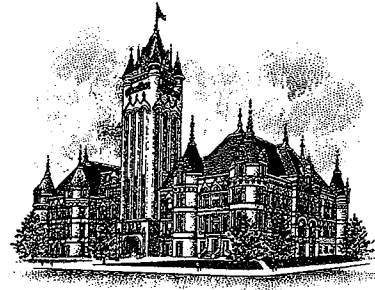




Spokane County Sheriff's Office
Ozzie D. Knezovich, Sheriff



"In partnership with the community - Dedicated to your safety"

March 23, 2009

Sergeant Patrick Bunch
Spokane County Sheriff's Office
1100 W. Mallon
Spokane, Washington 99260-0300

RE: POTENTIAL FOR DISCIPLINARY ACTION (Loudermill Notification)

Dear Sergeant Bunch:

Our records indicate that you were commissioned as a Deputy Sheriff on December 16, 1978 and were issued a Sheriff's Office Rules and Regulations Manual. On August 4, 1997 you acknowledged receipt of Sheriff's Office Policy and Procedure Manual #18.

On February 6, 2009, the following information was brought to my attention concerning your interaction with members of the Spokane Police Department. The following facts, assertions, and/or allegations of misconduct are being alleged:

1) On February 6, 2009 you were contacted by, Officer [REDACTED], a uniformed member of the Spokane Police Department. He was conducting an investigation into a reported prowler. He gave you directives which you admit receiving and refusing to follow. It is alleged that You failed to subject yourself to orders from a competent authority.

2) On February 6, 2009 at approximately 1040 hours you were contacted by, Officer [REDACTED], a uniformed SPD Officer who was responding to a prowler call. The complainant reported that the prowler was on her property and appeared to be looking into her residence windows. She also reported that her 14 year old daughter had been receiving calls from a male that were sexual in nature. Officer Draper responded to the call. He is the neighborhood resource officer and was aware of this area having a residential burglary problem.

Officer [REDACTED] contacted you because you matched the physical description of the prowler and was in close proximity to the complainant's home. When Officer [REDACTED] asked to speak to you, you picked up some ice and snow and began packing it into a snowball. He believed that you intended to throw it at him. Officer [REDACTED]

Sgt. Pete Bunch
IA #09-0014

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had to direct you to drop the snowball twice before you did so. When you finally turned and faced Officer [REDACTED] you appeared to be looking through him and not at him.

[REDACTED], a school resource officer, states that you looked at Officer [REDACTED] before making the snowball which caused Mr. [REDACTED] a lot of concern. Out of concern for Officer [REDACTED] he closed distance because he was the only backup in the area. He stated that you never looked his way while constructing the snowball.

Officer [REDACTED] SPD backup was still some distance off. His only backup was [REDACTED]. School Resource Officers are only partially commissioned and do not carry a firearm. Out of officer safety concerns Officer [REDACTED] decided to frisk you.

Officer [REDACTED] advised you that for safety reasons he wanted to frisk you. You told Officer [REDACTED] that you were just looking for your dog. Officer [REDACTED] acknowledged your statement and told you that he would discuss it with you after he was sure it was safe. You refused to allow the frisk and told Officer [REDACTED] he was not going to touch you. Officer [REDACTED] tried several times to get you to cooperate without success and finally advised you that if you did not submit to his directives you would be arrested for obstructing. You continued to refuse to do as directed and Officer [REDACTED] advised you that you were under arrest.

After placing you under arrest Officer [REDACTED] again tried to give you directives so you could be safely taken into custody. You refused to do as directed. When Officer [REDACTED] approached, you began reaching into your right front pocket with your right hand. You gave no indication of your intention before doing so. Officer [REDACTED] attempted to take control of your left arm while [REDACTED] tried to take control of your right arm. You resisted to the point that Officer [REDACTED] decided to disengage and gain some distance from you. Officer [REDACTED] directed [REDACTED] to do the same. Your resistances to Officer [REDACTED] efforts to take you into custody were witnessed by two civilian witnesses and other SPD Officers. These same witnesses heard you advised of your arrest status.

Officer [REDACTED] pulled his taser after letting you go. He states that rather than follow his directives when confronted with the taser you pulled your shoulders back as if challenging him to use it. You threatened to sue Officer [REDACTED] if he tased you.

