of, "I don't want you to get in trouble. I ain't going to say anything" Blah, blah, blah.

She goes right to her desk, and I had been pushing her chair, and I pushed her chair right up and she sits in her chair and she immediately grabs her phone and she calls a phone number. And Chylack is, like, "Man, where did you take her? Did you take her outside?" And I'm, like, "No, no, I took her down to the locker room, Henderson, ha, ha, ha."

In the meantime, I hear, "Oh, yeah, you're not going to believe what Wilken just did." And I kind of look at her and I'm like -- and she

ain't looking. She's just looking down at her desk. And I'm, like, "Who in the hell did she just call?" And she goes, "He handcuffed me to my chair and pushed me in the men's locker room. No, no, it was -- it's pretty funny. Okay. I'll call you back," and hangs up.

And I was, like, "Who was that?" And she goes, "It was Gordy." And I kind of -- as soon as she said that, I was like completely dumbfounded that this woman, in all of our conversations that sits there and admits to me, "Gordon's a jealous guy, Gordon has fears with me working with you guys, Gordon this, Gordon's been pissed off at me because you drove my car, Gordon was pissed off because of the way I acted at the party." And she calls him.

And I looked at her and I says, "Why'd you call him? Do you not remember everything we've talked about?" I go, "He wasn't here, Tanis." And she's, like, "No, it's cool. He was laughing." And I said, "But he still wasn't here." She's, like, "It's okay, Jeff. He was laughing. He knows it was just joking around." I was, like, "Okay," and we went on with the day.

That's July 12th, 13th, 14th. Whatever -- the 14th or 15th. Whatever that day is. That's the last time I see Tanis Smith. That day.

JG: Jeff, when she was telling Gordon that, was she laughing?

JW: Oh, yes.

JG: Okay.

JW: She was laughing. The phone gets hung up, she looks at me, "He knows it was a joke. He was laughing. It's okay." At no point anything that I felt like, number one, I had to be sorry for or, "Oh, do you want me to talk to him?" Nothing. It was, "Okay."

I knew it was a joke. She knew it was a joke. Chylack knew it was a joke. Henderson knew it was a joke. She tells me Gordy knew it was a joke. We're the only ones in that building. And we go about our business. And like I said, that's the middle of July. And I can really speed through this, because then I can bring you up to any questions you have.

July 20-something. Let me just rewind. Sometime in April or May, I get a wedding invitation to their wedding. She keeps asking me throughout, "Hey, I never got a thing. You're definitely coming?" I

said, "Yeah, me and the girlfriend are coming. We'll be there. No big deal." Blah, blah, blah. Plans to go.

The end of July, around the 25th, 24th of July, so a week later, I go with my girlfriend and my kids with the McNicholases, Chylacks, Brett Bailey and his family, Jay Allie ends up showing up there, we're all going to Riffe Lake. We're there for the week, the world is good, everything's perfect, Chylack leaves.

He calls and says, "Hey, I need to talk to you." And I'm on the phone with him and I'm, like, "What's up?" He goes, "Chapman asked me and Dave Henderson to write memos about handcuffing Tanis." And I was, like, "Are you serious?" And he's, like, "Yeah."

And Jeff Wilken has history with our command. And Jeff Wilken has witnessed history with command, sometimes taking incidents and running them into ways they should not be run. And immediately when I hear Chapman, who is my lieutenant, is asking two sergeants to write these memos, immediately I'm thinking Chapman, with command, and command's going to try to screw Wilken for whatever bullshit.

Jeff Wilken's thinking, "But once they talk with Chylack and Wilken and Tanis and Dave Henderson, the world is good." And I was, like, "Okay. That's no big deal."

And Chylack was, like, "Well, it gets worse." I'm, like, "What do you mean it gets worse?" He's, like, "I talked to Gordy and he told me to tell you do not show up at their wedding." I'm, like, "What?" He goes, "He said because of what you've done and what you've said, he does not want you at their wedding."

And I was, like, "I don't know what I've done and what I've said other than handcuffing." He's, like, "Well, he didn't get into it with me, so just heads-up." And I was, like, "Okay. Well, whatever. I guess we'll deal with it when I get back."

Come back on Friday, the wedding is on Saturday, I go to work on Monday. Monday afternoon, I believe, is my recollection, I get a phone call on my cell phone number from John Chapman, who is the lieutenant. He tells me, "Jeff, I'm sure you've heard." I said, "Yeah, I heard from Chylack." He's, like, "Look," he goes, "I, I apologize, but I don't think I have a choice in this one. I've talked to some people that I trust in admin, and I need to get this thing written up."

And I said, "Oh." You know. "I understand. We know how the world is. You're a lieutenant and you don't want to be --" "I understand," I said, "but I'd like to ask you a question." I said, "How is it that you became aware of it?" And he's, like, "Well, Tanis came to me and said that she'd like to talk to me." And when he said that to me, it kind of shocked me. And he's, like -- and I said, "Are you serious?"

And he's, like, "Look," he goes, "I honestly think she thought she was doing you a favor by coming to me." She came to me and said, "You know, I want to tell you something, because I don't want you to hear it from someone else, but people at DOC know, my boyfriend knows and he's pissed off, some people at the Sheriff's Department know. But Wilken had handcuffed me to my chair and pushed me into the men's locker room, and it was funny, I knew it was a joke, but I don't want it where you hear about it."

Because now NRT's been disbanded, and I don't know what Tanis's duties were. If she was going to continue to work in that building or not. But I knew I wasn't, because I was at West Precinct now. She goes, "But," according to Chapman, "I want to make sure you hear it from me, Tanis Smith, that it wasn't a big deal. I don't want you hearing it from someone else and then be wondering what happened, so that's why I'm telling you."

KH: John said Tanis told him?

JW: Just in the context as I explained it. That, "This is no big deal, but I want you to hear it from me." And I asked Lieutenant Chapman, I said, "So what's going to happen?" He's, like, "Well," he goes, "it's probably going to fall under like a workplace harassment complaint and, you know, it'll just be investigated," he goes, "so expect a letter." Basically be IA'd on this. And, you know, "You may get something out of like a letter of reprimand or something," he goes, "but like I said, I know she's not trying to get --" and he tells me again, "I know she's not trying to get you in trouble, but I have no choice, Jeff. She's told me and I kind of have to write it up." And I said, "No big deal. Once you talk to everybody I'm not worried about it."

That's on Monday. I continue to work. I'm now aware that you guys hear that at some point that day or the next day, I do the Jeff Wilken famous, "Let's vent with my friends about command and how fucked up things can be sometimes," and, you know, "This is bullshit."

KH: Second day on squad, give or take?

JW: Yeah. Something like that. These are guys I've known for years, you know?

KH: Sure.

JW: I don't ever have an issue speaking my mind. And it's better to --

KH: We have heard that.

JW: Huh?

KH: We have heard that.

JW: So I say my piece and, you know, blah, blah, blah. The week goes on, on Monday I speak with Gabriel and then he tells me about Tanis having this breakdown in this car and mentioning, you know, the panties on the head, the handcuffing and Gordon is pissed off. And I was, like, you know, you know, "What is going on?"

Oh, and a credit card and -- (End of Tape 1, Side B).

Beginning of Tape 2, Side A:

KH: Okay. This is a continuation of an interview started earlier today, September 17th, year 2008. I am Detective Kevin Harper of the Clark County Sheriff's Office. With me is Detective Eric O'Dell, also of the Sheriff's Office.

Present during this interview would be Jack Greene, an attorney, and we're interviewing Jeff Wilken. The time is now is 1040 hours and I inadvertently let the tape run out on Side B of the first tape. And then I managed to re-record part of the beginning of the Side A on the first tape.

This is now Tape 2, Side A, and we're going to attempt to salvage this interview.

Jeff, you were just telling us, I'm not sure how far we got before the tape cut off, you were telling me that Leonard is now telling you that Tanis broke down in his car, she was talking about the panties on the head, the handcuffing, something to do with the credit card.

EO: That Gordon wanted somebody to blame and --

JW: Gosh.

KH: Okay. So what was the thing about Gordon?

JW: So Gordon approaches Gabriel at Gordon and Tanis's wedding and was, like, "Have you heard what Wilken did," or what Wilken said or something like that. And Gabriel being Gabriel is, like, "Look, I don't know anything about it. I wasn't there, so I don't want to talk about it." And Gordon told him, "Yeah, you're right. This is my wedding. Probably shouldn't talk about it."

And Gabriel said, you know, that, again, that this is between the conversation and Gabriel, is that Tanis was all freaked out that it's reaching the point that everybody, you know, that she -- that she has fears for me of losing my job, that people are talking to her about it, and it's, you know, Gordon's all pissed off and it's gotten much more larger than be it what she wanted, what she'd hoped for, what she -- I don't know, but this is all new to what I'm hearing. Because this is a whole lot different than what John Chapman tells me.

I was, like, "Well, I still don't think I did anything wrong, in, in malice. I -- you know, it was just joking around. And if someone was offended by it," as I stood there talking to him, and as I stand here today, it wasn't Tanis Smith. A boss might have an issue with it. A husband might have an issue with it. But it wasn't the person who I joked around with, so I wasn't concerned about it.

And then that afternoon is when I get called in, saying, "Hey, you're being administratively reassigned." And then this is where my little world of believing in what it was that was going on was harmless and receptive and everything else, is when I read this letter I get saying, "You're being administratively reassigned. We have received a written complaint documenting sexual harassment and other potential misconduct."

And I'm reading this and I was, like, "What the hell? A written complaint?" I was told that she went in saying, "Hey, I'm giving you this heads-up in case you hear something." You know. "What the hell" is my, immediately, you know, again, whether it's right, wrong or indifferent, it ain't gonna change.

And that is, as soon as I read it, I immediately think, "What is my department doing right now?" How is it now that a woman goes in and says, "Hey, I'm telling you this as a courtesy. I don't want anything done about it. I'm not afraid by it and I wasn't harmed by

it. But I'm letting you know about it in case you hear about it, now that everybody's left. It was harmless is what happened." To now there's a written complaint.

So I get sent home. On my way home, I call John Chapman. I'm, like, "Hey, remember our conversation last week? I'm now administratively reassigned. I'm going home." And he's, like, "Jeff, I heard some talk about that. I'm sorry."

And I said, "I've just got to ask you a question. When you called me on Monday and said, "Hey, she thinks --" "I think she's doing this as a favor for you, or she -- I took the opinion that she was doing you a favor by coming to me as your lieutenant, but she didn't, because I know it's reported. What's changed from that time you called me?"

He goes, "Well, the next day." He goes, "The next day I come in," and the way I took it was, from him, was Jeff Frice from Department of Corrections shows up and he brings a written complaint which has several incidents documented on it. And once that, he had to send it up.

And I was, like, "Okay. I can deal with this, however it has to be dealt with," I said, "but I need to make sure you as a lieutenant, number one, you never forget what you told me, you never forget your interaction with her that day when she walked in there, and you don't forget that, in the beginning, she wasn't making a complaint, she wasn't a victim, she was doing it as a courtesy, it was no big deal. All she told you about was the handcuffing. And a week later, her boss is showing up here with all these incidents written down."

He's, like, "Jeff," he goes, "I have those memos. It's all saved." He goes, "I'm well aware of it." He goes, "I have no problem telling that to anybody." I said, "Okay. That's all I ask." And then two days later, I get called, you know, I would say kind of shocked, but I mean, I wasn't that naïve, you know, that it would be looked at criminally. And I get called and they say, "Turn in your badge, gun, and ID, and now you're on admin leave." He goes, "Now you're being criminally investigated for these allegations."

And I've been sitting on my ass, passing the time, waiting for this day.

KH: Stewing and worrying, probably.

JW:

You know, to be honest with you, no, I'm not worried at all. I, I, I know there was nothing I did that was wrong. It was, in hindsight, was it smart? It probably wasn't smart. But I also knew who it was I was interacting with. This is the huge issue I've always had, and again, it's just an opinion. If two people are entertaining something and they're fine with it, I have a hard time dealing with the fact that someone who's on the outside, wasn't even there, can come in and say, "I'm bothered by it." "You weren't there, you had nothing to do with it."

And I don't care what she did when she went home and how she sold it to Gordy, what interaction and interrogation he did to her to get her to sit there and finally say, "Okay. Well, there was this time and there was this time, there was this." I don't care about that. Because she can say whatever she wants and everybody else can say what they want.

I know for 18 years of doing this job, I've never had a complaint like this. I interact domestic violence victims, female informants, all these people, and nothing like this has ever happened. And to have it happen by a coworker is shocking. And I know in my heart and my beliefs I did nothing wrong. Like I said, I have to deal with the fact that maybe it wasn't smart, maybe I shouldn't have handcuffed her.

But we all have done things that, at the moment was meant to be funny. It was accepted as funny. Everyone knew it was funny. No one was offended by it. And then a, weeks later, someone's bothered by it, so someone's compelled now to say something. Because, again, outside looking in, to Jeff Wilken, it's, "Tanis, either you say something or I do."

Because if Tanis was that bothered by everything, she had every opportunity when she was in John Chapman's office to say, "Not only was there the handcuffing, there was this, there was this, and there was this." And that's never happened.

So I don't know what has happened. I don't know what this written complaint says. I don't even know who wrote the written complaint. I don't know if Tanis had a conversation with Jeff Frice or if Gordon went to Jeff Frice and said, "This is everything my wife has told me that's happened and I want it looked into." I don't know. But I know at no point anything that ever went on between me and Tanis was unprofessional or unsolicited or unwanted. It was us being, though she's female, one of the guys having fun at work, and enjoying our time. That's it.

KH: Okay.

EO: Can you ever think of a time where she has told you to knock it off, don't do that, I don't like it when you do that?

JW: No, sir, that has never happened.

EO: Not for anything?

JW: Anything. And what I can tell you is --

EO: Do you think that might be her personality?

JW: No. I think --

EO: Do you think if she really had a problem, she'd tell you?

JW: I think she would.

KH: Well, Eric's going to ask my questions for me. Well, that was, that was pretty much the gist of it. You can't think of any time she said, "Stop. Let's not go there. You crossed the line," something?

JW: It has never happened. And like I said, the conversations we've had, again, her being a female I can understand this being looked at in different ways. But again, her being a female and sitting there admitting to me having an affair and having sex with her, you know, adulterer lover in this place, you know, when she's sharing that with me and I'm not soliciting it, she's telling me that, she seems to be pretty comfortable in what it is she's sharing with me.

KH: Just a couple questions on the handcuffing before we leave that. When she's at her desk, Chylack's to her left?

JW: Yes, sir.

KH: Or, north of her, and Leonard's desk would be south, or to the right?

JW: Correct.

KH: Was Leonard in the room at the time?

JW: No. Leonard was, I think, in Hawaii. He was having issues with his grandfather.

KH: Okay.

JW: I don't think he was back yet. And Dustin wasn't there. It was just me, Tanis, and Chylack.

KH: Do you know who Neil Crannell is?

JW: Yes.

KH: Okay. Was he there?

JW: I do not recall.

KH: Okay. When you first handcuffed Tanis's left wrist to the chair, do you remember if she said anything to Chylack?

JW: Not that I recall.

KH: Okay. When you handcuffed the right wrist, was she swinging at you all or kicking?

JW: Oh, no.

KH: In jest or otherwise?

JW: No, sir.

KH: Okay. When you rolled her out in the hall, down where the copiers were there and around a couple corners and down by the break rooms and things --

JW: Yes.

KH: Where were her feet; what were her feet doing?

JW: She shook them. It was --

KH: Because I'm not so sure if her feet would drag.

JW: She has them up. It was not hard to just wheel her down. I mean --

KH: Okay. Was she dragging her feet?

JW: No, sir. I mean, it was not difficult to just roll her down, like I said.

KH: Well, that's my question. Was there any -- did she --

JW: No.

KH: -- appear to be --

JW: If you're asking me --

KH: -- stopping her chair.

JW: -- if she is cuffed, could she have slid her butt forward and put her feet down without a doubt, she could have done that.

KH: That's kind of what I was asking --

JW: No, she never did that.

KH: That was my question. Okay. You got down, you're heading for the door. As you suddenly realize, you don't have your key card. When you rolled her into the locker room, or the foyer to the locker room, did you back her up or pull her forward?

JW: I don't remember. I think I would have just pushed her forward.

KH: Okay. Were the lights on or off? I mean --

JW: I think they're always on.

KH: I don't know. I'm not really familiar with the East Precinct.

JW: Yeah, I think they're always on. Well, the East Precinct is all high tech. There's not light switches. They're motion. Well, there's a light switch in the bunkroom, because I've slept in that bunkroom. My house used to be up in Kelso, so when I'd have court after working grave, I'd just sleep in the bunkroom a couple of hours before work. Right before court. So I know there's a light switch there.

But nowhere else in that building is there a light switch. It's all motion. So as you walk into, you know, you walk into the sergeant's office to get something, you'd better, you know, hope he doesn't come back, because when he left the light went off. And everything's motion. So I can't tell you the entryway. Plus it's still daylight. It was only 6 o'clock. 6:00-ish. It was still daylight outside.

KH: Okay. Which would make it lit in the --

JW: Yeah. There's --

KH: -- foyer?

JW: -- skylights right there.

KH: Or --

JW: In the hall. In the big hallway that leads right to that restroom. Like I said, we just went in the entryway of the locker room.

KH: You had just come out of the locker room restroom, so you knew there was nobody in there?

JW: Yes, sir.

KH: Okay. Aside from she was jokingly saying, you know, "Stop," but she was laughing at the time, am I correct in saying that?

JW: Yes, sir.

KH: I'm just parrot back to you, what you said.

JW: Yes.

KH: Okay. The issue came up, so far as you know, is when Henderson came down and said, "I don't want to be part of this IA"?

JW: Right.

KH: Or something along those lines?

JW: Correct.

KH: Okay. Did I leave anything of significance out of that scenario? As far as what you told us?

JW: Not that I recall.

KH: Okay. Did Chylack --

JW: I mean, everything --

KH: Did Chylack come out in the hall at all at that point or was he still back in the cubicle area?

JW: I don't remember. I mean --

KH: Did you put keys in her hand and tell her to unhand, unhandcuff herself?

JW: No, I think I uncuffed her. I think I did. I carry my handcuff key. But I don't -- you know what? To tell you the truth, I don't -- if I didn't have my key fob, I would not have had my handcuff keys. Maybe Henderson uncuffed her. I don't know.

KH: Where were her keys? Her handcuff keys?

JW: Probably on her desk.

KH: Did you toss them out in the hallway before, when you first handcuffed her wrists?

JW: I don't remember that.

KH: Okay. And it was some days after that she talked to Lieutenant Chapman, as far as you know?

JW: I would say at least -- at least a week. I could probably get you a more accurate date.

KH: Okay. After that day, that incident with the handcuffing, did any of the NRT go out and socialize?

JW: After the handcuffing?

KH: Right. That night, after the handcuffing thing?

JW: Jeff Wilken didn't. I'm aware in conversation from other people that they had gone out after that.

KH: Okay. But you didn't personally go with the group?

JW: No, sir. Like I said, I stay with my close friends, I would do much of the whole 'let's all go out and socialize' thing. I have a 25 year old girlfriend that keeps me pretty busy.

KH: Okay. Was there an incident following a search warrant? It would have been about June 13th or so. You guys helped West Precinct

with a search warrant and afterwards, you guys went back to West. I think maybe CCAT had been part of it. Where she's out there, Tanis is out there talking to D-Mac, out in the smoking area, and you went up and grabbed her by the neck.

JW: No. West Precinct?

KH: I think it was West. Or Central. Whatever you want to call it. After your warrant. About the middle of June.

JW: Hm-mm.

JG: Kevin, can I, can I interrupt just for a second?

KH: Yes.

JG: Just because this is the first I've heard of this. I haven't had a chance to talk to Jeff about it.

KH: Okay.

JG: And when we talked yesterday, we didn't discuss this, so I'm kind of caught a little bit by surprise. So if it's possible that we can go off record --

KH: Sure.

JG: -- and I can talk to Jeff.

KH: Sure. The time is 1055 hours and we're going to take a break.

(Break)

KH: Okay. The time is 1107 hours. We're back on tape. We took a short break here. And the last luncheon at NRT was at Red Robin, I think. And CCAT showed up or a couple guys from CCAT.

JW: Yes.

KH: What happened at the luncheon at Red Robin? Was everyone in civvies or --?

JW: No. I know we were -- well, you know, it may have been -- it may have been the same day as the handcuffing thing, to tell you the truth. It actually may have been. We had just done -- I think it was

after the chicken warrant, because we were talking about going to do breakfast.

And somehow I was off -- because like I said, I wasn't with them at the chicken warrant. Well, I was with them at the chicken warrant, but I ended up leaving. I had my patrol car there and I went -- had to get a search warrant signed. In fact, it may have been the Mexican case from that controlled buy on 137th. I had to go get a search warrant signed.

So I leave, go to the courthouse, get that signed, may have went back to the apartment. Somewhere there was this phone call from someone. I don't know if it was Tanis. Someone at the East NRT people about I didn't know if we were going to go to Shari's or where we're going to end up. And someone tells me, "No, we're all going to Red Robin."

So I go to Red Robin, drive myself in my own patrol car. Other people show up in their cars. We all go there. We eat lunch. It's on duty. No one drinks. Tanis is to my right. I think Brian Ford shows up, sits to my left. Fili I think is across to the left. Directly in front of me might have been Jeff Kipp. No. Maybe Beth. Someone was in front of me. To the right, again, Tanis. And I know D-Mac is there. And I can't remember who else was there.

KH: Was Jeremy Free there?

JW: Yeah. Free might have been there.

KH: How about Lobdell?

JW: Lobdell was who sat directly in front of me.

KH: And Pete Muller?

JW: Muller probably was there as well. Maybe Muller was in front of me. All the CCAT guys showed up. There was a bunch of us there.

KH: Okay. Brian Ford, Lobdell, Muller, Free.

JW: I believe Tanis, Beth Graves. I think Beth was there.

KH: Chylack was not, Gabriel was not?

JW: No. D-Mac was --

KH: Spencer Harris was not; correct?

JW: (nonverbal response)

KH: Okay. Okay. And you guys eat. End of the meal. This is where you jump in and tell me the rest.

JW: Well, unbeknownst --

KH: I wasn't there, you have to tell me.

JW: Unbeknownst to me, nothing happened.

KH: Okay.

JW: But I hear from Leonard, again, like I tell you on that Monday, August 11th about this Victoria's Secret card, where we're all getting our bills paid, you know, it's typical, you've got 15 people there and everybody's trying to get their own bill and everyone getting their own debit cards and wants to pay their stuff.

KH: Grab the waitress and ask for separate bills?

JW: Yeah. So everything's coming. And somewhere in the course of that, again, Tanis is to my right, she's going through her wallet. Victoria's Secret card. I don't know if it's a gift card, I don't know if it's a customer appreciation card. "Hey," you know, "you're a frequent customer, use this card, you earned a free bra," or something. I don't know.

KH: Let me ask, do you remember this incident or is this what Leonard tells you?

JW: No. Leonard tells me about this card. And that it was something to do with it. And I think this is where this conversation takes place, is where she's pulling out her credit card.

KH: Okay. So you do recall that she had a card?

JW: Yes, I remember the card.

KH: Okay.

JW: And I remember making a smartass comment about the card. About, "Oh, I didn't know you had a Victoria's Secret card. Let's go

there and buy a bunch of shit." That's all the conversation was. It was one simple statement. It wasn't, "Hey, why don't you go a bunch of shit and let's see it." Or, "Why don't you go buy a bunch of stuff for us to see." It wasn't anything like that.

It's, "Let's us go to Victoria's Secret and buy a bunch of stuff." She knows I have a girlfriend. I know she's about to get married. There's a bunch of other people at the thing. That's all it was. It was just a general joking kind of comment.

Again, it's a Victoria's Secret card. It was harmless. There was nothing. She didn't look at me and say, "You're an idiot. What the fuck are you talking about? Stop, you're offending me." Nothing. It's, "Ha, ha, ha."

KH: She didn't say anything to you that said, "I'm offended"?

JW: No, sir.

KH: "Don't go there"?

JW: No, sir.

EO: Has she ever said, "You're an idiot. Don't go there"?

JW: No.

EO: No?

JW: Tanis thinks I'm --

EO: Well, not an idiot. Not necessarily things that we've talked about, but anything --

JW: No.

EO: -- where she told you, "You know, Jeff, I don't want you to do that," or, "That offends me," or, "You're an idiot," so you can say, "Okay. I won't do that anymore"?

JW: No. And that's where we'll get into conversations about chili dog and all that other stuff.

EO: Okay.

KH: Okay. But back when Jen was here, did Jen ever tell you guys, you know, "I'm here to work professionally and we're not going to talk about other things"? Did she ever make that clear to the group?

JW: Jen Thomas?

KH: Mm-hmm.

JW: No. She was as social as everyone else is. She and I worked -- I actually -- in the short time I was with Jen in our unit, compared to the short time in the beginning with NRT when Tanis was there, me and Tanis really didn't start socializing about our personal lives until the last couple of months.

KH: Why was that?

JW: I just -- I'm not a, you know, "Let me tell you all about what's going on in my life" thing. And again, I just -- I make sure I know who my audience is before I start speaking, you know, what it is I'm going to say. I'm not naïve or stupid or ignorant in the sense that -- especially, you know, without being disrespectful to the profession, we work with women. And you better be aware of who it is that you're talking to and understand that, in our profession, you just don't run around and act like a fool and say thing inappropriately.

Where I came from, we didn't have open lesbian officers. Where I work at now, we do. And they're some of my best friends. Laura Anderson and Sandy Aldridge, they're openly gay with partners and children, and I have no issues with them. But you sure the hell better be aware of it, because if you don't and you make a comment, those are the comments that'll come back to bite people. You just need to be aware of that.

So Tanis Smith doesn't just come into my unit and I sit there and say, "Hey, let me tell you a cool story about what I did last night with my girlfriend." That doesn't happen. I've never done that and I sure the hell never did with Tanis. So when the question is asked, "Well, why did it take so long," because I need to know what, where the parameters are in the conversation between me and Tanis. You know.

And when she starts openly admitting to me about her affairs with Gordon and how it affected -- there was another conversation that just pops into my head that she shared with me about, her and Gordon have now moved to Salem -- or Oregon City. Somewhere in Oregon.

And she shares with me about babysitting his kids. And one of his sons is, like, seven years old and he's always watching Tanis naked. Watching Tanis in the shower, watching Tanis this. And she tells me how uncomfortable it makes her, and that he'll peek behind the shower curtain and stuff like that.

And she's telling me this. You know, that, "He sits there and watches me when I'm naked. And I've got to really be aware that I'm walking around, you know, that I've got a shirt and bra on and I'm just not walking around in my panties." I mean, if conversations are that, "We don't go there," then why in the hell are you sitting there telling me about some little boy watching you naked in the house? It's not like you telling me what you had for breakfast.

JG: Jeff, how did you respond to that?

JW: Laughed. I have boys. My boys -- in fact, now that you mention it, I even commented, I said, "My girlfriend's 25 years old, beautiful. I have twin boys that are 13. They love to wrestle with Rhonda." As harmless as my girlfriend is, I have to remind my girlfriend, you know, "Let's not forget these are 13 year old boys." "Well, we're just playing." "Doesn't matter. They're still 13 year old boys. I know how I was at 13 years old."

And, you know, you have a seven year old that's watching you naked. Be aware of it. You know. Boys are boys. And it wasn't like, "Oh, my God, you're Dr. Phil." It was, like, "Ha, ha, ha, yeah. I know how you boys are."

I want -- I'll make this very clear and I won't beat it into the ground. Jeff Wilken would have any conversation with Tanis Smith. Any conversation before this thing. And not think twice about it. Because that's how comfortable Tanis Smith made me feel, how she spoke to me, how open our conversations were, and how I witnessed her interactions with other officers.

She -- you can't sit there and, "Mother fuck everything and mother fuck this and mother fuck him and fuck him, let's go --" and have those war stories in a conversation and talk about your affairs and your sex life and this and this and this, and then sit there and suddenly say, "Oh, my God, Jeff." Because it never happened. It never happened that way. It never happened that way until I got back from camping and they told me there was a complaint made.

KH: You know the times when you, you guys had conversations, did she ever physically respond in a way, not verbally but physically, that made you aware or give you the sense that she was uncomfortable with turning away or turning around or turning away or anything like that?

JW: No, sir.

KH: Did she ever react in a way that you think that, "Oh, I shouldn't have said that"?

JW: No.

KH: Okay. Donkey punch and chili dog.

JW: Yes, sir.

KH: How did that, do you remember that conversation?

JW: I'm sure I do. In the sense that it's a conversation I've had on more than one occasion, probably only one time with Tanis, but yes, I'm familiar with probably how the -- I know how the conversation started.

KH: Okay.

JW: And I started it. I have to give some history. Six to eight years ago, working out at West Precinct or at Central Precinct. I don't know who comes across something on the internet in their own personal world, and brings it to work. And it's got somewhere between 25 and 40 different slang phrases that Howard Stern or someone else would mention. And basically it's stupid ass names for various sexual type acts that usually you're not going to do with your wife or your girlfriend if you have any care for them at all.

KH: Okay.

JW: When you hear a word, you probably start thinking, and once you hear the description, like, "Oh, now I know how you get that word for it," and you know, "That's pretty sick, but it's pretty funny." If you have any -- if you have that kind of sense of humor. So that's how it gets introduced.

Over the years, everybody jokes around with it. Everybody at work. Male and female. The comments are made. I've had -- I've gotten a phone call, either -- I was at work, on duty. I got a phone call

three years ago, probably, from a dispatcher who was off duty when the call's made and says, "Hey, I got a new one for you." And he tells me a new one. Like I said, every now and then a new one pops up.

And that's why I'm saying, is they're known. And if you haven't heard it, I would have come tell you. Because to Jeff Wilken they're funny. And there's other people. Like I said, you go to a campfire, you go camping, you sit at one of these barbeques and you're all getting, you know, drunk and you're joking around and someone would bring it up, and, "Oh, Wilken, hey. Tell this. Tell this, tell them what a booting is. Tell them what a chili dog is. Ha, ha, ha."

Well, like I said, I am not stupid and I am not naïve and I am not ignorant to what goes on in this world. And when someone throws, "Hey, Wilken, throw this out," Jeff Wilken just doesn't sit there, "Oh, okay, I'm going to say this." I'm a king, master of analogies, and as I explained to him, if I'm a Boston Red Sox fan, I'm not just going to walk up to a guy in a Yankees hat and start telling him how much I love the Red Sox. I'm going to make sure that he and I have something in common and I'm comfortable with what I'm about to say. I'm not just going to start running my mouth.

KH: And he's not armed.

JW: Exactly. I'm not stupid. So when this conversation, I believe it was Chylack brings up this conversation of a chili dog and donkey punch. And I think we were at East Precinct. And Tanis is, "What is it?" Chylack is, like, "Ha, ha, you gotta tell her. It's funny." And I was, like, "No, I'm not going to tell her." "No, Jeff. You can. It's okay." "Are you sure?" "Yeah, what is it? What's a chili? What's a donkey punch?" "Okay. This is it."

"Ha, ha, ha." Funny, funny, funny. No, "Oh, my God." Or, "Oh, that's gross." Or, "That's disgusting." Nothing, again, that made me think, "Oh, my God, I've stepped on my dick here. I should never have said that. Tanis, please, I'm sorry if I offended you." Nothing.

I have apologized to many people in my life for saying something out of line, you know, not knowing maybe in my life that something I said, you know, I didn't know your grandma died, but I made a joke about your grandma. "Oh, I'm sorry. I didn't know that." Then it get's flipped on you, because your grandma really didn't die, they just want to make you feel like shit.

So I didn't ever feel like what I said was inappropriate or, you know, unwanted. Unwanted? Hell, she's asking me to tell her. I've got, you know, Chylack, saying -- bring it up to me in a conversation where I walk into the conversation.

KH: Was there an incident where she was eating lunch -- Arby's or something like that -- when you guys were discussing chili dog, donkey punch?

JW: Sir, I couldn't tell you that.

KH: You don't remember a specific conversation.

JW: No, but like I said, my belief is it was at East Precinct, because I remember Chylack standing there, again, at my desk and turning around, and those two work right next to each other. But like I said, to me, it never would have reached this point if at any point she had looked at me and said, "Jeff. Okay." Or even if I got the indication from her reactions that something I had done or said bothered her.

KH: Okay. Did anyone come on her behalf and tell you, "Hey, Tanis is uncomfortable. Knock it off."

JW: No, sir.

KH: So, other than Leonard telling you in that phone conversation -- is he the first one who tells you, in all the months you guys worked together, that Tanis had been saying something and was uncomfortable and had a breakdown?

JW: And so we're clear, July -- and I'm using the 15th -- July 15th is our last workday. I'd been camping, I'm back, I've already heard from the lieutenant, I've already heard from Chylack that this is starting. It's August 11th that Gabriel tells me, somewhere around the wedding timeframe, somewhere after we've disbanded, because I haven't seen Leonard. We went our separate ways. He had gone to Hawaii, his grandfather is dying, he's working on A day, I'm on B day, we're at different precincts. We're not seeing each other, so this is the first time I've talked to him.

And he tells me, you know, and she asked him, you know, "Ride with me this night on patrol," and as soon as she gets in, she starts crying. And like, "What the fuck's up?" And she's, like, "Oh, Gordon's pissed off. You know. I told him about this and I told him about that, and oh, you know, now Jeff's going to get investigated. I'm afraid he's going to lose his job. I didn't want it to be like this."

And Leonard's like, "Dude." You know? And I was, like, "Whoa, hold on. All I knew was this handcuffing thing, according to the lieutenant. What's all this other bullshit now?" You know? And then it was like --

KH: Okay. So just to clarify what you just told me, I'm going to sum it up quickly. Sum up a few of the words. Prior to disbanding the NRT, nobody came to you on Tanis's behalf and said, "Jeff, you're making her uncomfortable." Is that correct?

JW: That is correct.

KH: Okay.

EO: Is your working relationship basically the same from whenever you came back in January up until July? Granted, you know, the longer you work with somebody the more familiar you've become, but basically your duties and contact are the same?

JW: Yes, sir. Everything between her and I was, you know, fine and, you know, joking around. Her and I, we have never had a relationship other than professional. I've never, "Hey, look, after work let's get a beer." "Why don't you and Gordon and me and my girlfriend go out for dinner." Other than work, me and Tanis have never interacted with each other. But at work, I, like, like I said, one of the guys where, you know, very comfortable to be around, never any indication at all, to me or anyone.

Like I said, I know I was under some direction by my bosses about who I could talk to, but there was a fight between this and that day, and even after that day, people would comment, like, "Hey, I can't get into it with you." But there isn't one person I'm aware of that says, "See, Wilken? All right? We warned you." It's, "What the fuck is going on? What happened? What happened? Why is she doing this?"

KH: Well, what do you think happened? How do you think this has gone this way?

EO: Everything sounds like it's happened between mid-May and mid-July.

JW: No, sir.

EO: No?

JW: I think joking around -- no. I know joking around --

EO: You --

JW: This -- if you're asking Jeff Wilken's opinion, this is Jeff Wilken's opinion.

EO: Go ahead. (unintelligible).

JW: Jeff Wilken's opinion is straightforward and that is this. That party at McNicholas's -- first of all, Gordon has all his insecurities and issues. Tanis is a very naive and, God, it -- which is obvious to me by picking up the phone and calling him about the handcuffing.

My belief is Tanis got herself in a jam at McNicholas's party with Acee. They're two weeks from getting married. The car being -- the seat being forward. The -- I think there was issues going on between her and Gordon. They're a couple weeks from getting married.

Then the handcuffing thing happens, she called, she goes home, and in that week time period, it's, as I said, I don't know Gordon from anybody. There are cops that I work with that couldn't figure their way out of, out of a room. They don't know how to ask someone basic questions. Then there are cops, and I ain't blowing my own horn, that are as good as me that can sit in a room and get someone that didn't do it to say they did it.

And my belief is I give Gordon any credit at all, is he had a conversation which was probably a long drawn-out one with her, like, "What the fuck is going on? You have this, you have this, you have this. You told me he handcuffed you. What other shit has he done? What the fuck, Tanis?"

And it's not hard for her to say, "Well," you know, "he just jokes around. There was this time that he did this." "Oh, you think that's joking around? You don't think he wants to fuck you?" "No. No, no, no, no. He's just joking around." And it gets going.

That's the reason why she's crying to people. That's the reason why she's all freaked out. Because I think it was a choice. It was my new husband or it was my reputation. And it was her husband. And I honestly, in my heart, believe -- I'd like to believe, because like I said, I don't think she's an evil person. I don't think that she's being evil and to hurt me. I honestly think she has a conscience. I

think it reached a point that she created a monster and it was, "Either you're going to go tell or I'm going to go tell." And now she has to live this.

KH: Have you ever touched Tanis in a way that she expressed to you was inappropriate?

JW: No, sir.

KH: Or unwanted?

JW: I've never touched Tanis. Other than that handcuffing thing with. And if you want to say I touched her with putting the panties on her head. There has never been a physical contact between me and Tanis.

KH: Okay. Did you ever tell her you did something to her to make her uncomfortable or to scare her?

JW: No, sir. Scare her, joke. The panties on her head. That was joking around.

KH: Okay. Did you tell her that, though? Did you have a conversation with her about the panties?

JW: No, sir. I don't recall it ever being talked about amongst us after that. It was, you know, ha, ha, funny at the time. You know? There's a thousand things that we do in our life every day that we'll forget about. If someone asks us about it, it would be like, "I don't remember it," until you here a little bit more, and then you're, like, "Oh, yeah, I kind of remember that." But nothing that would have burned it into my memory.

KH: Nothing that it was a clear, spoken out, you know, event?

JW: Correct.

KH: Okay. In retrospect, was putting the panties on her head a dumb thing?

JW: I mean, a common sense answer is yes. Yeah.

EO: But sitting here with an attorney --

JW: Well, yeah.

KH: And I forgot Jack was here. And that just makes me think, you know, if I'm doing a search warrant, and anything from a suspect's house that touches my body, I would be uncomfortable with, I mean --

JW: But between you and I, I also think, and I'd like to believe, that there are people that would do it to you or if they did it to you, it would be nothing more than, "Knock that shit off." Now, I'm sure if -- you and I have never met before. If I did it to you, it would be, like, "What the fuck?" And if you're a different kind of person, it may be more than that.

But like I said, there's people in your personal life and your professional life that could get away with stuff like that, and you may do the same thing to them. Maybe not panties, but you may do things that you know who your audience is. You know who you can do some things to and you know who the hell you better stay the hell away from and always be professional.

KH: If it crossed such a line, would it be your expectation that somebody would address it with you?

JW: I think, first of all, I'd better already know that line. In my heart, I'm not a cruel -- I am a -- the truth is, I laugh. I love laughing. I love making people laugh. That is my life. I just love to laugh. More than anything in my life. And I expect that I read people well enough that I would know what my limits are.

Like I said, all these years and all these different people that I've been around, I've never offended anyone to this extent, that it's reached this point. This is why it's such a shock to me, that -- that it's here and it's -- if I came in here, sir, and all I had to talk to you about was this handcuffing thing, this is easy, out the door.

But to know that things have been documented for months? And number one, I misread them? Oh, hell, no, I did not misread them. I know what I know and I know how I acted because it was accepted and it was -- I never crossed the line with her. And I never would.

JG: Jeff, if you had crossed the line, would you have expected somebody would have told you that, "Hey, you just crossed the line"?

KH: That was my question. Thank you.

JG: You're welcome.

JW: Yes, I would expect that.

JG: And nobody ever did?

JW: No, sir.

JG: Okay.

KH: Okay. That was my question.

EO: When it comes to your practical jokes, do you have a limit? In other words, would you do anything for a laugh?

JW: Oh, no.

EO: You have a limit?

JW: Of course. I would never do anything to intentionally embarrass someone. I wouldn't do anything to put someone in a position where they -- that they can't save face. I'm not a practical jokester, like there's some people in this world that we work with or we know that they put the Vaseline on the door handles or -- they do things that are, you know, I'm a guy that will turn your badge upside-down on your uniform jacket or, you know, you and I will be at a call and we're dealing with a drunk transient and when we're leaving, I'm going to tell that transient that I was you. Or, "Give me a call." You know, "I'm Detective O'Dell. Any time you want to call. Or Detective Harper.

KH: No, (unintelligible) --

JW: But hell, I'll even throw Detective O'Dell in there, too. But that's what I'm saying, is that's what Jeff Wilken does. Jeff Wilken isn't one of these -- I mean, we know people, and we've been victims of it or we've been part of that crazy stuff. And I don't do that crazy outrageous stuff, just for the laugh, sir.

KH: You would embarrass yourself for a joke?

JW: Of course.

KH: Versus embarrassing someone else?

JW: And I have done that.

) KH: We've heard some, we've heard some legends.

JW: I'm sure you have. Like I said --

JG: Are you trying to say that you're not mean-spirited?

JW: Oh, no.

JG: Okay. I am not an evil person.

KH: I believe the term, the quote was that you did not act in malice, or with malice.

JW: Correct.

KH: Is that a fair assessment, in your opinion, with your pranks or jokes or whatever?

JW: Yes, sir.

KH: Okay.

JG: Can I just ask, were you the only practical joker?

JW: Oh, no. Oh, no.

KH: I believe I asked that before.

JG: Oh.

KH: And (unintelligible).

JG: All right. Sorry.

KH: No. Just -- can you think of any other practical jokes besides this?

JW: But yeah. I mean, like I said, Dustin Nicholson has been the butt of a lot of things. I mean --

KH: Jokes about his physique, maybe, as comparison to someone else's physique?

JW: Yes. You know, jokes about him -- we're at a search warrant and goes in from the search warrant, so now we're calling that dealer to bring a pound of weed and we're going to do the hot pop, and it's a

hot summer day. Last August, September. We're sweating our asses off.

And he comes out of the van wearing just his Under Armor shirt. And everybody told him, he's got man boobs. And everyone told him. And everybody's laughing, and ha, ha, ha, and he finally realizes, "You know what, if I don't want to keep hearing this, I'd better go put on a different shirt." And he did. And he didn't lose sleep over it and it's a running joke. Every now and then, we'll see the Under Armor shirt underneath something. He's had emails sent from his computer. We screw with Chylack. We -- I'll give you another example that Tanis Smith had raised. And I hate running the time, but I think it's important.

Me and Dustin Nicholson are sitting between two -- they're Tweedle Dee and Tweedle Dumb, you know, people we busted selling pills, and we're going to turn them. And they're sitting there and they're just so burned in their mind that they just can't even think straight. And Tanis and Chylack go to do a, some DOC check -- or they're watching a house. And I'm, like, "You know what? Perfect time. Put that flannel jacket on."

And the one guy, he doesn't know any different, he puts on this flannel. And I look at the other guy, and I'm, like, "Put that vest on." And he puts on this vest. Well, the vest is Tanis Smith's DOC jacket and the flannel jacket is Mike Chylack's undercover thing he wears to cover up his gun. And I'm, like, "Stand there." I take a picture and I send it to Tanis's cell phone. And she obviously sees it, because she texts back. She goes, you know, something like, "You're an ass," or something like that.

And I'm, like, type back, "What did Chylack say?" She goes, "He's just laughing his ass off." And I call her on the phone. I'm like, "Look at that picture again." She's, like, "We are." I go, "Tell Chylack to look really close at what the other dude is wearing." Well, he suddenly realizes it's his flannel and he's, like, "Oh, you're a dickhead." Blah, blah, blah, ha, ha, ha. We do stuff like that all the time.

And like I said, and I won't beat it into the ground. Never, ever, ever an indication that there was ever a line established of what I could or could not say or do. What was done was accepted all the time. She had those conversations with me.

EO: Can you think of an instance where Tanis has been the mastermind of a practical joke?

JW: I don't think Tanis is -- I don't think she could come up with something that creative. I, Tanis admitted to me about being in college and just, you know, being crazy and wild and getting drunk and doing some pretty crazy shit. She never (unintelligible), that I can remember any specific stories, but she made it pretty clear that she's got a wild side.

KH: I'm going to flip the tape real quick so we don't run into the issues I've already done. The time is 1136 hours. We're just flipping the tape to Side B. (End of Tape 2, Side A).

Beginning of Tape 2, Side B:

KH: Okay. The time is still 1136 hours. All we did was flip the tape. Same persons are present now as were here when we began this interview. This is Tape 2 of a interview with Jeff Wilken.

So Tanis talked about being a little bit wild in college. By whose standards? Did she ever describe incidents like Vaseline on a doorknob or sending computer pranks or sending somebody's bra up the flagpole?

JW: Nothing that I can recall.

KH: Okay. Did you ever know of her to pull a prank at the NRT or while assigned to NRT?

JW: Oh, yes. Yes. But -- wow, give me a second. Gabriel had done something to her. She's very anal about her calendar.

KH: Like electronic calendar?

JW: No, like her paper calendar. And he had done something. He had written, drew a smiley face, did something to her calendar. And she was, like, talking about, you know, "You, you can mess with anything, but don't mess with my calendar." You know, ha, ha, ha.

But she did something that got him back. And it was -- I can't sit here and tell you what it was, but she played the game. You know. When people would do stuff to her, she had no problem getting dirty and getting back at it. Or at least being part of it.

Like I said --

KH: Well, prior to your handcuffing her wrists to the chair, was she flipping you any grief about your paperwork or being behind and stuff?

JW: Oh, yeah. I -- Jeff Wilken is always behind, because Jeff Wilken is a person that, this is great that I'm doing this, but guess what. I've got something better right now, and we're going. And everybody always gives me shit about, you know, I've got a suspect. And she always laughed.

KH: Did she usually give you shit about that?

JW: Yeah.

KH: Or would she just laugh when other people did?

JW: Oh, no. I mean, she would laugh when other people would. But she had no problem sitting there laughing about the piles of stuff and me making comments, saying, "Oh, shit. I've still got to do this report." You know. Or me coming in and bitching about, you know, someone was asking for a supplement, but, you know, "That supplement is on a bullshit case. I've got a real case right now and I'll get that supplement later."

And, you know, she -- it would not bother her to, you know, laugh at you --

JG: Tease you?

JW: Tease, make fun about, you know, what you're doing.

JG: (unintelligible).

KH: Sorry if we've taken so long.

JG: No problem.

KH: Would she initiate that? I mean, would she walk up to you and say, "Look at this pile of crap. You're so far behind, you're never going to see daylight again"? Or, or would she wait for someone else to start the joke?

JW: No. I can't tell you specifically what she said, but yeah. I mean, it would not be surprising to have her -- because there would be many times where she and I will be the only two in the office or I'd be the only one in the office. There'd be many times I'd come in

hours ahead of everyone, just to get caught up on that day's activities. And her to come in and say, "Oh," you know, "appears you've been here for a few hours." Because I'd have shit piled up. And she goes, "Did you actually get anything done?" And I'd be like, "Shut up. You're starting to sound like the sarge," and, you know, "Just get off my ass. I'm still doing stuff," and we'd laugh. Then she'd be, like, "So I guess you're not going to be able to help me at all today." And I'd say, "No, you're going to have to deal with," you know, "Dustin or someone."

KH: Did you ever tease Tanis about Dustin having bigger boobs than she did?

JW: No, sir. Not -- not that I can recall.

EO: Wouldn't that be your sense of humor to say something like that?

KH: It's almost pulling a joke on Dustin.

JW: Yeah. I guess. I mean, I'd probably laugh if someone else said it. I don't know if I would, you know, throw something out there like that. Like I said, I'm not one to attack, you know, someone, like, in that sense.

EO: Would you say you and Tanis have a similar sense of humor?

JW: I think so. I mean, like I said, I thought we did.

EO: Okay. Can you think of anything to add that you want to --

JG: Maybe this would be a good time for me to just go over the questions that I had.

JW: Okay.

JG: And I think you addressed most of them. But, I mean, specifically, was there ever a time where maybe -- well, first of all, you do have a line that you wouldn't cross, correct?

JW: Yes, sir.

JG: Okay.

KH: How do you know what that line is?

JW: Well, I -- the easiest way, without sitting here and, you know, preaching to anyone, and that's just I may not be a perfect Christian, but I got into this job for the right reasons. I believe. I care about people. I do more good than bad in my lifetime, and I always am conscious to make sure that when anyone experiences a personal encounter with me, minus the piece of shit that fights with us and has to go to jail and deal with his life, people remember me.

And I tell them, day in and day out, and that's how I always know what my line is. I love to laugh, but I'm not going to make a joke at someone else's expense and make it when I left it was funny and know that I left someone back there feeling like a piece of shit.

I'm not the big guy. I'm the 5'10", 175 pounds who, you know, fought his way through the Army, fought, you know, as the small cop being young. And, you know, survived. Really quick learning this was my tool. Not my fists. I have a gift of gab, and I don't abuse it. I don't sit there. I make people like me in the sense that they say, "You know what? He's a good guy." And that's the reason why I'm the guy everyone wants at the party. It's a lot of fun when I'm around.

But I don't do it when -- I'm not an offensive person. And we've all partied with that drunk who is just an asshole and everybody's afraid when he shows up. "Is he going to rip on me today." If I rip on the wrong people, I'm getting my ass kicked and I know that. And that, that isn't how I am.

KH: Okay.

JG: I'm just going to say, so aside from, you know, you've basically described it as ha, ha, funny, things like that. Was Tanis smiling when, I mean, at least with regard to the incidents that we're talking about?

JW: I have never -- I have never seen Tanis not smile.

JG: Okay.

JW: Tanis has always been in a good mood.

JG: That's -- and then with regard to the specific questions about donkey punch and chili dog, I just want to be clear, because there were drawn-out, contextual answers in which we had a lot of the

context there. To cut to the heart of it, you were asked by either Chylack or by Tanis, "What is this."

JW: Yes, sir.

JG: Okay. And before you gave an answer, you said, "Ah, I'm not going to say that."

JW: Yeah.

JG: Because you were internally, perhaps, thinking, "This maybe isn't something that I should --"

JW: Plus we're also sitting in the precinct.

JG: Right.

JW: I know I'm by the lieutenant's office. I mean, I'm not just going to sit there and --

JG: Right. Okay. So in the act of repeatedly being asked, did you --

JW: I don't know -- I was asked a couple times.

JG: Okay.

JW: And reassured, I'd say.

JG: Okay. That's --

KH: Anything else, Mr. Greene?

JG: I'm here all week, so.

KH: All right. Detective O'Dell?

EO: I don't have anything else.

KH: Okay. I hesitate to ask this question right now, but one of the stories that has been brought up repeatedly to us and a couple of people that mentioned it said they were present at this, did you crap yourself for a bet?

JW: I did, sir.

KH: What was that about? And I know Tanis wasn't there.

JW: She wasn't. This was years ago.

KH: Okay.

JW: Long story short, we were up at Riffe Lake four years ago, had gotten really drunk, and were sitting around, and it's the next morning. I don't know if you've ever been to Riffe Lake. We're probably talking, as we're sitting in the office, probably from here to probably where WSP's office is where the bathroom is. I have to take a crap. Problem is I'm still a little hung over. It's still a long walk, and I have a cup of coffee in my hand. And I say -- it's me, Duane McNicholas, Brett Bailey and Kathy McNicholas, and I say --

KH: Was Dustin there?

JW: Dustin was not there.

KH: Oh. Okay.

JW: Dustin was not there. If Dustin heard it, he's heard it because it's one of these living legends. And in the course of it, I made the joke about -- or excuse me, I said, "I've got to go crap. Just gotta get the strength to walk over there." And Duane McNicholas says, "You ain't got a hair on your ass to shit right there." And I was, like, "Why wouldn't I?" And he goes, "I'll give you \$20 if you shit yourself right there. But I want to see it."

I was, like, "Dude, I ain't gonna shit myself for \$20." And Duane -- or Kathy, his wife, and Brett Bailey are sitting there, again, hung over, just drinking their coffee, minding their own business, Duane goes, "We all got \$20." And Kathy's, like, "Okay. I'll throw \$20 in." And Brett's like, "Sure." And I'm, like, "Let me get this straight. \$60 right now just to shit myself." And they're, like, "Yeah."

Well, the God honest truth, and the truth is, and I can't deny the truth and it's going to be on tape and so be it, I'm not going to make it to the bathroom. I know it. I've stalled too long and I know once I get in that bathroom, once I finish what I've got to do, I'm going to be taking a shower, anyhow. And if I've got a chance to make \$60 right now and these people don't think I'm going to do it, I said, "Okay." And I did it.