All witnesses agree that you did not follow the directives of Officer [REDACTED] until backup officers arrived. Once the other officers were present you finally followed directives and were taken into custody for Obstructing and Resisting Arrest. It is alleged that You engaged in Criminal Conduct and Violated RCW 9A.76.020 and 9A.76.040

3) In the administrative report you wrote in response to the Member Notification you received on February 6, 2009 you give a much different account of the events than those given by witnesses and SPD Officers, the differing accounts will follow.

You state that you were in the area in search of your lost dog. You stated that you were not aware of Officer [REDACTED] presence when you picked up the snowball. You stated that you were constructing it because you believed the school resource officer's white Ford Taurus belonged to Civil Deputy Tom Blair. You based this premise on the fact it had County "C" plates. You state you planned on throwing

the snowball at the vehicle as it passed by. You state you immediately dropped the snowball when Officer [REDACTED] directed you to do so.

Officer [REDACTED] states that he exited his car and addressed you prior to you picking up the snow and ice to construct the snowball. He was convinced that you knew he was there and intended on throwing it at him. He had to tell you to drop the snow ball two times before you complied.

[REDACTED] car is a white Ford Taurus with large decals on the hood and sides of the car. It also has a large black unit number on the front corners in the area of the bumper. The decals on the side designate it as a resource officer's vehicle. The markings are much larger than the numbers on the license plate. The car was parked up the block and across the street from you. This should have made the front and passenger side of the car clearly visible.

Civil Deputy Blair does drive a Taurus. It is not the same model as that driven by Walt Pegram. The differences are minimal. However, the vehicle that Deputy Blair is driving at this time is tan and not white. He has not been driving a white Taurus for over a year.

[REDACTED] states that you looked at Officer [REDACTED] before making the snowball. Your actions caused him enough concern that he closed distance because he believed he needed to be closer because he was the only backup in the area. He stated that you never looked his way while constructing the snowball. It is alleged that You failed to respond fully in a truthful manner.

You stated that when Officer [REDACTED] asked his backup to "Step it up" you told him it was unnecessary and that you offered the Officer your ID. You state that you reached into your front pants pocket to get it and when you tried to hand it to Officer [REDACTED] he attacked you. You stated that Officer [REDACTED] assaulted you without justification or provocation. You state you were not given any verbal commands by either officer and were never told what to do or what the officers were doing. You stated "I never fought with either officer. I simply maintained my balance." You state Officer [REDACTED] took your ID and other personal belongings from your hand and threw them to the ground rather than looking at them.

Officer [REDACTED] states that after advising you that you were under arrest for obstructing he tried to give you directives so you could be safely taken into custody. You refused to do as directed. When Officer [REDACTED] approached you began reaching into your right front pocket with your right hand. You gave no indication of your intention before doing so. Officer [REDACTED] attempted to take control of your left arm while [REDACTED] tried to take control of your right arm. You resisted to the point that Officer [REDACTED] decided to disengage and gain some distance between him and you. Officer [REDACTED] directed that [REDACTED] to do the same.

Officer [REDACTED] also states that he did not see anything in your right hand. He states he went hands on before you removed your hand from your pocket. He did not see anything in your left hand. You immediately resisted Officer [REDACTED] attempts to control you. He never heard you offer to produce ID at any time.

[REDACTED] states he never heard you offer to provide ID at any time. He decided to take control of your right arm because he felt he needed to do so to protect Officer [REDACTED] from potential harm. He noticed that when he grabbed your

right arm your fist was clenched. He did not see anything in your right hand. He felt that your property fell out of your jacket pocket during the struggle to take you into custody. He stated that the struggle was strong enough with twisting and turning that he believed the property fell out of the jacket pocket. He was also certain that you were struggling in an attempt to stave off the control holds Officers were attempting. He did not believe it could have been that you were trying to maintain your balance. He also stated that he was giving you verbal commands during the struggle.

The original complainant witnessed the confrontation taking place from her kitchen deck (70 to 90 feet from confrontation). She stated that she heard the Officers tell you that you were under arrest and to turn around and put your hands behind your back. She states that you responded by refusing to do so and that you continually refused to cooperate.