And they were, like, "Oh, bullshit. You did it?" And I said, "Yes, I did." And I took one step and I was in shorts, and the poop came out, and I took \$60 and Kathy McNicholas puked and it was a good

running joke for awhile, and I went to the bathroom and I cleaned myself up and I washed my shorts later.

JG: This is also something I wasn't aware of, sir.

KH: Oh. I'm sorry. It was such a legend, I think everyone I've talked to has, has alluded to that or claims to have been there so --.

JW: Yeah.

KH: Let's see. I had one other question, if I can think of what it is.

JW: That's the only thing I've ever done for money, that I can recall.

KH: Okay. At least it wasn't part of your normal course of (unintelligible).

JW: No, this was a good week off duty.

KH: All right. And did you ever go -- let's see, you said you did not socialize with Tanis?

JW: I did not.

KH: Okay.

JW: Off duty. I mean, when we were --

KH: That's what I'm talking about.

JW: Yeah. I mean --

KH: The day's over, you're off the clock, you and Tanis did not go with a group or individually to strip clubs or hit the bars or anything like that?

JW: No, sir. I'm aware of her doing it with other officers, but not -- I have never done that.

KH: I don't know whether the last question I had will come to me. Soon as we're done, soon as we've flipped off the recorder -- I can't think of what it is. Eric?

EO: No.

KH: Okay. Anything we didn't ask you about that you think we should have asked about?

JW: No, sir. I think I've made it very clear --

KH: Okay.

JW: -- what happened and my position on everything that transpired.

KH: Okay. Anything you want to add?

JW: No, sir.

KH: Mr. Greene?

JG: Well, I guess one last thing, and I think it's okay for you to say this, Jeff, because we've talked about this. Even though you don't think you crossed the line, in hindsight, you can see, perhaps --

JW: As I told you, you know, like a lot of things in life, at that moment, there wasn't anything I did that wasn't funny or meant with the right intent. But looking back, and again, I have to respect the complaint. I'm not disrespecting it. I understand that the complaint's made and she's saying these things happened.

And I'll agree that, though it was funny at the time, it was shit that I shouldn't have done. But like I said, and it's not making an excuse or a justification, it's a reality, and that is, there was nothing I did that I didn't feel was crossing the line. Like I said, I'll agree the bosses will have issues with it, and I'll agree that John Doe the citizen walking in off the street will be, like, "What the hell is this guy doing." I won't dispute that. But I also think the guys that we work with day in and day out, the camaraderie that we deal with and how we have to make light of what it is we do every day, understand why this stuff goes on.

Like I said, the average citizen doesn't understand what soldiers are doing every day. But if you put a soldier that's been there, he's going to understand. He may not agree with it, but he's going to at least understand. And like I said, nothing -- I'll never do it again. Let's put it that way.

KH: Okay. How are your feelings about consequences, say, in a month from now, of something you do today? I mean, do you think about that? If something appears funny, like this would be funny as heck

to do, do you ever stop and say, "But, if the lieutenant ever found out," or is that something you think about at the time?

JW: I'd like to say that I have a pretty good grasp on it, in the sense, I mean, putting panties on her head. Would a lieutenant have been pissed by it? I think a lieutenant would have been pissed by it if the lieutenant was sitting in the office and had heard about it. I don't think the lieutenant, being there, seeing how everything has transpired during this thing and then see it, would the lieutenant say, "Don't do it again"? Yeah. But would it have gone beyond that, I don't think so.

To answer your question simply, yes, I can rationalize, you know, is this smart, is this, you know, intelligent to do, and not do it. I mean, I'm not, you know, I'm not an impulsive actor where I just, "Oh, this is going to be funny," and then later say, "Oh, my God, what the fuck was I thinking." No. I know, you know, that some things, as funny as they may be, you just don't do it.

But like I said, there wasn't things that went on. These questions about the Victoria's Secret card, the panties on the head, the handcuffing, that I think was just so outrageous that I should have just -- I agree, I shouldn't have done it, but that I should have recognized that, "Oh, my God, this is -- you're going to -- you will get in trouble for this, but let's go do it because it's funny."

JG: It seemed within the context of the other horseplay and joshing around that occurred?

JW: It was definitely within the context of what her and I were related. How I felt our relationship was. Our comfort -- my comfort level with her. And like I was asked an hour ago, there was never anything indicated by her actions, by her own statements, by coworker statements, by supervisor statements, by anything, that ever gave me the opinion or the obvious indication, "Dude, you need to stop what the hell you're doing or you need to change the way you're acting or you need to go apologize." Never.

KH: Okay. The panties on the head thing, no need for an apology for that, because she took it, in your opinion, as a, as a joke?

JW: If I -- yeah. If I thought it offended her, I would have apologized. But there's nothing that gave me that indication. Maybe in a way I look at it how I would have reacted if someone put them on my head, and I've had stuff like that, you know, in my lifetime of screwing around in this job and in the military. If it gets put on my

head and I see it, I'm, like, okay. I'll chalk that up, because now I'll pay attention to the next time I have an opportunity to get you back, you know?

It's not meant, in my opinion, if it was done to me or as I have done it to her, that, "I don't like you or I'm going to teach you something or I want to embarrass you." It was more -- if other people -- I can't tell you if other people saw it. I can't tell you if other people know about it. All I can tell you is when I set it on her head and she turned to look at me, this was a one-on-one interaction of, "Ha, ha, ha," and her looking at me and realizing what I had done. And it would be like now I expect something down the road to happen to me with, you know, let's have some fun right this second.

KH: So you'll be expecting for the retaliatory strike?

JW: It's obvious right now the retaliatory strike has happened.

KH: Well, not -- but not on your --

JW: No.

KH: But not in --

JW: Right.

JG: In a joking sense.

JW: In a joking sense, yes.

KH: In a joking sense, right. Okay. I don't have anything else. You guys all aware that this was a tape recorded statement?

JG: Yes.

JW: Yes. And you had my permission.

KH: Okay. And that was my next question, since I believe that's probably what's cut off of Tape 1. Did anyone make any threats or promises to you regarding this being tape recorded?

JW: No, sir.

KH: Okay. The time is 1053 -- correction, 1153 hours, and this interview is concluded.

(End of record)

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Reviewed for accuracy on 9/24/2008 by Detective Kevin Harper, 3216

# **EXHIBIT 13**

**From:** Bryant, Jeannie  
**Sent:** Thursday, August 28, 2008 5:01 PM  
**To:** Hunter, Dennis  
**Subject:** FW: Wilken Review

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**From:** Hurd, Abbie  
**Sent:** Thursday, August 28, 2008 11:28 AM  
**To:** Bryant, Jeannie  
**Subject:** Wilken Review

The following is a statement regarding my encounters with Officer Jeff Wilken on Cause no. 08-1-00425-2 (Rhonda Delagasse):

On 3/13/08 I charged Delagasse with one count of Theft 2 (shoplifting with her daughter at Kohl's department store). I offered Diversion to Delagasse because she was charged with a property crime and had no felony criminal history. On or about 6/16/08, I received a call from Officer Wilken. He wanted to meet with me to discuss this case. I met with Officer Wilken on 6/16/08.

Wilken told me the defendant was an informant for him on pending and resolved drug crimes. He said she had recently provided him with information on a drug crime, for which he told her, in exchange, he would talk to the prosecutor on her pending Theft 2 case and see if he could get her any better deal. He came to me requesting an amendment of the Theft 2 to a misdemeanor. I told him Delagasse was already being offered Diversion and this was the best offer I could make. I told him I was concerned he was making promises to Delagasse in regards to charged cases and reminded him that the only person with authority to negotiate a case was the prosecutor.

A few weeks later, Delagasse screened for Diversion. She was not accepted because she refused to admit to her criminal conduct. Delagasse called offer Wilken immediately thereafter and put him on the phone with the Diversion screener. I am not aware of the substance of their conversation.

On 7/17/08, Officer Wilken emailed me (see below) that he had spoken to the victim in the pending Theft 2 case (Kohl's) and found out they were "okay" with Delagasse pleading to a misdemeanor. I spoke to Officer Wilken and told him it was not appropriate for him to be contacting victims, especially victims in cases totally unrelated to him. I told him Delagasse was represented by counsel and all communications needed to go through counsel. I also advised him that, by negotiating cases on-the-side he was totally undermining my authority and my ability to resolve cases. He was still bemused as to why we couldn't just offer Delagasse a misdemeanor. Again, I explained that Diversion was the best I could offer her. I also explained I was concerned she was unwilling to admit to her criminal conduct in her Diversion screening because he had assured her he could get her a better deal.

I asked Officer Wilken why he was so invested in Ms. Delagasse in the first place (considering the fact that she was providing him with information on local methamphetamine dealers (not murder suspects, for example) and considering the fact she had convictions for misdemeanor crimes of dishonesty (and may not be the most credible informant). He said she has always been reliable with him and in his job "his word" was all he had. Again, I informed Officer Wilken that only the prosecutor could negotiate charged cases, he should not be communicating with victims in regards to settlement offers, and all communications on charged cases should be filtered through the assigned prosecutor or the assigned defense counsel.

I spoke to my supervisor, Jeannie Bryant, in regards to this matter. I also spoke to the head of our Criminal Division, Denny Hunter. At the time, I did not reveal the name of the officer with whom I had been dealing, because I wanted to give the officer the benefit of the doubt and allow

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him an opportunity to cure his practices.

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**From:** Wilken, Jeffrey  
**Sent:** Thursday, July 17, 2008 2:41 PM  
**To:** Hurd, Abbie  
**Cc:** Chylack, Mike  
**Subject:** Rhonda Delagasse

Abbie,

I wanted to touch base with you regarding Rhonda's pending Theft II case. I am aware that she was not accepted with Diversion and that this matter is still pending,

I have spoken with Jim Toseau, the Regional Director for Kohl's Loss Prevention where I asked him about their store's position regarding a plea to a Gross Misdemeanor Theft against Ms. Delagasse as she has been assisting the Police with other criminal investigations. He stated that they are always willing to assist us in any way that they can and that he would be willing to allow that plea to happen if your office extends it to her.

Please contact Mr. Toseau if you would like to speak with him further and don't hesitate to contact me if you have any further questions for me.

Jeff Wilken

Jim Toseau  
(503) 367-8159

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ARTHUR D. CURTIS  
PROSECUTING ATTORNEY

CURT WYRICK  
CHIEF DEPUTY

DENNIS HUNTER  
CHIEF CRIMINAL DEPUTY

E. BRONSON POTTER  
CHIEF CIVIL DEPUTY

SHARI JENSEN  
ADMINISTRATOR

## MEMORANDUM

DATE:	September 15, 2008
TO:	Lieutenant Marty Holloway
FROM:	Denny Hunter
SUBJECT:	Officer Jeff Wilken

Dear Marty:

I am passing along a concern that recently arose, regarding Detective Wilken's involvement in one of our pending cases. Initially, the matter looked like a case of overzealous informant management and our deputy prosecutor assigned to the case requested and received permission to informally deal directly with Officer Wilken on the matter. Now, however, I have decided that I should pass the matter on to you in the off chance that there's more to the story.

Here is a rundown as received from the assigned DPA:

- On 3/13/08 she charged Rhonda Delagasse in Case No. 08-1-00425-2 with one count of Theft 2 (shoplifting with her daughter at Kohl's department store). She offered Diversion to Delagasse because she was charged with a property crime and had no felony criminal history.
- On or about 6/16/08, she received a call from Officer Wilken. He wanted to meet with her to discuss this case. She met with Officer Wilken on 6/16/08. He told her the defendant was an informant for him on pending and resolved drug crimes. He said she had recently provided him with information on a drug crime, for which he told her, in exchange, he would talk to the prosecutor on her pending Theft 2 case and see if he could get her any better deal. He came to our DPA requesting an amendment of the Theft 2 to a misdemeanor. Our DPA told him Delagasse was already being offered Diversion and this was the best offer she could make. She told Detective Wilken she was concerned he was making promises to Delagasse in regards to charged cases and reminded him that the only person with authority to negotiate a case was the prosecutor.

**CRIMINAL DIVISION**

1013 FRANKLIN • P.O. BOX 5000 • VANCOUVER, WASHINGTON 98666-5000  
(360) 397-22261 • (360) 397-2230 (FAX)

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- A few weeks later, Delagasse screened for Diversion. She was not accepted because she refused to admit to her criminal conduct. Delagasse called Officer Wilken immediately thereafter and put him on the phone with the Diversion screener. Our DPA is not aware of the substance of their conversation.
- On 7/17/08, Officer Wilken emailed our DPA that he had spoken to the victim in the pending Theft 2 case (Kohl's) and found out they were "okay" with Delagasse pleading to a misdemeanor. Our DPA then spoke to Officer Wilken and told him it was not appropriate for him to be contacting victims, especially victims in cases totally unrelated to him. She told him Delagasse was represented by counsel and all communications needed to go through counsel. She also advised him that, by negotiating cases on-the-side he was totally undermining her authority and my ability to resolve cases. He was still bemused as to why we couldn't just offer Delagasse a misdemeanor. She again explained that Diversion was the best she could offer Delagasse and also explained she was concerned Delagasse was unwilling to admit to her criminal conduct in her Diversion screening because he had assured her he could get her a better deal.
- Our DPA asked Officer Wilken why he was so invested in Ms. Delagasse in the first place considering the fact she had convictions for misdemeanor crimes of dishonesty and may not be the most credible informant. He said she has always been reliable with him and in his job "his word" was all he had. Again, she informed Officer Wilken that only the prosecutor could negotiate charged cases, he should not be communicating with victims in regards to settlement offers, and all communications on charged cases should be filtered through the assigned prosecutor or the assigned defense counsel.
- Our DPA then spoke to her supervisor in regards to this matter. She also spoke to me. In our meeting, she did not want to reveal the name of the officer with whom she had been dealing, because she wanted to give the officer the benefit of the doubt and allow him an opportunity to cure his practices.

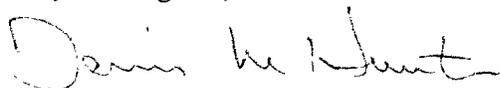
When the matter was initially reported to me, I was concerned that an officer had initiated victim contact on a charged felony that he was not otherwise involved in and without the knowledge of the assigned DPA. I offered to talk to the officer, but the assigned DPA wanted to work with him to resolve our concerns. I was not provided the name of the officer but surmised that he was experienced, which our DPA confirmed. I told the assigned DPA that an experienced officer should know better than to bypass the assigned prosecutor and privately negotiate a charged felony on behalf of an informant, no matter how important the informant might be. I also wondered why an officer would be so persistent in attempting to negotiate an arrangement after being told by the assigned prosecutor that the requested arrangement was not acceptable.

Memorandum: Lieutenant Marty Holloway  
September 15, 2008  
Page Three

Since then, I have learned the identity of the officer and have decided that I should pass this information on you. I do think the officer's actions were inappropriate in this instance. Whether they breached the applicable professional standards of your agency is a matter I leave to your better-informed judgment.

Please let me know if you have any questions or need further information.

Very best regards,



Dennis M. Hunter  
Chief Criminal Deputy  
Clark County Prosecuting Attorney  
1013 Franklin Street  
P.O. Box 5000  
Vancouver, WA 98666-5000  
(360) 397-2478 (office)  
(360) 397-2230 (fax)

# **EXHIBIT 14**

<b>Vancouver Police Department</b>						Case No. <b>08-9421</b>
605 E. Evergreen Vancouver, WA 98661			(360) 487-7400 (360) 694-9646 (FAX)			Report ID <b>05/21/2008 15:04 1338</b>
<b>Supplemental Incident Report</b>						RCN
<b>Records Center</b>						DOR <b>05/21/2008</b>
707 W 13TH Street Vancouver, WA 98660			(360) 397-2211 (360) 397-6074 (FAX)			Officer Assaulted <input type="checkbox"/> Non Disclosure <input type="checkbox"/>
Distribution <b>PA</b>						Distribution Other
init	pDis	sDis	dErt	M.C.	Concl	Case
						FU
						Ret
						Left
Status						<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

<b>Administrative Information</b>						
Location <b>2501 NE 138TH AV ##F52</b>			City <b>VANCOUVER</b>		State <b>WA</b>	Zip Code <b>98683</b>
Local Geo	State Geo	Precinct <b>V EAST</b>	Geo			
Rep Date <b>05/19/2008</b>	Rep Time	From Date <b>05/19/2008</b>	From Time	To Date	To Time	Premise <b>RE</b>
Dom Viol <input type="checkbox"/>	DV Card <input type="checkbox"/>	Child Abuse <input type="checkbox"/>	Arson <input type="checkbox"/>	Homicide <input type="checkbox"/>	Gang <input checked="" type="checkbox"/>	Weapons <input checked="" type="checkbox"/>
					Alcohol <input type="checkbox"/>	Drugs <input checked="" type="checkbox"/>
						Computer <input type="checkbox"/>

<b>Offense Information</b>					
Off # <b>1</b>	Offense <b>SEARCH.WARRA</b>	Offense Category <b>INFO</b>	Offense Translation <b>Execution of search warrant</b>		Attempted or Completed <b>C</b>
Location Type <b>2 STRY RES</b>					

<b>Evidence</b>					
Item # <b>1338-001</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>CLOTHES</b>	Description <b>1 BLACK COLORADO COAT</b>		
Loss Value	Amount <b>1</b>	Caliber	Drug Type	Drug Quantity	Drug Measure
Brand					
Model					
Serial No.		Owner Applied No. (OAN)			
Miscellaneous					
Rec. Date	By PSN	Rec. Agcy	Rec. Value		
Location				City	State Zip Code

Officer Notes  
**FOUND BY MCNICHOLAS IN THE TRUNK OF THE WHITE OLDSMOBILE PARKED IN FRONT OF 2501 NE 138TH**

Reporting Officer <b>Billingsley, Brian</b>	PSN <b>1338</b>	Agency/Case Number <b>VPPD 08009421</b>
Approving Officer <b>Phylack, Michael</b>	PSN <b>1185</b>	
Report printed by: 0413		Ref Case Number <b>05/21/2008 15:04 1338</b>
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# Vancouver Police Department

Case No.  
08-9421

## Evidence

Item # <b>1338-002</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>FIREARMS</b>	Description <b>1 BLACK SEMI-AUTO HIGH POINT .40 CALIBE</b>		
Loss Value	Amount <b>1</b>	Caliber <b>40</b>	Drug Type	Drug Quantity	Drug Measure
Brand <b>HI-POINT SMITH AND WESSON</b>					
Model <b>JCP40</b>					
Serial No. <b>X738683</b>		Owner Applied No. (OAN)			
Miscellaneous					
Rec. Date	By PSN	Rec. Agcy	Rec. Value		
Location			City	State	Zip Code
Officer Notes <b>Found by Lobdell in North West bedroom in Sentry Safe on floor in closet (safe was unlocke</b>					

## Evidence

Item # <b>1338-003</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>FIREARMS</b>	Description <b>1 ALUMINUM MAGAZINE W/ 8 ROUNDS .40 CAL</b>		
Loss Value	Amount <b>1</b>	Caliber	Drug Type	Drug Quantity	Drug Measure
Brand					
Model					
Serial No.		Owner Applied No. (OAN)			
Miscellaneous					
Rec. Date	By PSN	Rec. Agcy	Rec. Value		
Location			City	State	Zip Code
Officer Notes <b>Found by Lobdell next to item #2 in safe these bullets were in magazine but not in gun.</b>					

## Evidence

Item # <b>1338-004</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>CLOTHES</b>	Description <b>3 PAIR OF GLOVES</b>		
Loss Value	Amount <b>3</b>	Caliber	Drug Type	Drug Quantity	Drug Measure
Brand					
Model					
Serial No.		Owner Applied No. (OAN)			
Miscellaneous					
Rec. Date	By PSN	Rec. Agcy	Rec. Value		
Location			City	State	Zip Code
Officer Notes <b>Found by Muller in kitchen bottom left drawer next to oven/stove</b>					

Reporting Officer <b>Billingsley, Brian</b>	PSN <b>1338</b>	Agency/Case Number <b>VPD 08009421</b>
Approving Officer <b>Chylack, Michael</b>	PSN <b>1185</b>	
Report printed by: 0413		Report ID <b>05/21/2008</b>
		Ref Case Number <b>15:04 1338</b>
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# Vancouver Police Department

Case No.  
08-9421

## Evidence

Item # <b>1338-005</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>OTHER</b>	Description <b>RESIDENT ID/CHECKBOOK AND PHOTOGRAPH OF</b>			
Loss Value	Amount <b>1</b>	Caliber	Drug Type	Drug Quantity	Drug Measure	
Brand						
Model						
Serial No.		Owner Applied No. (OAN)				
Miscellaneous						
Rec. Date	By PSN	Rec. Agcy	Rec. Value			
Location			City	State	Zip Code	
Officer Notes <b>Found by Harris in nightstand to the north side of master bed in master bedroom</b>						

## Evidence

Item # <b>1338-006</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>OTHER</b>	Description <b>OREGON DRIVERS LICENSE AND HIGH SCHOOL</b>			
Loss Value	Amount <b>1</b>	Caliber	Drug Type	Drug Quantity	Drug Measure	
Brand						
Model						
Serial No.		Owner Applied No. (OAN)				
Miscellaneous						
Rec. Date	By PSN	Rec. Agcy	Rec. Value			
Location			City	State	Zip Code	
Officer Notes <b>FOUND BY HARRIS IN BOX UNDERNEATH MASTER BED ON THE NORTH SIDE</b>						

## Evidence

Item # <b>1338-007</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>FIREARMS</b>	Description <b>1 BOX OF REMINGTON .40 CALIBER ROUNDS</b>			
Loss Value	Amount <b>1</b>	Caliber	Drug Type	Drug Quantity	Drug Measure	
Brand						
Model						
Serial No.		Owner Applied No. (OAN)				
Miscellaneous						
Rec. Date	By PSN	Rec. Agcy	Rec. Value			
Location			City	State	Zip Code	
Officer Notes <b>Found by Harris in box under bed next to item #6</b>						

Reporting Officer <b>Billingsley, Brian</b>	PSN <b>1338</b>	Agency/Case Number <b>VPD 08009421</b>
Approving Officer <b>Thylack, Michael</b>	PSN <b>1185</b>	
Report printed by: 0413		Ref Case Number <b>05/21/2008 15:04 1338</b>
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# Vancouver Police Department

Case No.  
08-9421

## Evidence

Item # <b>1338-008</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>CLOTHES</b>	Description <b>1 BLACK BASEBALL HAT</b>		
Loss Value	Amount <b>1</b>	Caliber	Drug Type	Drug Quantity	Drug Measure
Brand					
Model					
Serial No.			Owner Applied No. (OAN)		
Miscellaneous					
Rec. Date	By PSN	Rec. Agcy	Rec. Value		
Location				City	State Zip Code
Officer Notes <b>Found by McNicholas on top of dresser in south west bedroom</b>					

## Evidence

Item # <b>1338-009</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>CLOTHES</b>	Description <b>1 PAIR BLACK JEANS, 1 LONG SLEEVE BLACK</b>		
Loss Value	Amount <b>3</b>	Caliber	Drug Type	Drug Quantity	Drug Measure
Brand					
Model					
Serial No.			Owner Applied No. (OAN)		
Miscellaneous					
Rec. Date	By PSN	Rec. Agcy	Rec. Value		
Location				City	State Zip Code
Officer Notes <b>Found by Muller on top of washer in laundry basket in the laundry area</b>					

## Evidence

Item # <b>1338-010</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>RECORDS</b>	Description <b>1 DISC OF DIGITAL PHOTOS</b>		
Loss Value	Amount <b>1</b>	Caliber	Drug Type	Drug Quantity	Drug Measure
Brand					
Model					
Serial No.			Owner Applied No. (OAN)		
Miscellaneous					
Rec. Date	By PSN	Rec. Agcy	Rec. Value		
Location				City	State Zip Code
Officer Notes <b>Taken by McNicholas</b>					

## Narrative

Attachment:

WSP Lab request

Reporting Officer <b>Billingsley, Brian</b>	PSN <b>1338</b>	Agency/Case Number <b>VPD 08009421</b>
Approving Officer <b>Wylack, Michael</b>	PSN <b>1185</b>	
Report printed by: 0413		Report ID <b>05/21/2008</b>
		Ref Case Number <b>15:04 1338</b>
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**Narrative****Evidence:**

- 1338-001: EVIDENCE - 1 BLACK COLORADO COAT

Officer Notes: Found by McNicholas in the trunk of the white Oldsmobile Parked in front of 2501 NE 138th Ave #F52

- 1338-002: EVIDENCE - 1 BLACK SEMI-AUTO HIGH POINT .40 CALIBER

Officer Notes: Found by Lobdell in North West bedroom in Sentry Safe on floor in closet (safe was unlocked in child's bedroom)

- 1338-003: EVIDENCE - 1 ALUMINUM MAGAZINE W/ 8 ROUNDS .40 CALIBER BULLETS

Officer Notes: Found by Lobdell next to item #2 in safe these bullets were in magazine but not in gun.

- 1338-004: EVIDENCE - 3 PAIR OF GLOVES

Officer Notes: Found by Muller in kitchen bottom left drawer next to oven/stove

- 1338-005: EVIDENCE - RESIDENT ID/CHECKBOOK AND PHOTOGRAPH OF LESTER GRIFFIN

Officer Notes: Found by Harris in nightstand to the north side of master bed in master bedroom

- 1338-006: EVIDENCE - OREGON DRIVERS LICENSE AND HIGH SCHOOL ID FOR LESTER GRIFFIN

Officer Notes: Found by Harris in box underneath master bed on the north side

- 1338-007: EVIDENCE - 1 BOX OF REMINGTON .40 CALIBER ROUNDS

Officer Notes: Found by Harris in box under bed next to item #6

- 1338-008: EVIDENCE - 1 BLACK BASEBALL HAT

Officer Notes: Found by McNicholas on top of dresser in south west bedroom

- 1338-009: EVIDENCE - 1 PAIR BLACK JEANS, 1 LONG SLEEVE BLACK SHIRT, 1 SHORT SLEEVE BLACK SHIRT

Officer Notes: Found by Muller on top of washer in laundry basket in the laundry area

- 1338-010: EVIDENCE - 1 DISC OF DIGITAL PHOTOS

Officer Notes: Taken by McNicholas

**Action Taken:**

On 5/18/2008 I was assigned to take and log evidence taken during the search warrant located at 2501 NE 138th Ave #F52, and the white Oldsmobile Cierra. The above listed items were recovered by the listed officers and given to me. At that time I took these items and logged them into VPD evidence.

**Action Recommended:**

Forward to PA with original

Reporting Officer <b>Billingsley, Brian</b>	PSN <b>1338</b>	Agency/Case Number <b>VPD 08009421</b>
Approving Officer <b>Thylack, Michael</b>	PSN <b>1185</b>	
Report printed by: 0413		Ref Case Number <b>05/21/2008 15:04 1338</b>
Page 5 of 6		

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer  
Billingsley, Brian

PSN  
1338

Approving Officer  
Shylack, Michael

PSN  
1185

Agency/Case Number  
VPD  
08009421  
Report ID  
05/21/2008  
Ref Case Number  
15:04 1338

# **EXHIBIT 15**



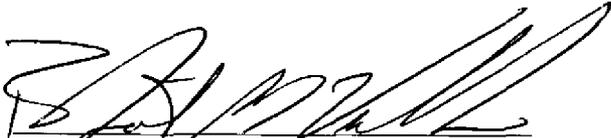
- 1 6. Attorney Fernanda Torres contacted me and provided me with the transcript of the  
2 closing arguments in this case so I could review the party's arguments. Ms. Torres  
3 also asked me to review documents from Vancouver Police Department Officer Jeffrey  
4 Wilken's personnel file. I had not seen the documents relating to Officer Wilken  
5 before.
- 6 7. After reviewing the Vancouver Police Department documents, the partial trial  
7 transcript, and recalling my representation of Mr. Griffin, it is my conclusion that had I  
8 known about Det. Wilken's misconduct in his official capacity, I would have altered  
9 my case preparation and defense presentation.
- 10 8. I did not know that the prosecutor's office had previously filed a complaint with the  
11 Vancouver Police Department reporting that Officer Wilken made materially false  
12 statement during a suppression hearing. Had I known of this impeachment material, I  
13 would have used it during trial and asked Officer Wilken about it during cross-  
14 examination.
- 15 9. I knew that Officer Wilken was on administrative leave at the time of trial. I did not  
16 know that the pending sexual harassment and police misconduct investigation was also  
17 a criminal investigation that was being reviewed by the City of Vancouver prosecutor's  
18 office. Had I known this information, I would have used it at trial as impeachment  
19 material during the cross-examination of Officer Wilken.
- 20 10. This and other misconduct by Officer Wilken is disturbing. His conduct and attitude,  
21 as well as the supervision of him by his superiors, would have raised some serious  
22 concerns for me about Officer Wilken's involvement and investigation in this case. At  
23 trial, I suggested the glove containing my client's DNA profile was planted. The  
24 prosecutor was able to say this suggestion was a stretch. Had I known about Officer  
25 Wilken's misconduct, negligence and disrespect for the rules, and about his statement

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regarding being able to get false confessions, I feel I could have given this line of argument more traction. At a minimum, I could have conducted further investigation into Officer Wilken's specific handling of the evidence and information at issue in this case, including his handling of suspect Garry Alexander. Knowing what I know now about Officer Wilken, I would have made him as much the focus of my defense as I did Garry Alexander.

11. I expected that the prosecutor would follow his obligations under *Brady v. Maryland* and turn over any evidence that was exculpatory or capable of being used for impeachment. When I found out about Officer Wilken's administrative leave, I made a request for information, on the record. While his file regarding the administrative leave was provided for an in-camera review, none of the other details were disclosed.

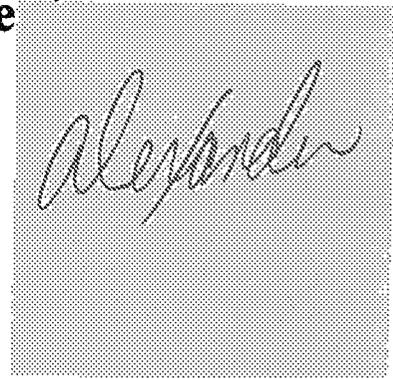
I DECLARE under the penalty of perjury of the laws of the State of Washington that the DATED this 10<sup>th</sup> day of August, 2012 at Seattle, Washington

  
Robert M. Vukanovich, WSBA #28847

# **EXHIBIT 16**



**Vancouver Police Department**  
**Case # V08-9421**



**V08-9421**

*Interview of: GARRY ALEXANDER*  
*Interview by: Officer Jeff Wilken*  
*Interview date: May 19, 2008*  
*Interview Time: 12:09 a.m.*

**Legend:** JW: Officer Jeff Wilken  
DN: Officer Dustin Nicholson  
GA: Garry Alexander

**JW:** This is Detective Jeff Wilken of the Vancouver Police Neighborhood Response Team. It is December...or actually it's May 19, 2008. The time is 12:09 a.m. I am in the Clark County Jail located at 707 West 13<sup>th</sup> Street in Vancouver, Washington, in a upper level interview room outside one of the pods. Uh, present with me is Detective Dustin Nicholson. Dustin, can you say your full name and spell your last name.

**DN:** Dustin Nicholson, N-I-C-H-O-L-S-O-N.

**JW:** And also present is the subject of the interview, Garry Alexander. Garry, can you say your full name and your birth date and spell your last name.

**GA:** Garry Lavelle Alexander, A-L-E-X-A-N-D-E-R. 4/9/76.

**JW:** Garry, in front of you, you see a tape recorder?

**GA:** Yes, I do.

**JW:** You see the wheels turning?

**GA:** Yes, I do.

**JW:** Red light on?

**GA:** Yes, I do.

**JW:** The record button activated?

**GA:** Yes, I do.

**JW:** Is it your understanding that this tape recorder is recording our words?

Interview of: Garry Alexander  
Date: May 19, 2008  
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GA: Yes.

JW: And do I have your permission to record this interview with you?

GA: Yes.

JW: Okay. A few minutes ago prior to turning on this tape recorder, I went over a form with you. At the top it's labeled Advice of Rights Miranda Warnings, and what I read to you is that you have the right to remain silent. Anything you say can be used against you in a court of law. You have the right at this time to talk to a lawyer and to have him pres...present with you while you are being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish. And you can decide at any time to exercise these rights and not answer any questions or make any statements. Do you remember me reading these to you at 12:06 a.m.?

GA: Yes, I do.

JW: Did you put your initials at the end of each section on this form?

GA: Yes, I did.

JW: What are your initials?

GA: GA.

JW: Below that it says Waiver of Rights. Number one says do you understand each of these rights listed above numbered one through five?

GA: Uh-huh.

JW: Did you write anything after that?

GA: I wrote yes and my initials, GA.

JW: And number two stated having these rights in mind, do you wish to talk to us now?

GA: Yes.

JW: And did you also put your initials?

GA: Yes, I did.

JW: Okay, below that did you sign your name?

GA: Yes, I did.

1  
2 JW: And below at the very bottom you see that Jeffrey Wilken and Dustin  
3 Nicholson have signed as witnesses.  
4  
5 GA: Yes.  
6  
7 JW: At 12:08 a.m.  
8  
9 GA: Yes.  
10  
11 JW: Okay. So, with that in mind, I have explained to you, just so the tape's up to  
12 date and you and I (unintelligible) same frame of mind, you were booked into  
13 jail this morning of May 18<sup>th</sup>.  
14  
15 GA: Uh-huh.  
16  
17 JW: And you were booked into jail on the charges of Assault in the First Degree  
18 and Burglary in the First Degree, related to a home invasion style incident  
19 where a person you as Gary...?  
20  
21 GA: Yes.  
22  
23 JW: Do you know Gary's last name?  
24  
25 GA: No.  
26  
27 JW: Okay, but he...a white male?  
28  
29 GA: Yes.  
30  
31 JW: Who you know is associated with your ex-girlfriend, Heather?  
32  
33 GA: Yes.  
34  
35 JW: Um, that there was an incident at his residence that resulted in him being shot.  
36  
37 GA: Right.  
38  
39 JW: We, myself, you and another officer had a several hour interview yesterday?  
40  
41 GA: Uh-huh.  
42  
43 JW: That included it being recorded by video and audio. During that interview, um,  
44 we discussed the chain of events, sequence of events, for you for that day and  
45 into the night.  
46  
47 GA: Yes.  
48

1 JW: Uh, during that time you had made some statements to us which consisted of,  
2 um, you being at home and receiving a phone call from...  
3  
4 GA: Audrey.  
5  
6 JW: Audrey...  
7  
8 GA: Turner.  
9  
10 JW: Turner. I always forget her name. Uh, and she gets...you get a phone call  
11 from her, she provides some information to you about Gary?  
12  
13 GA: Uh-huh.  
14  
15 JW: You left your residence?  
16  
17 GA: Yeah.  
18  
19 JW: What's your address?  
20  
21 GA: Uh, 14507 SE 7<sup>th</sup> Way.  
22  
23 JW: Okay. And when you left the residence you drove a Firebird?  
24  
25 GA: No, um, a Camaro.  
26  
27 JW: A Chevy, a Chevy Camaro. What color is it?  
28  
29 GA: Red.  
30  
31 JW: Okay. You left your house in a red Chevy Camaro and where did you drive  
32 to?  
33  
34 GA: I drove down 136<sup>th</sup> to 49<sup>th</sup>.  
35  
36 JW: Okay.  
37  
38 GA: Made a left and we started going down towards 112<sup>th</sup>, and I see police officers  
39 (unintelligible).  
40  
41 JW: Okay, and do you remember about what time this was?  
42  
43 GA: Um, no, actually I don't.  
44  
45 JW: Yeah, I think when we were talking we had some trouble figuring out times.  
46  
47 GA: Right.  
48

1 JW: Uh, so you see this and what did you end up doing with the car?  
2  
3 GA: Um, I pulled into a parking lot on the right hand side of, uh, 49<sup>th</sup> Street.  
4  
5 JW: Okay.  
6  
7 GA: Almost to 112<sup>th</sup>. Pulled in, waited for a little bit, for a few minutes, and then I  
8 pull out and go back up to a Chevron on Burton or 28<sup>th</sup>.  
9  
10 JW: 28<sup>th</sup> Street.  
11  
12 GA: And, um, 136<sup>th</sup>. I parked there and I waited for somebody to come get me and  
13 then I went home.  
14  
15 JW: Okay, do you remember who the person was that came and got you?  
16  
17 GA: Yes, my girlfriend, Jamie Kennedy.  
18  
19 JW: Okay, and you guys went together?  
20  
21 GA: Yes.  
22  
23 JW: Okay. So, you got hold of Jamie, how did you call Jamie?  
24  
25 GA: I called Jamie from a black girl's apartment.  
26  
27 JW: Okay, uh, a black girl's apartment...  
28  
29 GA: Who was outside at the... on 49<sup>th</sup>.  
30  
31 JW: This would be the same apartment complex that you pulled into?  
32  
33 GA: Yes.  
34  
35 JW: Cause you saw the police cars?  
36  
37 GA: Yes.  
38  
39 JW: Okay. Um, how long did you have to wait and chill out?  
40  
41 GA: Um, actually I didn't have to wait that long, she was by the (unintelligible) when  
42 I left.  
43  
44 JW: Okay, and where did you leave the Camaro?  
45  
46 GA: Um, at the Chevron.  
47  
48 JW: Okay, just parked at Chevron, you left, went home, went to bed then...

1  
2 GA: Got up.  
3  
4 JW: Got up.  
5  
6 GA: Made breakfast. (unintelligible)  
7  
8 JW: And what time...and then you went and got the car?  
9  
10 GA: Yes.  
11  
12 JW: Went on with your day?  
13  
14 GA: Yes.  
15  
16 JW: And at some point in the evening hour Vancouver Police showed up?  
17  
18 GA: Yeah, um, Jay Alie showed up about nine, nine-ish. I was going for a  
19 cigarette, I seen him drive by once, so he was staring at me and then he kept  
20 going and turned around and he came back, then he got out of the car and  
21 asked my name and asked me (unintelligible). And talked to me and then he  
22 got me in the cuff...in the handcuffs and took me to the station.  
23  
24 JW: And eventually to you and I.  
25  
26 GA: Uh-huh.  
27  
28 JW: Okay. During the interview with me yesterday you weren't truthful with me  
29 about initially ever leaving the apartment.  
30  
31 GA: Right.  
32  
33 JW: You...to make things easier and to speed this up, you lied to me about  
34 whether or not you actually left the apartment.  
35  
36 GA: Right.  
37  
38 JW: This led to you and I having a disagreement.  
39  
40 GA: Right.  
41  
42 JW: Then I finally shared with you that I talked with, uh, Miss Kennedy.  
43  
44 GA: Uh-huh.  
45  
46 JW: Who pretty much disclosed to me that you had left the apartment.  
47  
48 GA: Uh-huh.

1  
2 JW: And then you finally admitted to me that you did.  
3  
4 GA: Uh-huh.  
5  
6 JW: Is that a yes?  
7  
8 GA: Yes.  
9  
10 JW: Okay. Then we the concern and argument about, oh, where you parked the  
11 car, who you got a ride with to the gas station and all that shit.  
12  
13 GA: Right.  
14  
15 JW: True?  
16  
17 GA: True.  
18  
19 JW: Okay, so that led me back here today after being called by...as I told you  
20 before the tape recorder did (unintelligible), um, thanks to news companies  
21 putting some information out, whether it was off record or not doesn't matter  
22 but it inspires people to call. Phone calls were received, uh, detectives got  
23 called in, some subjects (unintelligible) information to follow up on, and, uh,  
24 when I came in here I pretty much told you that, um, that I believed that there  
25 was enough at this point to support that the original charge of Assault I and  
26 Burglary I be dismissed. I had the form filled out and signed, and that new  
27 charges of Making a False Statement and Driving While License Suspended  
28 be filed against you. So, you understand you're still under arrest, you still have  
29 this crimes of, uh, as I stated, you (unintelligible) lying to me, for making a  
30 false statement and driving on a suspended license.  
31  
32 GA: Yes.  
33  
34 JW: Okay. So, what we're going to do is, um, talk with the jail staff and let them  
35 know that information.  
36  
37 GA: Okay.  
38  
39 JW: Okay? Um, Gary, no idea why he would implicate you?  
40  
41 GA: No, not unless, you know, I'm...I don't know, I guess I'm really the only black  
42 guy who (unintelligible) but I don't know why for I'd try to harm him though.  
43 You know what I mean, when there's a million...well, not a million.  
44  
45 JW: It's Vancouver.  
46  
47 GA: Yeah.  
48

1 JW: There ain't a million black men here, I know what you're saying.  
2  
3 GA: No. (unintelligible) a lot of black guys come to his house, you know what I  
4 mean?  
5  
6 JW: Right.  
7  
8 GA: Because of the girls that he hangs with, (unintelligible) I guess just to go hang  
9 out and smoke weed and hang with the chicks, you know what I'm saying, go  
10 pick them up and all that kind of stuff.  
11  
12 JW: Okay. Um, since you've been in custody at the jail has anyone contacted you  
13 or have you been in contact with anyone that said, "Hey, why the fuck are you  
14 here? We know you didn't do it because we know so and so did it?"  
15  
16 GA: No.  
17  
18 JW: Okay. Has anyone stepped up saying that they would speak on your behalf  
19 and say they could vouch and verify that you had nothing to do with this?  
20  
21 GA: Couple people.  
22  
23 JW: Okay, are any of those people in custody or out on the street?  
24  
25 GA: Um, out on the street really.  
26  
27 JW: Who are they?  
28  
29 GA: Um, well, I know Jamie, she can vouch that I didn't do it but...well, they  
30 can't...they can say that they know I would not do that to Gary, which is  
31 Heather's mother.  
32  
33 JW: Heather...Cordova.  
34  
35 GA: Cordova's mother.  
36  
37 JW: Okay.  
38  
39 GA: And my mother.  
40  
41 JW: Okay.  
42  
43 GA: And that's really about it.  
44  
45 JW: Okay. Um, it's not...I don't think we talked about it but after you and I had this  
46 discussion we had detective Holladay come in to administer the polygraph  
47 test.  
48

1 GA: Uh-huh.  
2  
3 JW: Um, he told you that it indicated that, you know, you were being dishonest,  
4 deception as he calls it, their...their technical term.  
5  
6 GA: Uh-huh.  
7  
8 JW: Um, pretty much explained to you that you, yourself, may not necessarily be  
9 the one who had the gun.  
10  
11 GA: Uh-huh.  
12  
13 JW: Pulled the trigger, may not necessarily be the one who was actually at the  
14 door when all this was taking place. But sometimes the way the conscience  
15 works and the physical body works and the mental state of people, if you have  
16 knowledge to that sometimes is what can implicate the deceptive response  
17 and give them indications that you're being dishonest in that interview.  
18  
19 GA: Right.  
20  
21 JW: He explained that to you.  
22  
23 GA: Yeah.  
24  
25 JW: Okay.  
26  
27 GA: And I was nervous as hell, too, I mean, you know, and emotions everywhere  
28 at that time. So..  
29  
30 JW: Okay. Okay, uh, a couple of things I just want to do. Uh, some photo  
31 laydowns we put together from some information we've received. This is one  
32 of the photo laydowns. Is there anyone...I'm just going to...so I can...it's on  
33 tape, it doesn't see, I'm going to call this number 1.  
34  
35 GA: (unintelligible)  
36  
37 JW: Is there anyone...but...I was just going to say is there anyone in this photo  
38 laydown that you see that...first of all, the first question, is there anyone in  
39 there that you recognize?  
40  
41 GA: No.  
42  
43 JW: No one you know from the club, no one you know from a friend's house,  
44 partied with, anyone that you have any idea?  
45  
46 GA: No.  
47

1 JW: Okay, is there anyone in there you've ever seen over by the other Gary's  
2 house?

3  
4 GA: No.

5  
6 JW: No one in number one?

7  
8 GA: Uh-uh.

9  
10 JW: Okay. What I'd ask you to do here is take this pen, you see the questions  
11 here?

12  
13 GA: Uh-huh.

14  
15 JW: First question it says do you see anyone you recognize? Here's (unintelligible)  
16 you can (unintelligible).

17  
18 GA: No.

19  
20 JW: Okay. Put your initials right next to it. Second states if the answer to question  
21 number one was yes, it doesn't apply so the rest of them would not apply  
22 cause you don't know any of these people, correct?

23  
24 GA: Uh-huh.

25  
26 JW: Okay, if I could just have you print your full name.

27  
28 GA: Oh.

29  
30 JW: They do it different. I don't know why we have it like that on this form, to tell  
31 you the truth. And then you sign these below and we're using the May 19<sup>th</sup>, so  
32 5/19. Okay, the second laydown, number two, is there anyone in this photo  
33 laydown that you recognize or see that either you've know from either the  
34 clubs, hang outs, friends' houses, girlfriends' houses, Gary's house?

35  
36 GA: I've seen him before.

37  
38 JW: Number 6?

39  
40 GA: Yeah.

41  
42 JW: Where have you seen that person?

43  
44 GA: I think in jail.

45  
46 JW: Is he in here now or just in the past?

47  
48 GA: In the past. I think him, I've seen him before.

1  
2 JW: Number which number?  
3  
4 GA: Number 5.  
5  
6 JW: And where do you think you've seen him?  
7  
8 GA: Um, on the street but I'm not sure. He looks like a guy named Randon but...  
9  
10 JW: Randon or Randy?  
11  
12 GA: Randon.  
13  
14 JW: Randon, okay.  
15  
16 GA: And I know him, too.  
17  
18 JW: Number?  
19  
20 GA: Four.  
21  
22 JW: Who is that?  
23  
24 GA: That's Chris.  
25  
26 JW: Chris who?  
27  
28 GA: Um, I don't know his last name.  
29  
30 JW: Okay.  
31  
32 GA: Um...  
33  
34 JW: Where did you meet him?  
35  
36 GA: He used to hang with my little cousin a long time ago.  
37  
38 JW: He used to what?  
39  
40 GA: Hang with my little cousin and...and be around my little cousin a long time  
41 ago, Seneca.  
42  
43 JW: Is Seneca a man or a woman?  
44  
45 GA: A man.  
46  
47 JW: Okay.  
48

1 GA: And I don't know those other guys.  
2  
3 JW: Don't know anyone else?  
4  
5 GA: Uh, no.  
6  
7 JW: Okay, so this one's going to be a little bit of...write small. Take my pen.  
8  
9 GA: Okay.  
10  
11 JW: So, do you see anyone you recognize?  
12  
13 GA: (unintelligible)  
14  
15 JW: The question would be yes or no?  
16  
17 GA: Yes.  
18  
19 JW: Answer to question number one was yes, identify by the photo numbers. So,  
20 you said 4, 5 and 6?  
21  
22 GA: Uh-huh, well, 6, 5 and 4.  
23  
24 JW: Alright, we'll go backwards, it's 6, 5 and 4. Okay, so we'll kind of combine the  
25 next two, it says where do you recognize the persons identified? And it says  
26 do you have any additional comments? Start here, number 6 I know from so  
27 and so. Number 5 I know from so and so. Number 4 I know from so and so.  
28 And when you include the numbers, if you know their name, you said you  
29 know his name to be Chris.  
30  
31 GA: Uh-huh.  
32  
33 JW: Randon.  
34  
35 GA: Uh-huh.  
36  
37 JW: Do you know his name?  
38  
39 GA: Uh, (unintelligible)  
40  
41 JW: Okay, say number 6, don't know his name but I've seen him in jail.  
42  
43 GA: Uh-huh.  
44  
45 JW: Number 5, I think his name is Randon. I've seen him on the street.  
46  
47 GA: Uh-huh.  
48

1 JW: Number 4, is Chris and I knew him to hang out with my cousin Seneca.  
2  
3 GA: Okay.  
4  
5 JW: As simple as that.  
6  
7 GA: Um, (unintelligible)  
8  
9 JW: That's okay, keep going.  
10  
11 GA: How would I do it though, write it up here?  
12  
13 JW: No, just continue right below there.  
14  
15 (unintelligible)  
16  
17 JW: 90 minute tape and we're not even halfway through this one. (unintelligible)  
18 fifteen minutes each (unintelligible). I actually bought a pack of those and  
19 (unintelligible). I was mad. (unintelligible)  
20  
21 GA: And do this one, too?  
22  
23 JW: Yeah, print your name and then sign and date it. Were you sleeping?  
24  
25 GA: Yeah, I was (unintelligible).  
26  
27 JW: Okay, uh, again, to bring you up to speed on some things, I released the van  
28 to Jamie tonight and she's going to get the...(unintelligible) over tomorrow and  
29 she can only drive one car at a time.  
30  
31 GA: Okay.  
32  
33 JW: Um, cell phone, we went through, uh, we did the...remember I told you last  
34 night what we were going to do?  
35  
36 GA: Uh-huh.  
37  
38 JW: All that still happened, we did a search warrant on your place.  
39  
40 GA: Uh-huh.  
41  
42 JW: Or I guess it's your (unintelligible) got a door on the 7<sup>th</sup> Street side.  
43  
44 GA: Uh-huh.  
45  
46 JW: The 7<sup>th</sup> Way door got keyed in because we didn't have a house key and she  
47 was too far away to get down there in time, so I told her how to get ahold of  
48 the City of Vancouver about trying to get that repaired and paid.

1  
2 GA: Oh, shit.  
3  
4 JW: So, she was a little upset about that. Uh, so she got the van, (unintelligible)  
5 give it back to her. Cell phone, on the warrant I went through, um,  
6 documented all the phone ledger calls.  
7  
8 GA: Uh-huh.  
9  
10 JW: And the phone's going to get returned to her. I'm trying to thing what else.  
11 Did we take anything from you? I can't remember off the top of my head.  
12  
13 GA: No.  
14  
15 JW: We didn't take any of your property like she...we got the phone from her.  
16  
17 GA: So, no, you got the phone from me.  
18  
19 JW: Oh, yeah, that's right. You were on it.  
20  
21 GA: I was talking on the phone when Jay Alie came.  
22  
23 JW: Okay, so, um, it's in her name with Cricket, so I can just give it to her tomorrow  
24 when she comes and picks up the car.  
25  
26 GA: Uh-huh.  
27  
28 JW: Uh, so the last thing, just to keep ruling out the issues with Gary, and again to  
29 be perfectly up front with you, um, I don't know what's going to happen with  
30 the whole Gary side. He has his issues, you know, as I explained that to you.  
31  
32 GA: Uh-huh.  
33  
34 JW: Um, I...I talked to him again briefly tonight. I just can't get him off the...the  
35 conviction that you were out there.  
36  
37 GA: Right.  
38  
39 JW: So, what I'm doing for my bosses is I told them I would touch base on these  
40 things with you, um, talking with Jamie, she was asleep on the couch when  
41 you called her. Um, I know the shooting happened and the 911 call was  
42 received at 12:12 a.m., in the morning, on the morning of the 17<sup>th</sup>.  
43  
44 GA: Uh-huh.  
45  
46 JW: Cause today's the 19<sup>th</sup>, Monday.  
47  
48 GA: 19<sup>th</sup>.

1  
2 JW: Sunday's the 18<sup>th</sup>, Saturday morning is the 17<sup>th</sup>. Uh, so, what I did here is I  
3 went through on the phone, the...the paperwork on the dialed side,  
4 that...these are your outgoing calls. The paperwork on the left side is the  
5 received calls.

6  
7 GA: Uh-huh.

8  
9 JW: So, just we'll move the tape recorder for a second and go through these with  
10 you and just get this understood here. Um, received calls, again, we knew the  
11 shooting happened, (unintelligible) here at 12:12 is when the 911 call comes  
12 in. So, we know Audrey doesn't call you before then.

13  
14 GA: No.

15  
16 JW: And we know your last incoming call is at 2:54 because your next incoming  
17 call, obviously, (unintelligible) people actually go to sleep, doesn't come until  
18 12:53 in the afternoon when her mom's call.

19  
20 GA: Uh-huh.

21  
22 JW: Okay. So, we have a Tina H., an unknown, LG, Shelly, Row 2, this is a Row  
23 2, Shelly, Shelly, Shelly in here.

24  
25 GA: Uh-huh.

26  
27 JW: Uh, and what kind of confused me is I wasn't sure what number might be  
28 Audrey.

29  
30 GA: Um, I'm not sure either, I mean, she gets her own cell phone but they're using  
31 other phones and stuff, too.

32  
33 JW: Who does she live with?

34  
35 GA: I don't know. But I think now she lives in Portland, I guess.