According to the original complainant when you refused to do as directed the two officers attempted to take you by your arms, each taking one arm. She stated that you were facing the officers at the time. She described your physical response as thrusting your chest forward and pulling your arms away from the officers. She was convinced it was a purposeful act meant to break away from the control of the officers and not an attempt to gain your balance. She said Officers let go of you when you pulled away. She stated that you never offered to produce ID for the Officers. She did hear the Officers tell you multiple times that you were under arrest, at least five times while you were confronting the Officer with the taser. She did hear you tell the Officers that "If you fucking tase me I am going to sue your ass." It is alleged that You failed to respond fully in a truthful manner.

You stated that after you were released by the Officers you again asked them to look at your ID. You stated that Officer [REDACTED] pulled out his taser and aimed it at you. You state that you were standing there with your hands up. You stated that when Officer [REDACTED] gave you commands you tried to "reason with him". You stated that you told Officer [REDACTED] he was making a big mistake and that all he had to do was look at your ID. You stated that to calm the SPD Officer down you went to your knees in the wet snow. You stated that your hands were up and you implored the Officer to look at your ID. You admitted telling Officer [REDACTED] that if he tased you, you would sue him. You state that you eventually did as directed.

Officer [REDACTED] pulled his taser after breaking physical contact with you. He states that rather than follow his directives when confronted with the taser you pulled your shoulders back as if challenging him to use it. He states that you threatened to sue him if he tased you.

[REDACTED] and the original complainant both state that you never offered to produce ID or asked that Officers look at it. They both describe you as uncooperative and refusing to do as directed. The complainant describes the SPD Officer as giving you at least five directives while pointing the taser first at the ground and then slowing elevating it. Each time he told you that you were under arrest and gave you verbal commands. By the 5th warning the taser was directed at your chest. She states that even though the SPD Officer told you that you were under arrest you refused to do as directed.

All witnesses agree that you did not follow directives until backup officers arrived. Once the other officers were present you finally followed directives and were taken into custody. It is alleged that You failed to respond fully in a truthful manner.

You stated that while you were being searched by Officer [REDACTED] you yelled at him to look at your ID. You stated that was the only time and only thing you yelled.

Both Officers who conducted the search incident to arrest, Officer [REDACTED] and Officer [REDACTED] state that you never offered to produce ID or to identify yourself. The state you just kept telling them that they were making a big mistake. It is alleged that You failed to respond fully in a truthful manner.

You stated that when your Sheriff's Office ID was found one of the male officers yelled, "Where did you get this deputies ID?" You stated you replied "that's me." You then state that Officer [REDACTED] came over and lifted your hood. You state that you said, "Hello Davida."

According to Officer [REDACTED] found your Sheriff's Office ID in your right rear pocket during the search incident to arrest. [REDACTED] states that [REDACTED] then stood at your feet and used [REDACTED] portable to ask that SPD radio check with the Sheriff's Office to find out why the suspect had Sgt. Bunch's ID. [REDACTED] states that you made no attempt to tell [REDACTED] that it was yours or to identify yourself. [REDACTED] did eventually see your face when you were rolled on your side during the search. [REDACTED] states [REDACTED] asked you what you were doing and you said, "Hi [REDACTED] how are you." It is alleged that You failed to respond fully in a truthful manner.

You stated in your report "I was never advised of my Miranda Rights and I was never advised of any arrest, charges, or reason for my detention as required by law for a valid, lawful arrest." You stated that when you met with Chief Nicks the Chief told you that you would be booked on the charges. You stated "I had never been told the reason for my detention much less that I was under arrest." You stated that it was Chief Nicks who first told you the charges against you.

Officer [REDACTED] states that he told you that you were under arrest for obstructing before he even left his vehicle to approach. The original complainant states she heard the SPD Officer tell you that you were under arrest at least 6 times, once before going hands on and at least five times while confronting you with the taser. Officer [REDACTED] and Officer [REDACTED] heard the arresting officer, Officer [REDACTED] tell you that you were under arrest after they arrived. Officer [REDACTED] even heard you advised by Officer [REDACTED] that you were under arrest for obstructing. Officer [REDACTED] states [REDACTED] reminded you of that fact when you told the Chief you had never been advised you were under arrest. It is alleged that You failed to respond fully in a truthful manner.