36  
37 JW: Cause I did see here...so this is the...this is the...um, 17<sup>th</sup>, going out of here,  
38 this is when midnight starts, this is the 16<sup>th</sup>. So, afternoon, you guys wake up,  
39 people start calling. The first phone call from her is at 2:30...or 2:13 in the  
40 afternoon from a 503 number.

41  
42 GA: Right. Then that's her original number.

43  
44 JW: When...is this an original cell phone number?

45  
46 GA: Yeah, that's her cell phone number but when she called me she didn't call  
47 from her cell phone number.  
48

1 JW: Okay, so she calls again at 6:13 in the evening and that's the last time her cell  
2 phone is used.  
3  
4 GA: Uh-huh.  
5  
6 JW: Okay? So, if you had to gu...well, who's Tina?  
7  
8 GA: Um, that's my baby momma.  
9  
10 JW: Your baby's mom?  
11  
12 GA: Yeah.  
13  
14 JW: Who's H?  
15  
16 GA: Um, Heather's phone.  
17  
18 JW: Cordova?  
19  
20 GA: Yeah.  
21  
22 JW: Okay, who is that phone number, 891-3841?  
23  
24 GA: Don't know.  
25  
26 JW: Okay, who's LG?  
27  
28 GA: Um, that's an old school friend.  
29  
30 JW: Okay, who is Shelly?  
31  
32 GA: That's my, um, that's Jamie's sister or her cousin.  
33  
34 JW: Her cousin? Uh, who's Row 2?  
35  
36 GA: That's my cousin.  
37  
38 JW: Alright. So, she called again here, Shelly, Shelly, Shelly, okay. So, these are  
39 the times the call came in, this is how long the phone call lasts.  
40  
41 GA: Uh-huh.  
42  
43 JW: We know at some point you left, any idea...well, would Audrey call from Tina's  
44 phone?  
45  
46 GA: No.  
47  
48 JW: On H's phone?

1  
2 GA: Um, it's possible.  
3  
4 JW: Okay, so possible. Um, what about this unknown number? I guess that'd be  
5 possible, too, right?  
6  
7 GA: Yeah.  
8  
9 JW: Uh, LG?  
10  
11 GA: No.  
12  
13 JW: No? Shelly?  
14  
15 GA: No.  
16  
17 JW: Row?  
18  
19 GA: No.  
20  
21 JW: And that's Row, and that's Shelly, Shelly, Shelly. So, she has to have called  
22 here between 12:52 and 1:09.  
23  
24 GA: Uh-huh.  
25  
26 JW: Okay, so Audrey. Okay, so somewhere after you getting this call is when  
27 you...  
28  
29 GA: Uh-huh.  
30  
31 JW: You didn't take the phone with.  
32  
33 GA: No.  
34  
35 JW: Okay, so that's that. Now, these are the calls that are dialed. What's star 99?  
36  
37 GA: Um, I think it's the mailbox.  
38  
39 JW: Voice mail?  
40  
41 GA: Yeah.  
42  
43 JW: Okay. Yeah, every phone's different. Okay, so this is midnight comes at  
44 12:09, is the first dialed number. Star 99 for voice mail. Um, then 12:31 it's a  
45 dialed phone number to Tina. 12:35 Shelly. So, we know Audrey calls about  
46 that time. So, that would get us somewhere around here, 12:53 to here. So,  
47 when you got the call from her, you didn't call, right?  
48

1 GA: Um, I'm not sure.  
2  
3 JW: Let's look here. We know the shooting happened at 12:12.  
4  
5 GA: Uh-huh.  
6  
7 JW: We're thinking Audrey called somewhere 12:52 to 1:09.  
8  
9 GA: Uh-huh.  
10  
11 JW: So, Tina is your baby's momma?  
12  
13 GA: Uh-huh.  
14  
15 JW: Where does she live?  
16  
17 GA: Um, she lives down on Fourth Plain, too.  
18  
19 JW: Okay. Shelly is...  
20  
21 GA: Uh, Jamie's...  
22  
23 JW: I don't want to (unintelligible). Shelly...  
24  
25 GA: Jamie's cousin.  
26  
27 JW: Jamie's cousin..  
28  
29 GA: Uh-huh.  
30  
31 JW: Tina is...  
32  
33 GA: Baby's mom.  
34  
35 JW: Garry. Baby momma.  
36  
37 GA: Uh-huh.  
38  
39 JW: Lives on Fourth Plain.  
40  
41 GA: Uh-huh.  
42  
43 JW: Fourth Plain and what?  
44  
45 GA: Uh, I'm not sure.  
46  
47 JW: Okay, and where does Shelly live?  
48

1 GA: Um, I don't know.  
2  
3 JW: Okay, um, I don't see (unintelligible) here. Who's H? Cause that person's...  
4  
5 GA: Heather.  
6  
7 JW: Heather.  
8  
9 GA: Heather's phone.  
10  
11 JW: Heather Cordova. Cell phone?  
12  
13 GA: Yeah.  
14  
15 JW: Okay, so I'll (unintelligible) here. So, you're watching these movies, shooting  
16 happens, this phone calls comes in from Audrey we're saying somewhere  
17 between 12:52 and 1:09. Uh, so Shelly...someone's dialing her number, that  
18 would be you?  
19  
20 GA: Uh-huh or Jamie.  
21  
22 JW: Or Jamie cause that's her cousin.  
23  
24 GA: Yeah.  
25  
26 JW: Is she your friend?  
27  
28 GA: She's cool.  
29  
30 JW: Okay.  
31  
32 GA: Jamie didn't want me associating with her cause I guess she's kind of...I don't  
33 know, she's kind of, uh, she's kind of promiscuous.  
34  
35 JW: What's wrong with that?  
36  
37 GA: I don't know, well, wouldn't let me talk to her because (unintelligible)  
38  
39 JW: (unintelligible)...yeah. I was trying to see where you're going with that.  
40 Alright, and H is Heather.  
41  
42 GA: Uh-huh.  
43  
44 JW: Again, that could be...  
45  
46 GA: (unintelligible)  
47  
48 JW: Right, but I'm saying would Jamie ever talk to Heather?

1  
2 GA: Um...  
3  
4 JW: Do your baby mommas get along?  
5  
6 GA: No, but they do kind of.  
7  
8 JW: Okay, so there really wouldn't be a reason for almost one o'clock in the  
9 morning for Jamie to call Heather.  
10  
11 GA: Oh, no, I think I probably called back over there.  
12  
13 JW: Okay. And Shelly, BG, who is BG?  
14  
15 GA: That's, uh, Heather's brother.  
16  
17 JW: What's his name?  
18  
19 GA: Tony.  
20  
21 JW: Tony?  
22  
23 GA: Uh-huh.  
24  
25 JW: What's his last name?  
26  
27 GA: Lance.  
28  
29 JW: Okay, so that's BG at 12:59. Who called him?  
30  
31 GA: Um, I probably did.  
32  
33 JW: Okay. H is Heather, Row 2 is who?  
34  
35 GA: My cousin.  
36  
37 JW: Garry's. And what's Row 2's name?  
38  
39 GA: Uh, Rochelle.  
40  
41 JW: And her last name?  
42  
43 GA: Um, I don't know, just...uh, Wilborn.  
44  
45 JW: Wilborn?  
46  
47 GA: Uh-huh.  
48

1 JW: Where does she live?  
2  
3 GA: Portland.  
4  
5 JW: Okay. So, no more calls got made after 2:00, so I'm assuming the next one's  
6 not till 11:30 in the morning. So, everybody must be in bed.  
7  
8 GA: Uh-huh.  
9  
10 JW: And no more calls get in at 2:54. So, everybody's in bed then, um, right?  
11 That's how I see it? Okay. Well, you call Jamie from some black woman's  
12 house?  
13  
14 GA: Uh-huh.  
15  
16 JW: House phone or cell phone?  
17  
18 GA: Um, it's a house phone.  
19  
20 JW: So, you went there after you heard from Audrey?  
21  
22 GA: Uh-huh.  
23  
24 JW: So, we know you left sometime after 1:09.  
25  
26 GA: Um...  
27  
28 JW: Cause look here. The shooting's at 12:12.  
29  
30 GA: Uh-huh.  
31  
32 JW: So, nothing has happened at her...at the house yet for her to call you.  
33  
34 GA: Uh-huh.  
35  
36 JW: 12:18 you get a call from Tina. 12:52 is believed to be possibly Audrey since  
37 it's Heather's phone number.  
38  
39 GA: Uh-huh.  
40  
41 JW: 1:09 is possibly Audrey cause it's an unknown person's phone number.  
42  
43 GA: Uh-huh.  
44  
45 JW: 1:51 is your friend LG.  
46  
47 GA: Uh-huh.  
48

1 JW: I didn't write that, LG. What's his real name?  
2  
3 GA: Uh, Michael (unintelligible)  
4  
5 JW: Uh, is he a school fr...uh, what kind of a friend is he?  
6  
7 GA: Um, he was one of my like...he's one of Tina's cousin's friends.  
8  
9 JW: Tina?  
10  
11 GA: Uh-huh.  
12  
13 JW: Cousin's...what's the cousin's name?  
14  
15 GA: Um, what's...uh, Little Capone, uh...  
16  
17 JW: Little Capone?  
18  
19 GA: Uh-huh.  
20  
21 JW: Okay. And so Tina's cousin's friend. Where do you know him to live?  
22  
23 GA: Hmm?  
24  
25 JW: Where do you know him to live?  
26  
27 GA: I don't know.  
28  
29 JW: You don't? Why is he calling you at damn near 2:00 in the morning?  
30  
31 GA: Who knows.  
32  
33 JW: Well, you talked to him for a minute and a half, or someone did.  
34  
35 GA: Well, who knows. We go to the clubs and all that shit, I mean, (unintelligible),  
36 too, you know what I'm saying, I am at least. My cousin, she works at a bar,  
37 we try to get gigs in there, you know what I'm saying and all that stuff. So...  
38  
39 JW: Okay, so we know you...you didn't call from this number. And you didn't call  
40 from Shelly's number.  
41  
42 GA: No.  
43  
44 JW: You didn't call from your cousin's phone.  
45  
46 GA: No.  
47

1 JW: That was her phone number and you didn't call from Shelly's number and  
2 Shelly's number and Shelly's number. So, where is the phone number from  
3 when you called?  
4

5 GA: Um, I'm surprised I did, I don't even know the number.  
6

7 JW: Well, a number should have shown up here.  
8

9 GA: Yeah.  
10

11 JW: Hmm. So, you don't know?  
12

13 GA: No.  
14

15 JW: Hmm. And it's a Chevron? Why don't you call...I'll call dispatch when I leave  
16 here and have them send a patrol car and find out what the phone number is  
17 to that Chevron. And it's a pay phone you called from?  
18

19 GA: No.  
20

21 JW: Oh, no, that's right.  
22

23 GA: I called from somebody's house.  
24

25 JW: Okay. You're right, I was thinking in the beginning when Jamie thought that's  
26 where you had called from.  
27

28 GA: Uh-huh.  
29

30 JW: (unintelligible) okay. Hmm. You...would you remember the apartment you  
31 called from if you saw it again?  
32

33 GA: Um, it's possible.  
34

35 JW: Okay. Hmm. You want to know what I think?  
36

37 GA: Hmm?  
38

39 JW: I think you would know the apartment because it was her apartment.  
40

41 GA: Whose?  
42

43 JW: Tina's. You called from Tina's phone.  
44

45 GA: Really?  
46

47 JW: You did. You called there at 12:18 a.m.  
48

1 GA: Well, I know...  
2  
3 JW: That's the number you called from. And you talked for two minutes and 38  
4 seconds with Jamie.  
5  
6 GA: Huh.  
7  
8 JW: Tina doesn't live on Fourth Plain. She lives on 49<sup>th</sup> Street.  
9  
10 GA: (unintelligible)  
11  
12 JW: In the apartment complex that you pulled into. Right?  
13  
14 GA: Yeah.  
15  
16 JW: So, why not tell me it was Tina's house you called from?  
17  
18 GA: Tina wasn't (unintelligible)  
19  
20 JW: She wasn't what?  
21  
22 GA: I don't she was (unintelligible) but...  
23  
24 JW: Again, I don't have the...the video of our interview yesterday. I mean, we had  
25 a dispute (unintelligible)  
26  
27 GA: Right.  
28  
29 JW: But you told me that you went in an apartment complex and you knocked on a  
30 black woman's door.  
31  
32 GA: Uh-huh.  
33  
34 JW: Who let you use her phone.  
35  
36 GA: Uh-huh.  
37  
38 JW: I thought it was bullshit.  
39  
40 GA: Uh-huh.  
41  
42 JW: Remember I told you that?  
43  
44 GA: Uh-huh.  
45  
46 JW: Tina's black.  
47  
48 GA: Yeah.

1  
2 JW: I met her tonight.  
3  
4 GA: Yeah.  
5  
6 JW: She said you knocked at her door wearing the same shit that you had on when  
7 we arrested you.  
8  
9 GA: Uh-huh.  
10  
11 JW: Tan shorts, white t-shirt, red slippers, little black...black...what do you call  
12 those, not doo-rags, (unintelligible)  
13  
14 GA: Doo-rag, (unintelligible)  
15  
16 JW: Doo-rag? Asked to use her phone. She brought it down to you. And she said  
17 that she listened to you make a phone call to your apartment, to your girlfriend,  
18 she didn't know (unintelligible) if you were calling the apartment. And then you  
19 asked Jamie to meet you at Chevron. And she talked with you for a few  
20 minutes, she has two kids with you, you guys were married for five years and  
21 then you left. So, why not tell me it was her place? It would save a lot of time.  
22  
23 GA: I don't like getting other people involved in shit.  
24  
25 JW: I can respect that and it made sense, you know it, you knew whose door you  
26 were knocking on. You did...that's what I said, you could have saved a lot of  
27 this bullshit last night.  
28  
29 GA: Yeah.  
30  
31 JW: Okay. So, my question on this driving while suspended in the curiosity side,  
32 you're driving on 49<sup>th</sup> Street and you see the police cars. You pull into this  
33 apartment complex, you go up and you knock on Tina's door.  
34  
35 GA: Also, the, uh, like when Heather usually calls or whatever if they call the  
36 phone, I hang up. I mean, I erase their numbers, you know what I'm saying?  
37 Cause Jamie, she don't really like her, Shyla, uh, Audrey, you know what I'm  
38 saying?  
39  
40 JW: Uh-huh.  
41  
42 GA: So.  
43  
44 JW: No reason to leave them on there.  
45  
46 GA: Huh?  
47

1 JW: No reason to leave them on there. You don't want to start a fight with your  
2 girlfriend.  
3  
4 GA: Sometimes...some.  
5  
6 JW: But this is what I know is...is you didn't erase any of these calls, you called  
7 from Tina's phone, right?  
8  
9 GA: I didn't erase (unintelligible) I mean...  
10  
11 JW: Listen to my question. When you called Jamie did you call from Tina's phone?  
12  
13 GA: Um, yeah.  
14  
15 JW: Okay, now my question is why didn't you just tell me that yesterday?  
16  
17 GA: Like I said, I don't like, you know, putting people through a bunch of shit  
18 (unintelligible) you know what I'm saying? (unintelligible) much of anything but  
19 still...  
20  
21 JW: Okay. They want to see if the floors are dirty, they didn't know we were in it,  
22 they actually just waxed it when we came in.  
23  
24 GA: Oh.  
25  
26 JW: It's okay, (unintelligible) pissed. The maintenance guy, not the (unintelligible) I  
27 don't give a shit about the inmates (unintelligible). They can wax it again  
28 tomorrow. Alright, so you don't want to get Tina in a whole bunch of shit?  
29  
30 GA: Well, not...not in a whole bunch of shit, I just...  
31  
32 JW: Well, you don't (unintelligible)  
33  
34 GA: But I don't if she...I don't know if she's asleep or (unintelligible) saying, so you  
35 know, I knock on her door and she was up. So...  
36  
37 JW: What did you tell her?  
38  
39 GA: And it really...really wasn't too big of a deal, I don't think.  
40  
41 JW: To use her phone?  
42  
43 GA: No, to even say, you know, this wasn't the phone (unintelligible).  
44  
45 JW: Okay. Do you remember how you and I were yelling at each other? You were  
46 doing most of the yelling. Do you remember me looking you in the eye and  
47 telling you you were full of shit?  
48

1 GA: Uh-huh.  
2  
3 JW: Yes, right?  
4  
5 GA: Yeah.  
6  
7 JW: Do you remember you looking at me and telling me that you swear on your  
8 brother's grave, you swear on your mom, you swear on your kids, you weren't  
9 lying to me.  
10  
11 GA: Yeah.  
12  
13 JW: Okay.  
14  
15 GA: Yeah, that's, um, that's (unintelligible).  
16  
17 JW: Right, this is going on at some point, right, and I kept telling you, bullshit, you  
18 knocked on some stranger's door to use their phone and some white tweeker  
19 dude drives you in a fucking truck.  
20  
21 GA: Yeah.  
22  
23 JW: To me that's not believable. What stops you at any moment saying, you know  
24 what, you're right, Officer Wilken, I'm sorry, let me just set the record straight.  
25 I went to a black woman's apartment that I know, in fact, I was married to her.  
26 She is the mother of my two children. I knew she'd let me use the phone and I  
27 don't want to bring any shit on her, I don't want the cops going to talk to her. I  
28 don't want her wondering what's going on in my life.  
29  
30 GA: And I want to go see my kids.  
31  
32 JW: But all you had to do is say this is what (unintelligible) verify it with a simple  
33 knock on the door cause (unintelligible) the minute she would have said, yeah,  
34 he showed up and this is what he was wearing, that's a gold mine for you, I  
35 told you that, didn't I?  
36  
37 GA: Yeah.  
38  
39 JW: She put you in those same clothes that we arrested you in. Well, minus the  
40 doo-rag. You know what I know? The dude that shot Gary wasn't wearing a  
41 white t-shirt, he didn't have on red slippers. So, would you have saved a lot of  
42 my time?  
43  
44 GA: Yes.  
45  
46 JW: Should I not try to charge you with like twenty freaking counts of making a  
47 false statement for all the bullshit you gave me?  
48

1 GA: No. Please, no. Please, no.  
2  
3 JW: So, you called from Tina's place and you're still get in the car and you drive to  
4 Chevron? There are no more police cars after you leave that apartment  
5 complex. Once you...listen to me, once you made it to 136<sup>th</sup> and you turned  
6 right there are no more police cars. I know where our perimeters were set, we  
7 knew where these people...  
8  
9 GA: Well, I didn't.  
10  
11 JW: I'll give you that but you sure the hell didn't see any more police cars. Why not  
12 just keep driving home?  
13  
14 GA: I didn't want to get pulled over cause I didn't know where...I didn't know where  
15 your perimeter started or ended.  
16  
17 JW: Okay. Well, we have an issue.  
18  
19 GA: What's that?  
20  
21 JW: How the hell do you call from Tina's apartment before you get a phone call  
22 from Audrey?  
23  
24 GA: Well, I think I probably erased the number.  
25  
26 JW: You think you erased the number? Whose number?  
27  
28 GA: They was calling all night, uh...  
29  
30 JW: Who were calling all night?  
31  
32 GA: Audrey.  
33  
34 JW: Audrey.  
35  
36 GA: Heather.  
37  
38 JW: Heather. They were calling you non-stop while you're laying right there with  
39 your girlfriend watching a movie?  
40  
41 GA: They were calling me that and they called after that, too.  
42  
43 JW: Hmm. You see this? 12:18.  
44  
45 GA: Uh-huh.  
46  
47 JW: For 2 minutes and 38 seconds, gets us to 12:20.  
48

1 GA: Uh-huh.  
2  
3 JW: You call. That's a received phone call. You are not in the house.  
4  
5 GA: Uh-huh.  
6  
7 JW: The shooting happens at 12:12.  
8  
9 GA: Uh-huh.  
10  
11 JW: I give a rat's ass if Audrey calls you at 12:12 and 30 seconds, your ass did not  
12 get dressed, get the car keys, drive down there and then suddenly get at  
13 Tina's front door and use that phone and call that cell phone in six minutes.  
14 Yes what?  
15  
16 GA: Yes, yes, I did.  
17  
18 JW: How?  
19  
20 GA: Um, it's pretty quick to go down 136<sup>th</sup>, it's...it's not..  
21  
22 JW: It's not that quick.  
23  
24 GA: Oh, yes, it is.  
25  
26 JW: You don't want to get stopped, you ain't speeding.  
27  
28 GA: Well...  
29  
30 JW: You told me you sat around in the house for a few minutes watching TV. You  
31 were...  
32  
33 GA: (unintelligible)  
34  
35 JW: I think your exact words is the...you didn't call them bitches, what was it,  
36 those...those, uh, maybe those women, "Those women are always full of shit."  
37  
38 GA: Those broads.  
39  
40 JW: "Those broads are always full of shit." They're always bullshitting. You don't  
41 know what to believe from them.  
42  
43 GA: But I still went down there and as I got down there, like I said, I seen the lights.  
44  
45 JW: You seen the lights.  
46  
47 GA: And also (unintelligible) having to get dressed, (unintelligible)  
48

1 JW: Hmm. I'm almost tempted to put you in that patrol car and me and you drive  
2 from your driveway, doing the speed limit cause we don't want to get pulled  
3 over.  
4  
5 GA: No, I was doing...I was doing over the speed limit.  
6  
7 JW: Why?  
8  
9 GA: Huh?  
10  
11 JW: You don't want to get stopped that's why you didn't drive.  
12  
13 GA: I understand that but I wasn't worried about really getting stopped, you know  
14 what I'm saying, as I was going down here. (unintelligible) police car, if I see  
15 the police, (unintelligible) driving. I will say this, since, you know, I've been  
16 driving now...  
17  
18 JW: Uh-huh.  
19  
20 GA: You know, I'm always look for a police officer when I'm driving. If I see a cop a  
21 few cars behind me or feet behind me or whatever, I will pull in somewhere  
22 and, you know what I mean, and park, you know what I mean? I'll pull into a  
23 store and get out. Hmm, hmm, hmm, you know what I mean? That's just the  
24 way that us people who don't have licenses and stuff do. So, (unintelligible)  
25 and anything on your patrol (unintelligible) pulling over half the population. But  
26 that Camaro's a V-8, believe me, it doesn't take me long to get down 136<sup>th</sup>.  
27  
28 JW: Garry, you're killing me.  
29  
30 GA: What do you mean?  
31  
32 JW: You're killing me. Who is Dasa?  
33  
34 GA: Um, that's my baby mom, too.  
35  
36 JW: Why didn't you answer her call when she called you at 12:04 and 12:09?  
37  
38 GA: I don't know.  
39  
40 JW: You don't know. Who is this number at 11:08, 503-995-3302?  
41  
42 GA: Um, I'm not sure.  
43  
44 JW: Not sure. Hmm. So, the shooting happens at 12:12, the first Vancouver  
45 Police Officers that broadcast at 12:13, they're en route. You actually beat  
46 patrol cars that...you actually beat the canine officer there, you beat the  
47 ambulance there, and you were sitting in your underwear...well, shorts, t-shirt,

1 house shoes, watching a movie with your girlfriend. We need to hire you as a  
2 cop.  
3  
4 GA: Okay.  
5  
6 JW: Or an ambulance driver.  
7  
8 GA: Oh, yeah?  
9  
10 JW: Hell, yeah, you can beat us there sometimes.  
11  
12 GA: Well...  
13  
14 JW: We could have set your ass up on containment.  
15  
16 GA: That's true.  
17  
18 JW: On the perimeter.  
19  
20 GA: And will this not get back to Jamie?  
21  
22 JW: What's that?  
23  
24 GA: Will this not get back to Jamie?  
25  
26 JW: Not that I'm aware of, this is me and you. She had nothing to do with it, she  
27 was just a witness I interviewed.  
28  
29 GA: Uh, (unintelligible)  
30  
31 JW: What are you going to change?  
32  
33 GA: Huh?  
34  
35 JW: What are you going to change?  
36  
37 GA: (unintelligible)  
38  
39 JW: Tell the truth to help yourself cause I know what you're going to do.  
40  
41 GA: Hmm.  
42  
43 JW: You're going to sit there and you're going to lie to me and you're going to  
44 come up with some story you make up that Jamie fell asleep and you were  
45 actually already gone, you were out already cruising around heading down  
46 there or heading somewhere when this call came in.  
47  
48 GA: No.

1  
2 JW: No, (unintelligible)  
3  
4 GA: No, (unintelligible)  
5  
6 JW: Can I ask you a question?  
7  
8 GA: (Spanish)  
9  
10 JW: Can I ask you a question?  
11  
12 GA: Yeah.  
13  
14 JW: We talked about this last night. You have 8 kids and your 9<sup>th</sup> on the way. How  
15 many different moms are involved?  
16  
17 GA: Eight.  
18  
19 JW: Eight?  
20  
21 GA: Or seven. Maybe seven.  
22  
23 JW: Well, I know Tina has two. Dasa...  
24  
25 GA: Has one.  
26  
27 JW: Has one?  
28  
29 GA: Heather.  
30  
31 JW: Heather?  
32  
33 GA: Has one.  
34  
35 JW: Who else?  
36  
37 GA: Um...  
38  
39 JW: Any of them here in the Vancouver/Portland area?  
40  
41 GA: Yeah.  
42  
43 JW: Okay, well, we've got three, now how many (unintelligible)  
44  
45 GA: Tabby.  
46  
47 JW: Tabby?  
48

1 GA: Nora.  
2  
3 JW: Nora?  
4  
5 GA: Um, another girl and her name's Jamie, too.  
6  
7 JW: Another Jamie.  
8  
9 GA: Um, uh, Crazy Cat, (unintelligible). It was a one night stand. And...  
10  
11 JW: The new Jamie.  
12  
13 GA: Yeah, the new Jamie.  
14  
15 JW: So, the new Jamie is mom number 8 with child number 9 and you're 32?  
16  
17 GA: Yeah.  
18  
19 JW: Do you love her?  
20  
21 GA: Yes, I do.  
22  
23 JW: Is she a good woman for you?  
24  
25 GA: Yes, she is.  
26  
27 JW: You know she loves you?  
28  
29 GA: Yes.  
30  
31 JW: When we talked last night I remember... God, I wish I could play the damn tape  
32 back. You sat there yelling about how you put shit on your brothers, put stuff  
33 on your mom, you put stuff on this, you put stuff on the (unintelligible) and I  
34 told you, I know I told you, I said, "Don't put shit on anybody. These people  
35 are not going to bear your cross, these people ain't going to care about your  
36 shit. This is yours." Remember that?  
37  
38 GA: Yeah.  
39  
40 JW: And right now as I sit here, I know in my heart and in my mind that when you  
41 sat there yelling and...and basically arguing your point on why I should believe  
42 you, I was very comfortable telling you why I didn't believe you. And I'm very  
43 comfortable sitting in here now and telling you I don't believe you.  
44  
45 GA: (unintelligible)  
46  
47 JW: And all that's going to happen is we're going to have this argument back again  
48 and you're going to tell me again how you're going to put stuff on this person

1 or put stuff on that person and why you put it on him. I'm asking you to put it  
2 on one person and one person only and that is this, if you tell me that you love  
3 Jamie, if you tell me that you want to have her in your life, if you tell me that  
4 you want this future that you are building with her, that you want time to grow  
5 up and be a man, having child number nine, if you want to have this life, you  
6 want to, as you said, end this cycle of the fact that your own dad's in prison for  
7 the rest of his life. You have all these kids out there, someone has to raise  
8 them. Your ass ain't going to raise them if it's sitting in prison.  
9

10 GA: No.

11  
12 JW: No offense to your kids, I ain't going to raise them. I'm trying to raise my own  
13 three.

14  
15 GA: Well.

16  
17 JW: Here's the (unintelligible). I came here (unintelligible) last night as I sat in that  
18 interview room with you, I looked you in the eye as a man and I've told you  
19 countless times I wasn't lying to you. And I left the interview with you and I  
20 told you as I looked you in the eyes and what I said to you still wasn't lying,  
21 that was this, I was going to do my job. And I do my job pretty fucking good,  
22 okay? I told you I was going to go through the cell phone. I told you I was  
23 going to get the records. I told you I was going to follow up with people, I was  
24 going to follow up with evidence, I was going to write a warrant for the house,  
25 going to write a warrant for the cars. I told you all this and I've done that. This  
26 is that beautiful moment in life where I get to actually see if everything that  
27 comes out of your mouth, that little part of you that tries to convince me that  
28 you really are a man, if you're going to actually be a man. Cause this is what I  
29 know, you have a cross to bear and I'm going to give you a chance to fix it. As  
30 I told you, you have experiences (unintelligible), you have experiences with the  
31 criminal justice system.  
32

33 Right at this moment I'm man enough to tell you, you are fucked. Now, I'm  
34 going to give you a chance to fix yourself and fix yourself in the situation you  
35 find yourself in. If you don't want it, get up and leave but this is what I'm going  
36 to show you, and this is what I'm going to tell you. You had your two friends  
37 and yourself go over there. The shooting happened and you bailed. You went  
38 to Tina's place and you made the phone call. I know this. I also know...I also  
39 know who the shooters are. I also know who was there. I didn't just pick  
40 pictures out of the fucking wall.  
41

42 GA: (unintelligible)

43  
44 JW: I have a statement with me. The tape recorder is going.

45  
46 GA: Uh-huh.

47  
48 JW: Do you know Jamie's writing?

1  
2 GA: Jamie's right?

3  
4 JW: No, Jamie's writing, her signature. Look like it?

5  
6 GA: Yeah.

7  
8 JW: Jamie doesn't want to go to prison. Jamie doesn't want to have your baby in  
9 prison.

10  
11 GA: What do you mean?

12  
13 JW: Jamie finds herself in a jam. Jamie sat there and listened to you bullshit last  
14 night, listened to your bullshit on the ride up to grandma's house, listened to  
15 your bullshit about tell the cops you were in the Camaro. Jamie doesn't want  
16 to do this again. She did it with Lavelle, she ain't doing it with you. Now,  
17 here's the deal. I'm not going to insult you. You can come up with whatever  
18 name that you want to label a person who wouldn't have the courage, who  
19 would completely disrespect their girlfriend, the person they love, the mother  
20 of their child, and leave them to hang out there to dry, make them be the  
21 witness, make them be the one to get fucking paraded in court, make them to  
22 be the one to testify. You can be that man that I want you to be, the man that  
23 you want to be, and prove to me that you can fix this. You made a bad choice.  
24 You made a bad choice getting your friends involved. You talked shit to the  
25 wrong people in getting this thing set up, it went bad. A man almost fucking  
26 died.

27  
28 This woman right now is laying in bed and I told her I would give you this  
29 chance. You know what I wanted to do? I wanted to come down here and  
30 parade the fact that I was the man and I told you that I was going to do this,  
31 cause I have some pride. She's a scared, to me, little girl. She's got two kids  
32 she's trying to raise and now she's got a third one with a man who's fucking  
33 going to go to prison. She is so scared right now and as scared as she is to  
34 lose you, she's scared that what if she now has to go to prison herself? You  
35 know what scares her more? What scares her more is the fact that what you  
36 did by telling her everything, by making her aware of everything, that now  
37 she's afraid by talking to me that other people are going to want her  
38 (unintelligible). If you say nothing other people are going to think she's the  
39 one. Be the man you are. Be the man you want everyone to think you are.  
40 Not the gangster, not the...the bad ass, not the hoodlum, the Christian man of  
41 the God that put us on this earth, be him.

42  
43 I can't tell you what's going to happen. There are consequences but what I  
44 can tell you is this, there is a tomorrow. There is a day that you can fix your  
45 life. Don't let some other man raise your children cause that other man might  
46 be you or someone like you that lives this life. They're not setting an example.  
47 I came here for her not for me. Because she is hoping that you face this. She  
48 is hoping that you are that man. Okay?

1 GA: Yeah, but what I still don't understand is what do you mean about going to her  
2 grandma's house was a lie? It...

3  
4 JW: Oh, no, no, let me back up. When I said that was... according to her, I'm not  
5 going to sit here at this moment and tell you what she said. I will, before I  
6 leave here, tell you what she said but I'm not going to tell you beforehand.  
7 After I hear the truth from you, I will tell you what she said. But what I will tell  
8 you is this, she told me it was on the car ride after you had starting hearing  
9 from people, Audrey and the rest of them, that, hey, the cops that...the cops  
10 are hearing that (unintelligible), that you then told her, "Hey, just tell the cops I  
11 went down in the Camaro, I went down to check out things." That's what I was  
12 talking about on the car ride up to grandma's.

13  
14 I know...everything we talked about, I'll tell you where the lie starts. The lie  
15 starts at about 11:08 to 2:54. You have a conversation with her prior to that.  
16 And then these phone calls as this all starts, the wheels are in motion. Do not  
17 confuse or concern yourself with this, this is my baseline for everything. Okay,  
18 here's the deal. Do you see the tape recorder?

19  
20 GA: Uh-huh.

21  
22 JW: Do you see that it's getting kind of low? What I'm going to do is I'm going to  
23 end this. Give me a time, Dustin.

24  
25 DN: 1:06.

26  
27 JW: Okay, 1:06 a.m. I'm going to end this, fast forward so the remaining tape will  
28 be blank, flip it over, hit record and then start this up again. Okay? Yes or no?

29  
30 GA: Yes.

31  
32 JW: Okay, I just got to make sure that they hear your voice.

33  
34 END OF TAPE ONE, SIDE A

35  
36 JW: This is Detective Jeff Wilken, Detective Dustin Nicholson, and Garry Alexander  
37 back on tape at 1:07 a.m. Uh, it's a continuation of the tape recorded  
38 interview. Uh, Garry, again in front of you a tape recorder, you see the wheels  
39 turning?

40  
41 GA: Yes, I do.

42  
43 JW: Number, red light on, record button pressed?

44  
45 GA: Yep.

46  
47 JW: Still have your permission to continue this tape?  
48

1 GA: Yes, you do.  
2  
3 JW: Okay, you had asked me as I was fast forwarding it that you'd like to use the  
4 washroom, correct?  
5  
6 GA: Yes, please.  
7  
8 JW: Okay. So, I'm going to hit pause and we'll pick this up after the bathroom  
9 break.  
10  
11 GA: Okay.  
12  
13 JW: Okay. Okay, this is Detective Wilken, Detective Nicholson, and Garry  
14 Alexander continuing. The time is?  
15  
16 DN: Uh, 1:11.  
17  
18 JW: Okay, 1:11. Tape recorder is still going and I still have your permission, Garry,  
19 right?  
20  
21 GA: Yes.  
22  
23 JW: Okay. I'll put the tape recorder down here. Okay, where I left you with was  
24 written statement by Jamie, pretty much that I'm giving you the opportunity,  
25 okay, as I told you. Uh, I will bring you up to speed. We, as the police,  
26 identified suspects, uh, it's on you to admit what your involvement is. Okay?  
27 Um, we're not going to bed. There's people that are still doing things, there's  
28 people still being interviewed, there's people that are still in custody, there's  
29 people that are still being under surveillance. People's world's are changing  
30 as we speak. Your world has changed and is going to continue to change.  
31 Now, the difference is, as I told you, it's how you go from this moment forward.  
32 I...I...I let everything from yesterday, everything from sitting in here going  
33 through this little time list, your little bullshit about Tina on Fourth Plain and I  
34 don't know who this person is or I don't know who that person is, it's done.  
35  
36 This has to be the minute cause, like I'm telling you, her statement, two pages,  
37 is her breaking down in my interview. That same one I had you in, her  
38 breaking down and saying she ain't doing it again. She can't. So, I will ask  
39 you a very straight forward question and I ask you to listen to everything that  
40 I've said and listen to what your heart says and what it is you want out of life  
41 with her, and I'm asking you is there information that you have that you know,  
42 first hand, about the shooting of Gary that you have not shared with me?  
43  
44 GA: Yes and no.  
45  
46 JW: Yes and no? Why don't you tell me what it is you do know.  
47

1 GA: I know that somebody called and told me, you know, going to go do some  
2 dumb shit and I asked them, you know, basically, why they were going to go  
3 do the dumb shit and they was like, man, cause they were starving. And then  
4 the next thing I know, you know, basically, well, he was...you know, I  
5 (unintelligible). And next thing I know somebody's calling me and telling me  
6 that, you know, something bad happened to Gary.  
7  
8 JW: Stop. I asked if you were going to tell the truth.  
9  
10 GA: I am.  
11  
12 JW: No, you're not. Listen to me. Obviously, you're going to make me do this.  
13 You're going to...  
14  
15 GA: I'm not trying to piss you off or anything.  
16  
17 JW: You're not, lis...I'll be up front with you, nobody...people don't piss me off. I  
18 don't get angry. What I do get is I'll get offended. I'll get offended that I sit  
19 here and I try to...you're 32, you know, sometimes it insults me that I have to  
20 remind people they are 32. They're not my 13 year old son. It's not my job to  
21 teach you.  
22  
23 GA: Understood.  
24  
25 JW: It's not my job to hold your hand.  
26  
27 GA: Understood.  
28  
29 JW: It's my job to remind you, you did this, you know, tell me the truth. It's not you  
30 trying to just tell me a little bit to see what I'm...I'll play your game for two  
31 minutes, ready? I'll play your game, Garry, cause you're going to make me do  
32 this. You're going to make me tell you what it is I know. So, I'll throw some  
33 crumbs at you. I'll just show you that (unintelligible). Ready? Is that a yes?  
34 Cause the tape recorder doesn't see a head shake.  
35  
36 GA: Yes.  
37  
38 JW: Okay, little bit of crumbs. In photo laydown number one, you pointed at photo  
39 number 5 and you said you've seen that person around, correct?  
40  
41 GA: No.  
42  
43 JW: What photo did you say?  
44  
45 GA: None.  
46  
47 JW: No one?  
48

1 (unintelligible)

2

3 JW: Oh, Michael, number 2. Photo number 5, you've seen that person around,  
4 right?

5

6 GA: Yeah.

7

8 JW: You also said that you've seen photo number 6 around, correct?

9

10 GA: Yeah.

11

12 JW: You also said that you've seen photo around, correct?

13

14 GA: Yes.

15

16 JW: You said photo number 5 is Ran.

17

18 GA: I think it's Ran, it looks like him.

19

20 JW: And photo number 4 is?

21

22 GA: Chris.

23

24 JW: Chris. What's Chris's last name?

25

26 GA: I don't know.

27

28 JW: You have no idea?

29

30 GA: No.

31

32 JW: Is Chris your friend?

33

34 GA: No.

35

36 JW: Do you do anything with Chris?

37

38 GA: No.

39

40 JW: Smoke weed with Chris?

41

42 GA: I don't smoke weed.

43

44 JW: Ever drink beer with Chris?

45

46 GA: No.

47

48 JW: Chase tail with Chris?

1  
2 GA: No.  
3  
4 JW: Chris ain't your friend?  
5  
6 GA: No.  
7  
8 JW: You don't do anything with Chris?  
9  
10 GA: No.  
11  
12 JW: Why was Chris with you last night? Let me rephrase that. Why was Chris with  
13 you Friday night, early Saturday morning when this shooting happened? Why  
14 do I have witnesses putting you and Chris together in the car? Why do I have  
15 witnesses putting you and Chris and Jamie in a car outside of Chris's  
16 grandma's apartment or house behind Safeway? Any idea? If he isn't your  
17 friend, if you don't go drinking with him, if he isn't coming over to your house  
18 for a barbecue, why is he in your car with you, out at the van with Jamie and  
19 you, seen by people getting out? Now, hold on, I said I'd throw you a few  
20 crumbs, not a lot. You never drove the Camaro to the Chevron. You're not on  
21 anywhere at the Chevron in your Camaro. Another piece of bullshit lie comes  
22 out of your mouth. You're seen on video walking from the apartment to the  
23 north...or excuse me, to the south of the Chevron. Your friend lives over there  
24 with his girlfriend behind the Chevron. Hmm. Any idea who in these photos  
25 might be your friend that lives over there?  
26  
27 GA: None.  
28  
29 JW: None? You want to know why, because I don't have a picture of that person  
30 but when he gets booked into the Clark County Jail tonight, you will finally  
31 have a nice Clark County Jail picture for me to show you. It's a nice car he  
32 has. Much nicer rims on that car than should be. They kind of stand out in the  
33 neighborhood, don't they? Yes or no?  
34  
35 GA: Yes.  
36  
37 JW: Let me think what else is there I want to share with you?  
38  
39 GA: You don't have to share anything else.  
40  
41 JW: Huh?  
42  
43 GA: You don't have to share anything else.  
44  
45 JW: Why not?  
46  
47 GA: You just don't.  
48

1 JW: Because I obviously know some things, right? Yes or no?  
2  
3 GA: Yeah.  
4  
5 JW: Are you going to make me sit here, the same way I've had to make Jamie sit  
6 there and write a statement and tell her, this is exactly what I told her, I said,  
7 "Jamie, I'm going to take this statement to the jail and if your boyfriend lies and  
8 lies and lies, I'm going to read this statement to him verbatim, and I will show it  
9 to him in your writing. But I'm going to tell you something, if he makes me  
10 read it to him, then I'm bringing the statement back to you in one piece. One  
11 piece and you will know I've had to read it to him cause I had to put it into  
12 evidence cause I've read it onto this tape."  
13  
14 GA: You don't have to read it.  
15  
16 JW: Let me finish. "Or," I said, "He's going to tell me the truth." The truth. The  
17 same exact truth that she wrote down on this paper. And if it's the truth then,  
18 you know what, as a courtesy to that man I'm not going to have to read the  
19 statement that his girlfriend had to make to pretty much tell him that he's full of  
20 shit. And as a courtesy to her, so she can still look you in the eye, it won't get  
21 ripped up, shredded and thrown out. You want me to read this?  
22  
23 GA: No.  
24  
25 JW: Do you want to tell me the truth?  
26  
27 GA: Yeah.  
28  
29 JW: So, someone calls you and tells you they're going to do some fucked up shit.  
30 Or did you know some fucked up shit was going to happen and then did you  
31 tell Jamie that?  
32  
33 GA: I didn't know what was going to happen. I didn't...well, I know that somebody  
34 wanted to go and take some weed and money.  
35  
36 JW: Who was that person?  
37  
38 GA: The person in that picture.  
39  
40 JW: I'm showing you two pieces of paper, one and two, which one are you pointing  
41 at?  
42  
43 GA: Number four.  
44  
45 JW: Number four in photo...in photo laydown number two? Who is photo number  
46 four?  
47  
48 GA: Chris.

1  
2 JW: Chris who?  
3  
4 GA: I don't know.  
5  
6 JW: So, Chris tells you he wants to go get some weed and money. Who did he tell  
7 you he wants to get it from?  
8  
9 GA: From Heather's boyfriend.  
10  
11 JW: Who is?  
12  
13 GA: Gary.  
14  
15 JW: And when did he tell you this?  
16  
17 GA: Um, like a little bit after (unintelligible)  
18  
19 JW: Does he tell you this on the phone?  
20  
21 GA: Yes.  
22  
23 JW: Kind of like this phone number right here, 503-995-3302 at 11:08?  
24  
25 GA: Um, no.  
26  
27 JW: Well, he didn't tell you it from Elroy, or is that him?  
28  
29 GA: No.  
30  
31 JW: Elroy?  
32  
33 GA: Uh-huh.  
34  
35 JW: Another call from Elroy, her mom, her mom again.  
36  
37 GA: Uh-huh.  
38  
39 JW: And then this unknown. Regardless, he called you and told you, right? Again,  
40 there's a tape recorder, yes or no?  
41  
42 GA: Yes.  
43  
44 JW: And what did you tell him you would do?  
45  
46 GA: I didn't tell him I'd do anything. He asked me, you know, he asked me if, you  
47 know, if he could follow me down there to make sure that, you know, he didn't  
48 get away or whatever.

1  
2 JW: What did you say?  
3  
4 GA: At first I didn't want to do it.  
5  
6 JW: And then what?  
7  
8 GA: Then I told him yeah.  
9  
10 JW: Okay. So, then what happened?  
11  
12 GA: Then, um, I sit down in my...in my baby momma's or whatever. Um, I don't  
13 hear or see anything, you know what I'm saying, then, you know, a bunch of  
14 sirens and police and all this shit occurs. And I left.  
15  
16 JW: Okay, you said your baby momma's apartment?  
17  
18 GA: Tina's.  
19  
20 JW: Tina's. When you say you're at her apartment, where are you at?  
21  
22 GA: I'm in the parking lot (unintelligible) to the north.  
23  
24 JW: To the north. Okay, what car were you in?  
25  
26 GA: Um, the Chevy car with the nice rims.  
27  
28 JW: Who owns that car?  
29  
30 GA: Um..  
31  
32 JW: His name is on these papers.  
33  
34 GA: On what paper?  
35  
36 JW: On these papers.  
37  
38 GA: Yeah, then you already know.  
39  
40 JW: This ain't my statement. Don't point at it.  
41  
42 GA: L.G.  
43  
44 JW: And who's L.G. to you?  
45  
46 GA: Um, like I said, my cousin's friend.  
47  
48 JW: You had told me...

1  
2 GA: Tina's cousin.  
3  
4 JW: ...Tina's cousin's friend.  
5  
6 GA: Yeah. Which is also my cousin cause we're married but...  
7  
8 JW: Do you know what his real name is?  
9  
10 GA: No, I do not.  
11  
12 JW: Tell me what you know about L.G.  
13  
14 GA: He's a pretty cool dude.  
15  
16 JW: Okay. Who picked you up from your apartment?  
17  
18 GA: L.G. and Chris.  
19  
20 JW: The two of them?. Where did you guys go?  
21  
22 GA: Um, we drove to the apartments across from (unintelligible)  
23  
24 JW: Okay, which is whose apartments?  
25  
26 GA: Um, I don't know, L.G.'s apartments, I guess.  
27  
28 JW: Okay, did you go in his apartment?  
29  
30 GA: No. I sat in his car and listened to (unintelligible)  
31  
32 JW: And what did those two do?  
33  
34 GA: Um, they (unintelligible) and then they came back and I walked...I wanted  
35 something to drink so I walked to Chevron.  
36  
37 JW: Okay.  
38  
39 GA: Got something to drink. Well, actually, went to (unintelligible) and then left and  
40 went back, you know, (unintelligible). They got in the car, (unintelligible) I  
41 mean, I didn't think, you know what I'm saying, that they was going to go...go  
42 over there for real.  
43  
44 JW: Okay.  
45  
46 GA: You know, honestly. I was hoping it wasn't.  
47  
48 JW: But they did. Who drove the car?

1  
2 GA: Who drove the car where?  
3  
4 JW: When you left the apartment?  
5  
6 GA: L.G.  
7  
8 JW: Who was in the car passenger seat?  
9  
10 GA: Chris.  
11  
12 JW: Who was in the back seat?  
13  
14 GA: Me.  
15  
16 JW: Anyone else in the car?  
17  
18 GA: No.  
19  
20 JW: What were you wearing?  
21  
22 GA: Um, a...a wife beater or a tank top.  
23  
24 JW: Okay.  
25  
26 GA: Some gray and white Jordan basketball shorts and some red and white flat  
27 looking, uh, house shoes.  
28  
29 JW: What was L.G. wearing?  
30  
31 GA: I'm not sure. Um, jeans and a shirt, t-shirt.  
32  
33 JW: Any jacket?  
34  
35 GA: Not that I know of.  
36  
37 JW: Any hats?  
38  
39 GA: Not that I know of, (unintelligible)  
40  
41 JW: Okay, what was Chris wearing?  
42  
43 GA: Um, some dark co...black pants. And a hooded sweatshirt.  
44  
45 JW: A hooded sweatshirt? Was he wearing a hat?  
46  
47 GA: Not that I know of.  
48

1 JW: Okay. Then where did you guys go?  
2  
3 GA: They drove down, drove a while, um, to the apartments off 49<sup>th</sup>.  
4  
5 JW: Okay, not your...not Tina's apartments, different apartments?  
6  
7 GA: Tina's apartments.  
8  
9 JW: Her complex?  
10  
11 GA: Well, actually, no. Um...  
12  
13 JW: The custody officer's doing a pod check.  
14  
15 GA: Oh. To Evergreen.  
16  
17 JW: Evergreen Park Apartments? Okay, so you get there and what happens next?  
18  
19 GA: They get out and go to the trunk and I'm sitting there and (unintelligible) you  
20 know, and then they walked off.  
21  
22 JW: Did they put anything on? Did they change their clothes?  
23  
24 GA: No.  
25  
26 JW: What did they go to the trunk for?  
27  
28 GA: I don't know. That was before (unintelligible).  
29  
30 JW: Why not ask them what they're doing?  
31  
32 GA: Cause they said that they (unintelligible) anyway, you know what I'm saying,  
33 so I didn't know if they was grabbing gloves or whatever.  
34  
35 JW: Okay. Then where did they go?  
36  
37 GA: They just left off into the dark.  
38  
39 JW: And you stayed with the car?  
40  
41 GA: Yeah.  
42  
43 JW: Did they leave the car running for you?  
44  
45 GA: Um...  
46  
47 JW: Give you the keys?  
48

1 GA: The keys was in there, in the ignition.  
2  
3 JW: Okay, so they left you the keys in the ignition.  
4  
5 GA: They just left...they left the keys in the ignition. I was in the back seat.  
6  
7 JW: Okay, and they walked off?  
8  
9 GA: Yeah. Then a short time after that I didn't feel right, you know what I mean,  
10 and I left.  
11  
12 JW: Did you leave them before all the police started showing up?  
13  
14 GA: Yes.  
15  
16 JW: Where did you go?  
17  
18 GA: To Tina's apartments.  
19  
20 JW: Why did you go to Tina's apartments?  
21  
22 GA: Cause I wanted to, you know, call Jamie and have Jamie come get me, cause  
23 I wouldn't drive that car. I wouldn't...I sure wouldn't want to park it at my  
24 house.  
25  
26 JW: So, you (unintelligible) to drive this car, you called Jamie, when did you start  
27 hearing the police cars, the sirens?  
28  
29 GA: After I drove out of, uh, Tina's apartments.  
30  
31 JW: Tina says she was hearing the sirens when you were (unintelligible)  
32  
33 GA: Well, when I was sitting there on the phone I was hearing them, I'm like, "Oh,  
34 shit," you know. And I didn't...that's...I didn't know what was going on.  
35 (unintelligible)  
36  
37 JW: Okay, so you leave, drive the car or where did you take the car?  
38  
39 GA: I took the car to L.G.'s apartments.  
40  
41 JW: Which is the apartments to the nor...or the south behind Chevron?  
42  
43 GA: Yeah.  
44  
45 JW: Do you know what apartment number it is?  
46  
47 GA: No, I don't.  
48

1 JW: Okay.  
2  
3 GA: Honest to God truth, I don't. I know...I know where it's at but...  
4  
5 JW: How many times you been there?  
6  
7 GA: Twice.  
8  
9 JW: Who does he live with?  
10  
11 GA: I'm not sure. Girlfriend, I think.  
12  
13 JW: Girlfriend?  
14  
15 GA: Yeah.  
16  
17 JW: White girl or black girl?  
18  
19 GA: Black girl.  
20  
21 JW: So, you drive there, where do you park the car?  
22  
23 GA: Um, in one of the stalls in the parking...  
24  
25 JW: What did you do with the keys?  
26  
27 GA: I go to the door, knock on the door, well, actually, uh, yell at the door, a black  
28 girl answered. I told her that, you know, "Are you L.G.'s girlfriend?" She was  
29 like, "Yes." Actually, she was like, "No."  
30  
31 JW: Okay.  
32  
33 GA: But she said he lives in apartment 28 and closed the door (unintelligible).  
34  
35 JW: Okay.  
36  
37 GA: And then, well, I knew she was bullshitting, you know what I mean, she wasn't  
38 being honest, so I (unintelligible) again and told her, you know, these are the  
39 keys, you know, to L.G.'s car, you know. I don't know what's going on, you  
40 know, that I left, you know, I left them, you know what I'm saying. But I heard  
41 a lot of sirens and police, so you know, who knows, you know what I'm saying,  
42 what's going on. So, gave her the keys and I went across to the Chevron.  
43  
44 JW: When you went to Chevron Jamie was there (unintelligible) ?  
45  
46 GA: Yes.  
47  
48 JW: You got in the car, what did you tell Jamie?

1  
2 GA: I told Jamie to go, you know, down to Tina's or whatever, you know what I'm  
3 saying, so I could see, you know, if those fools was, you know, running down  
4 the street or whatever because I did just leave them, you know what I mean?

5  
6 JW: Right.

7  
8 GA: And I was like fuck, you know what I'm saying, I didn't see them.

9  
10 JW: Okay, so what did you see next?

11  
12 GA: Um...

13  
14 JW: Did you tell Jamie what happened?

15  
16 GA: Um, I told Jamie that I had left them there.

17  
18 JW: Okay. Where did you go after you went down there by Tina's? You didn't see  
19 them, you see a bunch of cops.

20  
21 GA: Yeah, seen a lot of cops.

22  
23 JW: So, where did you go next?

24  
25 GA: Turned around and went to Chevron by my house.

26  
27 JW: Mill Plain (unintelligible)

28  
29 GA: Yes.

30  
31 JW: Okay, and what did you do there?

32  
33 GA: Um, went to go get quarters cause I was going to call, you know, L.G.'s phone  
34 or whatever.

35  
36 JW: What's L.G.'s cell phone number?

37  
38 GA: Uh, I don't know his cell phone number, I had my cell phone.

39  
40 JW: Okay, you're going to call L.G. and what happens?

41  
42 GA: And L.G. ended up calling me.

43  
44 JW: That would be right here at 1:51 in the morning, L.G. calls you and you talk for  
45 a minute and 30 seconds.

46  
47 GA: And he was like...  
48

1 JW: What did he say to you?  
2  
3 GA: He said, you know, "Where the fuck did you go?" Blah, blah, blah, blah,  
4 (unintelligible) I mean, I left, you know what I'm saying, I...I just had to leave,  
5 you know. And then he was like, "Well, I...well, you know, just you know, I'll  
6 talk to you in the morning, I'll talk to you in the morning," and then he was like,  
7 "Oh, no, no, matter of fact, I need to talk to you now, just come over  
8 (unintelligible) ."  
9  
10 JW: Okay.  
11  
12 GA: So, I went back to his house and then Chris asked for a ride.  
13  
14 JW: Hold on. When you got back to his house what apartment did you go into?  
15 The same apartment you gave the keys to the woman?  
16  
17 GA: Yes.  
18  
19 JW: Upstairs or downstairs?  
20  
21 GA: Down.  
22  
23 JW: Do you remember what building it is?  
24  
25 GA: Yeah.  
26  
27 JW: Can you tell me or is it something you have to see?  
28  
29 GA: (unintelligible)  
30  
31 JW: (unintelligible)  
32  
33 GA: (unintelligible)  
34  
35 JW: Which was close by?  
36  
37 GA: It was in the complex.  
38  
39 JW: Okay, do you know what apartment, how far or which apartment number that  
40 you actually knocked on the door at?  
41  
42 GA: No, I...I could show you, I don't know.  
43  
44 JW: Okay, so when you get there, knock at the door?  
45  
46 GA: Yes.  
47  
48 JW: Who let you in?

1  
2 GA: Um, they opened the...uh, L.G. opened the door.  
3  
4 JW: Okay.  
5  
6 GA: And then I sat there and talked to them for a second and then...  
7  
8 JW: Tell me what they said.  
9  
10 GA: Well, basically, it was like, you know, everything went bad, you know what I'm  
11 saying, he was like, "Man, I went to go, you know, Little Gary's or whatever,  
12 something happened and (unintelligible)."  
13  
14 JW: Who said that?  
15  
16 GA: I'm not sure which one of them said it exactly, but it was one of them.  
17  
18 JW: I know it was one of them, which one?  
19  
20 GA: I think it was Chris.  
21  
22 JW: You think it was Chris. What do you mean they started letting off shooting,  
23 started shooting?  
24  
25 GA: I asked him what the fuck he means start shooting, I'm like that's what all the  
26 police are there for? And he's like, "Yeah, man, yeah." You know, blah, blah,  
27 blah.  
28  
29 JW: Did he say if he hit Gary?  
30  
31 GA: No.  
32  
33 JW: Did he say if they ever got into Gary's apartment?  
34  
35 GA: No.  
36  
37 JW: Did they say they got any weed or money?  
38  
39 GA: No.  
40  
41 JW: So, what does L.G. say when Gary...or, uh, what...does L.G. say anything?  
42  
43 GA: Not really, he was just looking out...out the door, he was all staring at the  
44 door, so he looked right at the, you know, behind me and all that shit.  
45  
46 JW: Did you ever see a gun?  
47  
48 GA: No, I never seen any weapons at all.

1  
2 JW: So, Chris asked for a ride?  
3  
4 GA: Yes.  
5  
6 JW: And where did you take him?  
7  
8 GA: Up to the...to his grandmother's.  
9  
10 JW: And where does she live?  
11  
12 GA: She lives in the Housing Authority projects right by Safeway.  
13  
14 JW: Council Bluffs, Omaha. Over there?  
15  
16 GA: Not Omaha cause my aunt lives on Omaha, my cousin Seneca's mother.  
17  
18 JW: Uh-huh.  
19  
20 GA: Lives on Omaha, 309 Omaha Way, (unintelligible) Um, he lives, uh,  
21 Safeway's...can I tear this off?  
22  
23 JW: You can.  
24  
25 GA: If this is the projects, (unintelligible)  
26  
27 JW: Yeah.  
28  
29 GA: Okay, and this is Andresen coming from Mill Plain from here.  
30  
31 JW: Yeah.  
32  
33 GA: The (unintelligible) right here.  
34  
35 JW: Yeah.  
36  
37 GA: The first entrance you go...you make a right, the first street you make a left  
38 and it's on the right hand side.  
39  
40 JW: Okay, that's Council Bluff. Cause Omaha Way is the second one. Okay, so  
41 it's on the right hand side on Council Bluffs, south of Missouri, I think. But the  
42 first entrance to the north. I've got it. So, you dropped him off? Jamie said  
43 that when he got out you made a very direct statement to him asking him a  
44 question that she heard. I'm not going to tell you what she said.  
45  
46 GA: I don't remember asking him anything, everything was going so fast.  
47

1 JW: I will tell you what she heard. "When we dropped Chris Perkins off at his  
2 house, he came to the window of the van and was talking to Garry Alexander.  
3 Garry asked Chris where his rolo was at and Chris said he knew where it was.  
4 I heard this "rolo" term to be used as a slang for a gun. Garry then told me  
5 Chris had been involved in other robberies in the Portland area." So...

6  
7 GA: Ralo.

8  
9 JW: Ralo. What's ralo mean to you?

10  
11 GA: It means a pistol.

12  
13 JW: A pistol. Did you ask him where his ralo was?

14  
15 GA: Actually, it was when he was in the car when we was pulling out, he didn't  
16 come to the window.

17  
18 JW: Okay.

19  
20 GA: And I asked him where it was for the sake of my kids when they were playing.

21  
22 JW: Make sure he didn't just leave it in your van?

23  
24 GA: Make sure he didn't have it at all, yeah, in my van period.

25  
26 JW: What did he say?

27  
28 GA: He said, "Oh, I put it up, (unintelligible) I know where it's at."

29  
30 JW: How did those two get back to the apartment?

31  
32 GA: I don't know.

33  
34 JW: Did they give you any specifics when...did they say how they tried to get to the  
35 apartment?

36  
37 GA: No. I do know that they said they tried to push their way in.

38  
39 JW: Okay, for the sake of our conversation, because those two, you know, are  
40 being for your sake because if we're walking down this road together, I'm  
41 going to make sure we can get to the finish line in the right condition and that  
42 is this, when we finish all these interviews is L.G. or Chris really going to be  
43 able to be tied into knowing Gary themselves or did those two find out about  
44 Gary because of you?

45  
46 GA: I know Chris knows him because of Lavelle, (unintelligible) she didn't want  
47 to...

1 JW: Drop him, right.  
2  
3 GA: (unintelligible) because of him, (unintelligible) because of him and Heather,  
4 Lavelle and Heather they was going together, they was, you know, fucking  
5 around.  
6  
7 JW: Okay.  
8  
9 GA: So, that's how he knows Gary.  
10  
11 JW: Dumb question as the cop, these two are going to do the robbery, why do they  
12 bother you? Why split shit three ways?  
13  
14 GA: Don't know. Well, I guess, they want me to drive. I...I'm going to...I'm going  
15 to drive the mother fuckers there, I mean, not no bullshit, you know, not to be,  
16 uh, rude or anything but I'm (unintelligible) you know what I mean,  
17 (unintelligible) . We haven't seen each other too many times (unintelligible).  
18  
19 JW: So, they wanted you to do your (unintelligible) skills?  
20  
21 GA: Right. Well, I'm not going to sit here and bullshit you, uh, I found out there  
22 was a fucking situation with (unintelligible), you know what I mean. I didn't...I  
23 didn't want to have nothing to do with this shit.  
24  
25 JW: Why would they involve you? I mean, just how...again, I've never been...I'm  
26 not going to say I've never been a criminal cause I haven't but, I mean, I did  
27 stupid shit as a kid. We didn't just call up the class dumb ass and say, "Hey,  
28 you know, we're going to go steal some baseball cards and a couple packs of  
29 gum at 7-11, you want to go with us?"  
30  
31 GA: Uh-huh.  
32  
33 JW: Usually you knew who you'd being going hanging with that would do this shit  
34 with you.  
35  
36 GA: Uh-huh.  
37  
38 JW: So, how does it get brought up that, you know what, we're going to call Garry  
39 and have him be the (unintelligible)?  
40  
41 GA: Probably cause Chris and my cousin used to go out up until a few months ago,  
42 a couple months ago.  
43  
44 JW: Chris and Ro?  
45  
46 GA: Yeah.  
47  
48 JW: And Ro, we said, is...

1  
2 GA: Rochelle.  
3  
4 JW: Rochelle Wilmore.  
5  
6 GA: Uh-huh.  
7  
8 JW: So, you leave them (unintelligible), did you, again it doesn't matter but I want  
9 to make sure I understood this, you're not sitting there patiently waiting and  
10 then all of a sudden started seeing a bunch of cop cars, sirens and everything  
11 else (unintelligible) get the hell out of here?  
12  
13 GA: No. No.  
14  
15 JW: You started feeling a little scared before the cop cars?  
16  
17 GA: I think a little bit after (unintelligible) and they left, actually.  
18  
19 JW: Okay, these guys were wearing some pretty distinguished...I told you they had  
20 their faces partially covered.  
21  
22 GA: Right.  
23  
24 JW: They, I mean, they have shit on their face, uh, they have some clothing that  
25 we know the probably got rid of, so what did they get out of the trunk? I mean,  
26 they had to put this shit on at some point.  
27  
28 GA: Yeah, it had to be after they went to the trunk though, but, um, but I don't think  
29 that they're going to walk down the street with...  
30  
31 JW: A mask on, well, I agree.  
32  
33 GA: You know what I'm saying?  
34  
35 JW: Right.  
36  
37 GA: So, I don't know when they put, you know what I'm saying, their mask on and  
38 all that stuff. All I know is they went to the trunk.  
39  
40 JW: Prior to last night, had you ever seen L.G. or Chris with a gun?  
41  
42 GA: Um, no.  
43  
44 JW: Have you ever heard them ever say they had a gun?  
45  
46 GA: No...yeah, Chris, I mean, who doesn't nowadays?  
47  
48 JW: You.

1  
2 GA: Yeah.  
3  
4 JW: Or do you?  
5  
6 GA: No.  
7  
8 JW: What kind of gun have you seen Chris with?  
9  
10 GA: I haven't seen him with any gun.  
11  
12 JW: What kind of gun have you heard him talk about having?  
13  
14 GA: Um, really haven't, just he said ralo.  
15  
16 JW: So, L.G. goes, stays home with his girlfriend, Chris jumps in your van, you  
17 drive him home, you go back to your apartment and you go to bed?  
18  
19 GA: No.  
20  
21 JW: What happens?  
22  
23 GA: I sat up wondering what the fuck happened this whole time, you know what I'm  
24 saying, when Audrey had called me, you know, and saying, "Gary got shot.  
25 Gary got shot." You know, I'm like, you know, what the fuck, did he really get  
26 shot? You know what I'm saying, like I said, they bullshit, I don't know if  
27 they're telling the truth about...  
28  
29 JW: Your own homies were telling you shit went bad, they're popping rounds.  
30  
31 GA: Yes, but him getting shot, you know what I'm saying, I don't know, they're  
32 don't...they weren't specific that they shot him or shot at him. You know what  
33 I mean? (unintelligible) all I know I didn't shoot anybody, you know what I  
34 mean, and you know, like I said, the next day when they called me and talked  
35 about, "Oh, well, you know, Gary said he seen you, he seen you and  
36 you...and you shot him," and blah, blah, blah. I know...  
37  
38 JW: Gary's convinced that...who do you think looks like you?  
39  
40 GA: I guess Chris.  
41  
42 JW: That would be this picture?  
43  
44 GA: I guess he does. Look at (unintelligible).  
45  
46 JW: How big is Chris, what height and weight?  
47

1 GA: He's my height but (unintelligible) just recently gained weight though is what  
2 everybody else says that he looks like me. I don't...  
3  
4 JW: Does Chris still have dreadlocks?  
5  
6 GA: Actually, no.  
7  
8 JW: How's he wearing his hair? Pretty short?  
9  
10 GA: But that's what I'm saying, when they say that...when they said that he knows  
11 me, he seen tattoos on my face, that's physically impossible.  
12  
13 JW: Maybe I said that.  
14  
15 GA: Well, yeah, but that's physically impossible cause I would never, you know,  
16 say...do nothing to hurt that man.  
17  
18 JW: Okay, answer me a question, let's say right at this moment you're telling me  
19 the God-honest truth, okay?  
20  
21 GA: Uh-huh.  
22  
23 JW: I have the victim saying it's you and one more person.  
24  
25 GA: Uh-huh.  
26  
27 JW: I have you, after lying to me for the sake of the argument, 8 times.  
28  
29 GA: Uh-huh.  
30  
31 JW: Now wanting to tell me the truth.  
32  
33 GA: Uh-huh.  
34  
35 JW: If I say, okay, you're being truthful, how do you help me prove it was Chris?  
36 Because I'm going to be up front with you, as I told you yesterday I refuse to  
37 send an innocent man to prison, refuse to. It's not what I do in this job, it's not  
38 what I believe in, I have a conscience and I'm sure the hell not going to send  
39 an innocent man to prison. But I need your help. You're guilty of some things.  
40 Maybe you didn't pull the trigger, you didn't point the gun at him, so if, for the  
41 sake of the argument what you're saying is the truth, how do I prove it's Chris?  
42 And what I mean by that and why I'm asking for your help on this, who would  
43 he tell, where would he hide the shit, where would I go to look for stuff? Is  
44 there anything that they talked about in that apartment that only those two  
45 would know, including the girl. Was she there when all this conversation was  
46 going on? Can she play dumb because she wasn't there or was she really  
47 there and tried to play dumb kind of like Jamie did?  
48

1 GA: I think she was in the house, you know, but I wasn't, you know, in the house.  
2 But the car was there and everything. Um, (unintelligible) she (unintelligible)  
3 L.G.'s girlfriend, she would cooperate and swear, hopefully, you know what I  
4 mean. She knows that I came over to the house before she went and got L.G.  
5  
6 JW: So, she went and got L.G. Did she get L.G. and Chris together? Can't hear  
7 you.  
8  
9 GA: Yes.  
10  
11 JW: Any idea where they made it to to get their ride?  
12  
13 GA: Right in front of you all.  
14  
15 JW: Right in front of us? Where?  
16  
17 GA: Down there in the apartments.  
18  
19 JW: How did they get there? Let me back up, how do you know it was right in front  
20 of us?  
21  
22 GA: Because from what I seen, you know, everybody was at, basically, and I seen  
23 his girlfriend drove to the apartments, she drove, remember I told you we  
24 drove back down there...  
25  
26 JW: To look for them?  
27  
28 GA: Yeah, to look for them but...  
29  
30 JW: (unintelligible) if you would have seen them you would have let them get in the  
31 van. You would have.  
32  
33 GA: Yeah.  
34  
35 JW: I would have if they were my friends.  
36  
37 GA: Yeah, but...  
38  
39 JW: So, you see, what kind of car did she have?  
40  
41 GA: A gold Honda.  
42  
43 JW: Gold Honda.  
44  
45 GA: I think it's a Honda or it's a Chevy.  
46  
47 JW: But it's gold?  
48

1 GA: Yes.  
2  
3 JW: So, you see her, do you talk to her?  
4  
5 GA: When I went to the apartment?  
6  
7 JW: No, when you saw her driving.  
8  
9 GA: No.  
10  
11 JW: When you saw her drive up were the guys in the car yet?  
12  
13 GA: No.  
14  
15 JW: She's by herself?  
16  
17 GA: Yes. I seen her turn into the (unintelligible) apartments, I turned into...  
18  
19 JW: Which one of those guys had a cell phone with them?  
20  
21 GA: I think both of them.  
22  
23 JW: Each...  
24  
25 GA: (unintelligible)  
26  
27 JW: Okay, remember I said I'm here to help you?  
28  
29 GA: Uh-huh.  
30  
31 JW: You have to tell me who called you at 11:08. According to Jamie, shooting  
32 happens at 12:12. 12:18 you're calling her. At 11:08, this is the unaccounted  
33 phone number, dude, okay? She said you got a call and within a minute or  
34 something like that, within a few minutes, that's when L.G. showed up.  
35  
36 GA: Uh-huh.  
37  
38 JW: I will find out whose phone number that is here in a day or two, it could maybe  
39 even be this morning.  
40  
41 GA: Uh-huh.  
42  
43 JW: But the question is, is could this be his phone number? Because...  
44  
45 GA: It could be.  
46  
47 JW: This is his apartment number, isn't it, 356-8282?  
48

1 GA: Yes.  
2  
3 JW: Okay, you have...  
4  
5 GA: That...that's got to be it.  
6  
7 JW: Chris grandma's house as 719-8903.  
8  
9 GA: Uh-huh.  
10  
11 JW: Wh...what...where am I going to find Chris's phone number? There's a bunch  
12 of unknowns that show up here.  
13  
14 GA: I don't know. This one I, actually, I don't know whose number this is.  
15  
16 JW: Well, look, this number...  
17  
18 GA: It could be...it could be another cell phone that he had cause it never shows  
19 up in here does it? I know it never pops up again.  
20  
21 JW: How do you know this?  
22  
23 GA: Because I, uh, I would...I'll recognize it.  
24  
25 JW: Whose number is this that's blown up (unintelligible) this is received calls, so  
26 keep in mind, the shooting happens, you've lived your life during the day, you  
27 go up to Chris's hou...or grandma's house and everything. You come down...  
28  
29 GA: I get arrested here.  
30  
31 JW: You get arrested here at, uh, this 9:01 p.m. Cause you have a five minute  
32 phone call to a private number, who were you talking to?  
33  
34 GA: Received?  
35  
36 JW: Uh-huh.  
37  
38 GA: I think it was Audrey or Heather.  
39  
40 JW: Okay. Who's Money?  
41  
42 GA: That's my little home boy.  
43  
44 JW: Okay, now, this is the important stuff.  
45  
46 GA: Okay.  
47  
48 JW: No one at this point knows you got arrested.

1  
2 GA: No.  
3  
4 JW: We have girlfriend, we have you, so all these phone calls are coming into your  
5 phone, no one knows you're arrested.  
6  
7 GA: No.  
8  
9 JW: And no one can get ahold of Jamie.  
10  
11 GA: Uh-huh.  
12  
13 JW: 3:59 till 7:14 in the morning...  
14  
15 GA: Uh-huh.  
16  
17 JW: You're sitting here in the car... actually you're in the station and then you end  
18 up in jail.  
19  
20 GA: Yeah, I was in between these two right here, I was here, I got here about 5:49.  
21  
22 JW: So, who is this 503-333-9253 that's blowing up your phone?  
23  
24 GA: I do not know.  
25  
26 JW: No clue?  
27  
28 GA: No clue. You can call it.  
29  
30 JW: Let me ask you this question, since you came to jail have you spoken with  
31 either L.G. or Chris?  
32  
33 GA: No.  
34  
35 JW: Have you spoken with anyone and asked them to get ahold of L.G. or Chris?  
36  
37 GA: No.  
38  
39 JW: You understand the phone calls in the jail are recorded?  
40  
41 GA: Are recorded, yes, I know.  
42  
43 JW: Have you told anyone other than Jamie it was L.G. and Chris?  
44  
45 GA: No. My whole thing is, you know, I've been reputable, you know, in the street-  
46 life since the beginning, '84. You know what I mean? And I never wanted to  
47 tell on anybody, you know what I'm saying, or anything like that, you know  
48 what I'm saying? So, you know, I didn't tell anybody anything. Never thought

1 I would to be honest with you, but I guess I (unintelligible) you know what I'm  
2 saying, I love my...I love Jamie, you know, and my kids. And this is fucked up,  
3 I didn't know that that man was going to get shot. I didn't know that that man  
4 was going to...I liked him, you know what I'm saying, honestly. Now, I'm going  
5 to throw my fucking life away, it was just getting...it's the best...best it's been  
6 ever, for real. Man, it's just fucking fucked up now.

7  
8 JW: What did they tell you they said out...when they were at that house?

9  
10 GA: What do you mean?

11  
12 JW: When they went there and pounded on the door, did they tell you what  
13 happened, specifically, make any more comments about what happened?

14  
15 GA: They just said that they went to go in and they struggled, I guess, with him or  
16 whatever and when he sw...hit him or something, either with the gun or his  
17 fist, I'm not sure, so they hit him or whatever and he backed in or whatever.  
18 Then he came back out and somebody (unintelligible) him off, you know,  
19 started shooting.

20  
21 JW: Would you picture both of them having a gun when this happened? Yes or no.

22  
23 GA: Yes.

24  
25 JW: Okay. So, as I look at the received, the next day you actually end up talking  
26 to...

27  
28 GA: Neither one of them.

29  
30 JW: Who is B.G.?

31  
32 GA: B.G. is...is Heather's brother. That's my little...

33  
34 JW: That's right. That's right.

35  
36 GA: My little brother.

37  
38 JW: So, you don't talk to either one of these guys and you haven't talked to either  
39 one of these guys?

40  
41 GA: No, I sure haven't.

42  
43 JW: Okay, I'm going to ask you a very straight forward question and I want the  
44 truth.

45  
46 GA: Okay.  
47

1 JW: Did you tell these guys that you knew Gary to sell weed, have weed, have  
2 money, put them in a car, drive them past the house, point at the house and  
3 say, "That's where he lives?"  
4  
5 GA: No.  
6  
7 JW: Did you at any point show them where Gary lives?  
8  
9 GA: No. They knew, Chris knew where Gary lived and actually they would drive  
10 by there and see if he was still correct about where it was cause he's usually  
11 in Portland, I guess, now.  
12  
13 JW: He being?  
14  
15 GA: Chris.  
16  
17 JW: Okay, so you...when the three of you are in the car you drove past the house  
18 at first?  
19  
20 GA: Um, yeah.  
21  
22 JW: So, they weren't sure if that was his house?  
23  
24 GA: They were sure. He's...he was like, "That's where, you know, we went to, me  
25 and Lavelle," uh, Red or whatever they call him.  
26  
27 JW: Red.  
28  
29 GA: "That's where we went to, we went there," you know, dah, dah, dah, dah. I  
30 was like, "Oh, alright, well..."  
31  
32 JW: Did you say, "Yeah, that's it?"  
33  
34 GA: "That's Gary's house."  
35  
36 JW: Then you guys went and parked over at Evergreen Apartments?  
37  
38 GA: Yeah.  
39  
40 JW: And you sat there and waited for these two?  
41  
42 GA: Well, I sat in the car and, uh...  
43  
44 JW: What kind of car was this car with nice rims?  
45  
46 GA: Oh, they're not all that nice but...  
47  
48 JW: They stand out.

1  
2 GA: Yeah.  
3  
4 JW: So, what kind of car is it?  
5  
6 GA: I don't know, (unintelligible)  
7  
8 JW: And you don't know anything further about L.G., and that's L.G.?  
9  
10 GA: Yes, possibly.  
11  
12 JW: As in correct, you don't know his first name, his last name?  
13  
14 GA: Lester. I think that's what L.G. stands for.  
15  
16 JW: Lester something?  
17  
18 GA: If I'm not mistaken.  
19  
20 JW: And about how old is he?  
21  
22 GA: And I don't see why you can't find his picture.  
23  
24 JW: If I found the picture would you be able to point at it? Is that a yes?  
25  
26 GA: Yes.  
27  
28 JW: Okay. Do you know if he would have been in this jail before? I showed you  
29 these photos already, it is not any of them?  
30  
31 GA: No.  
32  
33 JW: Okay. Um, okay, is there anything you want to add that I already haven't  
34 asked or that you think is important to clarify because, man to man, no more  
35 lies. If I come here tomorrow, realistically, I mean, we know this, at some point  
36 tomorrow you're going to have arraignment and you're going to get an  
37 attorney. Um...  
38  
39 GA: (unintelligible) for the same charges?  
40  
41 JW: The charges are going to have to stay here.  
42  
43 GA: Okay.  
44  
45 JW: Okay? Um, because as an accomplice, you'll fall under the accomplice statute  
46 side of the shooting cause you're the getaway guy. But here's the point...  
47  
48 GA: Not really.

1  
2 JW: I know, cause you left them.  
3  
4 GA: Yes. Shit.  
5  
6 JW: You should never have went there.  
7  
8 GA: I shouldn't have.  
9  
10 JW: You should have stayed home watching a movie with your woman.  
11  
12 GA: Well, I tried to warn him, did she tell you that? I tried to warn (unintelligible) I  
13 asked her to phone (unintelligible).  
14  
15 JW: This is what I can tell you, it'll be on tape and that is this, it's like fucking pulling  
16 teeth with you but you did tell the truth, I believe, and it has to count for  
17 something, right?  
18  
19 GA: Yeah.  
20  
21 JW: It has to count for something with me, it has to count for something in court,  
22 and that's exactly what your attorney is going to say when you get one  
23 tomorrow. He's going to make that same argument to the prosecutor, he's  
24 going to make an argument to you to say, "You know what, you've already told  
25 the police, you already implicated your friends." Whether they're truly your  
26 friends, that's between you and them. Remember we talked about that, who  
27 the hell prosecutor's going to want to deal with it, you know. The point is this,  
28 and I'm being up front with you, you make a hard case for me cause I got Gary  
29 saying it's you.  
30  
31 GA: Right, but it's not.  
32  
33 JW: I'll give it to you but I have to now prove it's Chris. That means I've got to find  
34 a gun.  
35  
36 GA: Evergreen Park Apartments.  
37  
38 JW: You think he dumped it there? Where?  
39  
40 GA: I don't know. I want to say they put both of them there.  
41  
42 JW: But no idea where?  
43  
44 GA: No.  
45  
46 JW: We're awful close. Bam, bam, bam, it's (unintelligible) masks on.  
47

1 GA: I don't know about the bandanas or masks, you know, but from what I  
2 remember the first time (unintelligible) I drop them off.  
3  
4 JW: And you said his were black?  
5  
6 GA: (unintelligible)  
7  
8 JW: What about shoes?  
9  
10 GA: White. Nike Air Force Ones.  
11  
12 JW: How do you know their Nike Air Force Ones?  
13  
14 GA: Everybody knows what Nike Air Force Ones, kind of hard to not tell if you  
15 don't, you know, (unintelligible).  
16  
17 JW: This is going to sound stupid but remember all that, I'm putting shit on my  
18 brother and putting shit on my mom, putting shit on my wife, how convinced  
19 are you these guns are at Evergreen Park Apartments?  
20  
21 GA: A hundred percent unless they already went and got them. And this is what I  
22 heard (unintelligible) when...before Chris got in the car.  
23  
24 JW: So, when you were in the apartment that's what they said?  
25  
26 GA: Yeah.  
27  
28 JW: Who said that?  
29  
30 GA: Chris asked was, you know, the guns safe where they was at or whatever.  
31 And then L.G. was like, "Yeah, that's why I put them (unintelligible)."  
32  
33 JW: Educate me how you and your friends think when you guys do this shit. After  
34 something like this are you getting rid of guns to be gone, never see them  
35 again, goodbye? Or you (unintelligible) with them for a couple days until the  
36 heat's off you because you want them back?  
37  
38 GA: Well, there's, like I said, two ways to look at it. If you're hard for guns and  
39 can't get access to 'em, you're probably going to put 'em up to come back to  
40 'em. If you are smart and you do something wrong with a gun...  
41  
42 JW: You want to get rid of it.  
43  
44 GA: You want to get rid of it.  
45  
46 JW: Correct?  
47  
48 GA: Yeah, but that's not the case.

1  
2 JW: You don't think so?  
3  
4 GA: Uh-uh.  
5  
6 JW: Okay. Alright. See, that's one of those important things to tell me when I ask  
7 is there anything else you want to add? So, now, I'm asking, your...your job is  
8 helping me right now to help you cause you can't do the work when you're in  
9 here, I can. So, if you want to help me prove it's those guys to get that heat off  
10 of you, what else can help me?  
11  
12 GA: There's L.G. knows somebody who lives in Evergreen Park Apartments and  
13 that's where they was at and that's where he called his girlfriend from, you can  
14 get her cell phone.  
15  
16 JW: That's important. Thank you.  
17  
18 GA: You're welcome.  
19  
20 JW: Any idea, man or woman?  
21  
22 GA: I'm not sure (unintelligible) man or a woman.  
23  
24 JW: Never heard a name get talked about?  
25  
26 GA: They never, see, now, they didn't tell me that they knew somebody that lived  
27 there. So, basically, I mean, what, I was supposed to sit there like a fucking...  
28  
29 JW: Well, that's what I guess my point is, is...hmm, you never went in any  
30 apartment at Evergreen Apartments?  
31  
32 GA: No.  
33  
34 JW: Where did they have you park?  
35  
36 GA: Um, by the entrance.  
37  
38 JW: On 112<sup>th</sup> or an entrance on Fourth Plain?  
39  
40 GA: 112<sup>th</sup>.  
41  
42 JW: Okay. Okay, so we're going to say L.G. has a friend in Evergreen Park  
43 Apartments. They...  
44  
45 GA: A cousin.  
46  
47 JW: A cousin?  
48

1 GA: From what he said.  
2  
3 JW: But a cousin could be...  
4  
5 GA: Anybody.  
6  
7 JW: And so, L.G. has a cousin in Evergreen Park Apartments. They beat it there.  
8 From there they use a phone and call L.G.'s girlfriend.  
9  
10 GA: Uh-huh.  
11  
12 JW: Who, in turn, goes in the gold Honda or small type car...  
13  
14 GA: It's a Chevy, I'm thinking.  
15  
16 JW: Okay, a gold Chevy.  
17  
18 GA: Looked like a newer car (unintelligible) like old. Just...  
19  
20 JW: Okay, so a newer old gold car. She drives down there, you see her by  
21 Evergreen, actually in Evergreen Park's complex?  
22  
23 GA: I see her pull in there.  
24  
25 JW: You see her pull in.  
26  
27 GA: And then I pulled into Tina's complex, come back out, you know, we leave,  
28 you know what I'm saying, cause obviously she knows...  
29  
30 JW: Can I ask you a dumb question?  
31  
32 GA: Yes.  
33  
34 JW: If they're safe in their friend's apartment why the fuck call a friend or why call  
35 L.G.'s girlfriend to show up and then put two black men in a car that's going to  
36 get stopped driving down the road?  
37  
38 GA: Don't know.  
39  
40 JW: What time do you think you were driving around down there? How much time  
41 had gone by? Well, we know you guys got no more calls after 2:00 and I can  
42 remember talking to Jamie, she said one of these calls...well, L.G. called you  
43 at 1:51 and that's when he's home.  
44  
45 GA: Uh-huh.  
46  
47 JW: His girlfriend didn't call you but it was him?  
48

1 GA: It was him. That was before I went and got Chris.  
2  
3 JW: So, we don't know who called at 1:09?  
4  
5 GA: No.  
6  
7 JW: I wonder if that's a pay phone?  
8  
9 GA: 891, that's...that's not a pay phone.  
10  
11 JW: It...I wonder if it could be the cousin, the friend's house? Them looking for  
12 you, trying to get you down there if you're close by. Remember that, we want  
13 that number.  
14  
15 GA: (unintelligible) Heather calls me, Audrey calls me, that would (unintelligible)  
16 12:52. That's the first time that I heard that something went down at Gary's.  
17  
18 JW: Okay.  
19  
20 GA: To be honest with you.  
21  
22 JW: Okay.  
23  
24 GA: Cause I didn't know what happened or really...  
25  
26 JW: You just had heard the sirens and the cops?  
27  
28 GA: When I was at Tina's house and I didn't know, I didn't know, you know what  
29 I'm saying.  
30  
31 JW: Okay, so you're home, you get this call, you're driving around.  
32  
33 GA: Yes.  
34  
35 JW: L.G. calls you when you're at the Chevron at 1:51.  
36  
37 GA: Yes.  
38  
39 JW: So, who the hell calls you...  
40  
41 GA: Right there. It...it had to be...  
42  
43 JW: You talked to them for a minute.  
44  
45 GA: I think it was, um, Heather's, uh, or Audrey's or (unintelligible)  
46  
47 JW: Okay, so you don't think this is (unintelligible) L.G. or Chris?  
48

1 GA: No, because I didn't talk to them until...cause this is incoming, right?  
2  
3 JW: Yeah.  
4  
5 GA: So, when...if...I mean, Jamie, she'll even tell you that I in the van, I went in the  
6 Chevron, I got four quarters, I was going to call the number, L.G.'s number on  
7 the phone, you know, from the phone booth.  
8  
9 JW: Uh-huh.  
10  
11 GA: You know what I mean? Then right when I was walking back out, I walked the  
12 opposite way of the phone booth, so I'm looking around and Jamie was like,  
13 "The phone booths are over here."  
14  
15 JW: Okay, let me ask you a question. You said when these...when those two  
16 picked you up and you went to their apartment, you went to Chevron to get  
17 something to drink.  
18  
19 GA: Uh-huh.  
20  
21 JW: Did you go inside Chevron and get something to drink?  
22  
23 GA: Yes, I did.  
24  
25 JW: Paid cash or...  
26  
27 GA: (unintelligible)  
28  
29 JW: Okay.  
30  
31 GA: And if...and if their camera...  
32  
33 JW: (unintelligible)  
34  
35 GA: It would show that...  
36  
37 JW: You went in there by yourself?  
38  
39 GA: No.  
40  
41 JW: Who went with you?  
42  
43 GA: Uh, after a second Chris came over there.  
44  
45 JW: Really?  
46  
47 GA: Yes.  
48

1 JW: Was the car out front?  
2  
3 GA: No.  
4  
5 JW: You just walked over there?  
6  
7 GA: Yes.  
8  
9 JW: Did Chris buy anything?  
10  
11 GA: No, he asked me to buy him something.  
12  
13 JW: Did you?  
14  
15 GA: Um, not a beer cause they didn't take (unintelligible). We walked across the  
16 street to (unintelligible) or whatever.  
17  
18 JW: Yeah, uh, some weird name.  
19  
20 GA: I don't know what it's called now, the (unintelligible)  
21  
22 JW: Uh-huh.  
23  
24 GA: Went in there, I bought him a juice and...  
25  
26 JW: Did he go in with you?  
27  
28 GA: Yes. L.G., too.  
29  
30 JW: Where is the car?  
31  
32 GA: Back at the apartment.  
33  
34 JW: So, you guys were just walking around?  
35  
36 GA: Just walked down to the store cause I...I was thirsty. I was nervous, I didn't  
37 want to even go, you know what I mean?  
38  
39 JW: Okay.  
40  
41 GA: And...and actually, I...I didn't even (unintelligible) have a cell phone on me at  
42 this point. Jamie's cell phone.  
43  
44 JW: Uh-huh.  
45  
46 GA: And I didn't have a cell phone on me cause I was thinking on where to call her,  
47 you know, having her go, "The baby's sick," or something, you know. So,

1 anyway, we walk over across the street to the store, I buy (unintelligible) a  
2 pepperoni.

3  
4 JW: Pepperoni?

5  
6 GA: Uh-huh. And him a...uh, Chris a pop and I bought a pink lemonade pop  
7 (unintelligible).

8  
9 JW: Paid with (unintelligible)?

10  
11 GA: Yes.

12  
13 JW: Okay, here's the deal. This tape is about to end and I have to do a technicality  
14 thing here. See this tape recorder's still going?

15  
16 GA: Yes.

17  
18 JW: Red light on?

19  
20 GA: Yes.

21  
22 JW: Button was pressed?

23  
24 GA: Yes.

25  
26 JW: Had your permission to take this statement?

27  
28 GA: Yes.

29  
30 JW: Okay. We're going to end the recorded interview but we're going to record the  
31 interview on these little details.

32  
33 GA: Okay.

34  
35 JW: Okay? This is Jeff Wilken and Dustin Nicholson and Garry Alexander,  
36 concluding the recorded interview at what time?

37  
38 DN: 2:10.

39  
40 JW: 2:10 a.m. on May...

41  
42 DN: 19<sup>th</sup>.

43  
44 JW: 19<sup>th</sup>.

45  
46  
47 *Transcribed by S.J. Keeney, Vancouver Police Department, May 29, 2008*

# **EXHIBIT 17**

# Vancouver Police Department

605 E. Evergreen (360) 487-7400  
 Vancouver, WA 98661 (360) 694-9646 (FAX)

Case No. **08-9421**

Report ID **05/21/2008 00:30 1231**

## Supplemental Incident Report

### Records Center

707 W 13TH Street (360) 397-2211  
 Vancouver, WA 98660 (360) 397-6074 (FAX)

DOR **05/21/2008**

Officer Assaulted  Non Disclosure

Distribution **PA** Distribution Other

init	pDis	sDis	dEnt	M.C.	Concl	Case	F/U	Ret	Left	
Status							<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Administrative Information

Location **707 W 13TH ST** City **VANCOUVER** State **WA** Zip Code

Local Geo State Geo Precinct **V EAST** Geo

Rep Date **05/19/2008** Rep Time **00:06** From Date From Time To Date To Time Category Class Premise

Dom Viol  DV Card  Child Abuse  Arson  Homicide  Gang  Weapons  Alcohol  Drugs  Computer

### Offense Information

Off # **1** Offense **9A.36.011** Offense Category **ASSAULT** Offense Translation **Assault I** Attempted or Completed **C**

Location Type **APT/CONDO**

Off # **2** Offense **9A.52.020** Offense Category **BURGLARY** Offense Translation **Burglary I** Attempted or Completed **C**

Location Type **APT/CONDO**

Off # **3** Offense **9A.56.200** Offense Category **ROBBERY** Offense Translation **Robbery I** Attempted or Completed **C**

Location Type **APT/CONDO**

### Individual

Role **B** Seq **1** Type **I** Last Name **ALEXANDER** First Name **GARRY** Middle Name **LOVELL** Sex **M** Race **B**

Birthdate **04/09/1976** Eth **N**

Age Low **32** Age High Hgt **602** Wgt **250** Hair **BLK** Eyes **BRO** Residence **F** Employment/Occupation

Driver's License Number Driver's License Issuer Social Security No. **542-96-4748** State ID No. FBI No. PCN

Custody Status **INCARC** Gang Affiliation Tribe Affiliation Identifiers

Comments

Type **H** Location **14507 SE 7TH WY** City **VANCOUVER** State **WA** Zip Code **98684**

Type **C** Phone No. **(360) 773-2023**

### Arrest Information

Booking No. CFN Arrest Date **05/18/2008** Arrest Time Type **O** Multi Clearance **N** Armed With (2) **UNARMED**

Juv Disposition

Miscellaneous

Location City State Zip Code

Reporting Officer **Wilken, Jeffrey** PSN **1231**

Approving Officer **Chylack, Michael** PSN **1185**

Agency/Case Number **VPD 08009421**  
 Report ID **05/21/2008**  
 Ref Case Number **00:30 1231**

# Vancouver Police Department

Case No.  
**08-9421**

## Arrest Information

Offense <b>9A.36.011</b>	Offense Category <b>ASSAULT</b>	Citation No	Warrant No
Charge Translation <b>Assault I</b>			
Offense <b>9A.52.020</b>	Offense Category <b>BURGLARY</b>	Citation No	Warrant No
Charge Translation <b>Burglary I</b>			
Offense <b>9A.56.200</b>	Offense Category <b>ROBBERY</b>	Citation No	Warrant No
Charge Translation <b>Robbery I</b>			

## Evidence

Item # <b>1231-009</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>RECORDS</b>	Description <b>SIGNED MIRANDA WARNINGS</b>
Loss Value	Amount	Caliber	Drug Type
Brand			
Model			
Serial No.	Owner Applied No. (OAN)		
Miscellaneous			
Rec. Date <b>05/19/2008</b>	By PSN <b>1231</b>	Rec. Agcy <b>V</b>	Rec. Value
<b>8</b>			
Location <b>707 W 13TH ST</b>	City <b>VANCOUVER</b>	State <b>WA</b>	Zip Code
Officer Notes <b>Miranda Warnings form that was signed by Gary Alexander waiving his rights and agreeing to</b>			

## Evidence

Item # <b>1231-010</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>RECORDS</b>	Description <b>AUDIO CASSETTE CONTAINING INTERVIEW</b>
Loss Value	Amount	Caliber	Drug Type
Brand			
Model			
Serial No.	Owner Applied No. (OAN)		
Miscellaneous			
Rec. Date <b>05/19/2008</b>	By PSN <b>1231</b>	Rec. Agcy <b>V</b>	Rec. Value
<b>8</b>			
Location <b>707 W 13TH ST</b>	City <b>VANCOUVER</b>	State <b>WA</b>	Zip Code <b>98660</b>
Officer Notes <b>interview with Garry Alexander with Detective Dustin Nicholson acting as witness</b>			

Reporting Officer <b>Wilken, Jeffrey</b>	PSN <b>1231</b>	Agency/Case Number <b>VPD 08009421</b>
Approving Officer <b>Thylack, Michael</b>	PSN <b>1185</b>	
Report printed by: 0404		Ref Case Number <b>00:30 1231</b>
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**Evidence**

Item # <b>1231-011</b>	Loss/Action <b>EVIDENCE</b>	IBR Type <b>RECORDS</b>	Description <b>PHOTO LAYDOWN CONTAINING CHRISTOPHER PE</b>		
Ass Value	Amount	Caliber	Drug Type	Drug Quantity	Drug Measure
Brand					
Model					
Serial No.		Owner Applied No. (OAN)			
Miscellaneous					
Rec. Date <b>05/19/2008</b>	By PSN <b>1231</b>	Rec. Agcy <b>V</b>	Rec. Value		
<b>8</b>					
Location <b>707 W 13TH ST</b>			City <b>VANCOUVER</b>	State <b>WA</b>	Zip Code
Officer Notes <b>photo laydown presented to Garry Alexander during the recorded interview</b>					

**Narrative**

\*\*\*\*\*This report documents the 2nd interview of Garry Alexander at the Clark County Jail at 0006 hrs on May 19th, 2008\*\*\*\*\*

**ORPHAN DOCUMENTS:**

- Copy of Signed Miranda Warnings (by Garry Alexander)
- Copy of Photo Laydown containing Christopher Perkins (presented to Garry Alexander)

**EVIDENCE:**

- #1231-009: EVIDENCE - SIGNED MIRANDA WARNINGS  
Officer Notes: Miranda Warnings form that was signed by Gary Alexander waiving his rights and agreeing to interview
- #1231-010: EVIDENCE - AUDIO CASSETTE CONTAINING INTERVIEW  
Officer Notes: interview with Garry Alexander with Detective Dustin Nicholson acting as witness
- #1231-011: EVIDENCE - PHOTO LAYDOWN CONTAINING CHRISTOPHER PERKINS  
Officer Notes: photo laydown presented to Garry Alexander during the recorded interview

**NARRATIVE:**

\*\*\*\*\* The following is the Probable Cause Statement contained in the search warrant affidavit that was prepared by Detective Jeff Wilken and submitted to Judge Darvin Zimmerman pertaining to this investigation \*\*\*\*\*

At approximately 0001 hrs, May 19th, 2008, myself and OFC Dustin Nicholson proceeded to the CCSO Jail where we made contact with Garry Alexander in an upstairs interview room.

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**Narrative**

During this contact, I employed a ruse with Garry where I told him that I was sorry for not believing his version of events during our initial interview which led to the polygraph exam being administered. I proceeded to tell Garry that I was still investigating him for Making a False Statement to a Public Servant, as well as for DWLS for driving to the scene of the incident (as he alleged) in the Chevy Camaro.

I proceeded to ask Garry if he would mind proceeding with a recorded interview to clarify some details and to clear up this matter quicker. He agreed at which time I proceeded to obtain a recorded interview which was witnessed by Officer Nicholson.

At 0006 hrs, I advised Garry of his Miranda Warnings from a written form which he initialed and signed off on.

We next proceeded to discuss the sequence of events as he relayed them where after awhile and getting him locked in his version of events once again, I confronted Garry with the fact that I was aware of the actual details of the night in question. I advised him of the time frame and the correlation of the phone calls listed in the cell phone call history, as well as the fact that I knew he had called Jamie from his ex-wife's Tina's apartment six minutes after the shooting had occurred.

I continued on with sharing with Garry that I had re-interviewed Jamie and she was confronted with her own inconsistencies. I shared with him that she (Jamie) refused to be held accountable for lying for him and his friends. I went on with the fact that she had provided a written statement admitting to exactly what happened as well as implicating him, LG, and Chris Perkins in the shooting of Gary.

Garry Alexander became very emotional, saying that he wanted to tell me the truth and he wanted to do the right thing. He then proceeded to provide a confession where he admitted to being with LG and Chris Perkins when they came up with the plan to rob Gary Atkinson of marijuana and money.

Garry went on to tell me that he was picked up by LG and Chris Perkins in LG's white in color car which he stated had "silver rims" on the vehicle that he said "stood out".

Garry stated that he went on to say that they proceeded to LG's apartment where he lives off of NE 138th Ave by the Chevron. Once there, he walked over to Chevron with Chris Perkins in an attempt to buy something to drink. When they got there, they learned that Chevron doesn't take "EBT" cards (State food assistance) so they decide to walk across the street to the minit mart located on the northeast corner of NE 138th Ave and NE 28th St.

According to Garry, he stated that when they exited the Chevron, they were met up by LG who walked with them to the minit mart. Garry stated that three of them walked into the store and they bought some sodas as well as some pepperoni sticks. Garry said that he was wearing his white wife beater, his shorts, and his red in color slippers. He went on to say that both LG and Chris Perkins were dressed in black and they were the ones that were planning on going to the victim's home.

After shopping, they proceeded to walk outside where they headed back to LG's apartment where they got into a white in color Oldsmobile with silver rims. Garry said that LG went back inside his apartment where after a minute, he came outside and got back into the car. LG then drove the three of them down the street, heading down towards Gary Atkinson's home. While enroute, Garry stated that LG pulled into the same minit mart that they had just visited. LG then parked the vehicle and walked into the minit mart by himself as he wanted to buy a beer for himself. Garry said that LG came back to the car a few minutes later with a can of Steel Reserve beer.

Garry admitted that the three of them then drove down to where he knows Gary (Atkinson) to live off of NE 48th St. Garry said that Chris knew where the victim lived as Garry alleged that Chris had learned about Gary from

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**Narrative**

Lavelle Baudin.

they drove past the residence, Garry said that Chris pointed at the victim's residence and he admitted to confirm the residence as he knew it from his own past dealings with it.

LG then drove to the parking lot of Evergreen Park Apartments located off of NE 112th Ave just to the south of NE 49th St. Garry stated that they parked the car and LG and Chris exited the vehicle, walked back to the trunk, and retrieved some items. He admitted that he knew the items that they obtained were things that they needed to pull off the robbery.

Garry said that his involvement was to be limited to being the "get away driver" as he has a reputation on the street as being a "good driver" as he out ran the police in the past in pursuits and people on the street know this.

Garry said that he was supposed to stand by and wait for the two of them to return back to the vehicle after pulling off the robbery. However, after several minutes of waiting, Garry said that he got scared and decided to leave them and get back home. He said that he drove from Evergreen Park Apartments and headed down the street to the apartment complex located to the north of NE 49th St where his ex-wife (Tina Williams) lives with two of his children.

Garry indicated to me that he went to this location as he needed to call Jamie and ask her to meet him at the Chevron near LG's apartment as he needed to drop LG's vehicle off. Garry said that he drove the vehicle over to the apartments and proceeded to knock on the door. Tina answered the door and allowed him to use her phone to call Jamie. He stated that he told her to meet him at the Chevron as he needed the ride home.

Garry stated that as he was there making this phone call, he heard police sirens all over the area which led him to believe that things went bad at the robbery. Garry said that he got back into LG's car and drove back to LG's apartment complex. He parked the vehicle and proceeded to make contact with LG's girlfriend where he turned car keys over to her. He said that he told her that LG and Chris were up near 49th St and they were probably some trouble.

Garry said that he walked across the street to the Chevron where he found Jamie parked by the pay phones with their van and their kids sitting inside. Garry advised that he and Jamie left the parking lot and headed back down to the area of NE 112th Ave and NE 49th St in an attempt to see if they could come across LG and Chris as he "felt bad for leaving them".

Garry advised that as they drove around the area, he and Jamie were unable to locate LG or Chris. However, Garry stated that he came across LG's girlfriend driving a gold in color Chevrolet down in the same area of Evergreen Park Apartments.

Garry went on to say that he saw LG's girlfriend then turn into the Evergreen Apartment complex where he immediately believed that they must have made it to an apartment inside the complex and called her for a ride. He went on to share with me that LG had stated to him in the past that he had a "cousin" that lived inside this same apartment complex.

At that point, believing that LG and Chris must have been safe, Garry had Jamie leave the area and head back to their home in the east part of Vancouver. As they were at the Chevron located at SE Mill Plain and SE Olympia, Garry received a call from LG asking where he was. Garry said that LG went on to tell him to get back to his apartment because they needed to talk.

Garry had Jamie drive him back to LG's apartment where he met with LG and Chris while Jamie waited inside the

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## Narrative

van. According to Garry, it was during this time that he learned that things went bad during the robbery when Gary Atkinson resisted the subjects trying to get inside. Garry stated that both LG and Chris said that they shot their guns during this incident and that they then fled after the shooting. They stated that they made it back to the apartment complex where they found that Garry had fled with the vehicle. They then went to LG's cousin's apartment and called LG's girlfriend and she came down and picked them up.

Garry said that after speaking with them, Chris asked him for a ride back to his grandma's house in the Vancouver Housing area off of Andresen by Council Bluffs (behind Safeway). He further admitted to asking Chris about his "rolo" and that Chris told him that he knew where it was and it was safe. Garry went on to admit that "rolo" is a street slang word for a pistol.

Garry was shown a photo laydown which depicted Chris Perkins as subject #4. During a review of this laydown, Garry identified photo #4 as being the person that he knows as Chris Perkins. He further stated that this was the same person that took part in the robbery.

Garry also advised me that he was aware that LG lives with his girlfriend at apartment #52 in the apartments located "behind Chevron" off of NE 138th Ave.

I departed the jail with Officer Nicholson where we suspended the investigation at that point until 0700 hrs on May 19th, 2008.

### INVESTIGATION CONTINUED:

The audio cassette containing the recorded interview with Garry Alexander will be submitted to VPD administration to be transcribed and forwarded to the PA's office for attachment with this report

### RECOMMENDED ACTION:

Forward to PA (Tony Golik) for review

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer  
**Wilken, Jeffrey**

PSN  
**1231**

Approving Officer  
**Shylack, Michael**

PSN  
**1185**

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# UW CLINICAL LAW PROGRAM

## August 13, 2012 - 1:14 PM

### Transmittal Letter

Document Uploaded: 420121-Personal Restraint Petition Brief.pdf

Case Name: Personal Restraint Petition of Lester Juan Griffin, Jr.

Court of Appeals Case Number: 42012-1

Is this a Personal Restraint Petition?  Yes  No

#### The document being Filed is:

- Designation of Clerk's Papers  Supplemental Designation of Clerk's Papers
- Statement of Arrangements
- Motion: \_\_\_\_\_
- Answer/Reply to Motion: \_\_\_\_\_
- Brief: Personal Restraint Petition
- Statement of Additional Authorities
- Cost Bill
- Objection to Cost Bill
- Affidavit
- Letter
- Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_  
Hearing Date(s): \_\_\_\_\_
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition
- Reply to Response to Personal Restraint Petition
- Other: \_\_\_\_\_

#### Comments:

Given the length of the document, a hard copy is ready to be mailed at the Court's request.

Sender Name: Maria F Torres - Email: [ftorres@uw.edu](mailto:ftorres@uw.edu)