Your work history with the Spokane County Sheriff's Office consists of:

- November 7, 2002 Sustained finding; Failed to schedule an on duty supervisor/sergeant to manage Shift Personnel (2 counts) Demoted from

Lieutenant to Sergeant

- February 3, 2003 Sustained finding for 1) False reporting of payroll/leave accrual/usage; 2) Misuse of county cell phone. Entered into Last Chance Agreement.
- July 23, 2004 Sustained finding for 1) Criminal Conduct; 2) Presenting official department identification in an attempt to gain special consideration or privilege. 10 working day suspension and 3 year last chance agreement.

The aforementioned allegations of misconduct, if proven, demonstrate disgraceful conduct, and has caused injury to public service. This correspondence is official notification that I am considering disciplinary action against you, up to and including termination.

The alleged unprofessional off duty conduct is unbecoming an employee of the Sheriff's Office and in violation of:

Civil Service: RCW 41.14.110 TENURE - GROUNDS FOR DEPRIVATION

The tenure of every person holding an office, place, position, or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons.

- (1) Incompetency, inefficiency, or inattention to, or dereliction of duty;
- (2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself; or any willful violation of the provisions of this chapter or the rules and regulations to be adopted hereunder.
- (4) Dishonest, disgraceful, or prejudicial conduct;
- (7) Any other act or failure to act which in the judgment of the civil service commission is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

7.08.00

OFF-DUTY CONDUCT

Even while officially "off duty," members of the Sheriff's Office will be subject to orders from competent authority and to emergency requests for assistance from citizens. The fact that they are technically off-duty shall not relieve them from the necessity to take police action on any serious police matter coming to their attention at all times. See Policy 6.4.5.

7.06.08

CRIMINAL CONDUCT

Members will obey all laws of the United States, Washington State, and this jurisdiction. Violations of any law, an indictment or information filed against a member, or a conviction will be cause for disciplinary action up to and including termination of employment. See Policy 6.4.4.

8.06.00

DUTY TO REPLY/COOPERATE

Members will answer fully in a truthful manner all questions which a superior officer or supervisor may ask regarding performance of official duties and will cooperate with the internal disciplinary process. See Policy 26.5.3.

RCW 9A.76.020

Obstructing a law enforcement officer.

(1) A person is guilty of obstructing a law enforcement officer if the person willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official powers or duties.

(2) "Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020, and other public officers who are responsible for enforcement of fire, building, zoning, and life and safety codes.

(3) Obstructing a law enforcement officer is a gross misdemeanor.

RCW 9A.76.040

Resisting arrest.

(1) A person is guilty of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from lawfully arresting him.

(2) Resisting arrest is a misdemeanor.

Accordingly, I will give you until **1400 hrs on the 27th day of March 2009**, to submit in writing any comments and/or information which you believe may have a bearing upon the above information and what, if any, disciplinary action I should take with respect to such information. **If you choose to have a hearing before the Sheriff in lieu of a written response it will take place on March 27, 2009 at 1130 hours in the Sheriff's Conference Room.**

Respectfully,

Ozzie D. Knezovich
Spokane County Sheriff

Date and Time Served:

Served by:

Loudermill Response #IA 09-0014

Response to (1.)

██████████ did not have lawful authority to give such orders or directives. By doing so he violated my constitution rights. The department policy should not and cannot strip an employee of their Constitutional Rights.

You cannot ignore the case law justification I have supplied. All the information comes from the LED's and excerpts from the WSCJTC that we hold our employee's responsible to know and apply. See attached justifications and case law supporting my assertion.

Under US v GRIGG, 498 F.3d 1076 (April '08 LED see attached)

- **TOTALITY-OF-THE-CIRCUMSTANCES STANDARD HELD TO LIMIT TERRY STOPS FOR "PREVIOUSLY COMMITTED" GROSS MISDEMEANORS AND MISDEMEANORS THAT DO NOT HAVE POTENTIAL FOR ONGOING OR REPEATED DANGER OR ANY RISK OF ESCALATION - -**
In U.S. v. Grigg, 498 F.3d 1076 (9th Cir. 2007) (decision filed August 22, 2007), a 3-judge panel of the Ninth Circuit holds unlawful a Terry stop of a car where the stop was made to investigate a citizen's complaint of a previously committed noise ordinance violation. Holding the stop unlawful, the Court accordingly suppresses a machine gun that an officer saw in plain view after making the stop.

I never was told why the officer wanted to talk to me. The only thing he ever said was he was going to frisk me. I presume he was responding to a prowler or suspicious persons call since I was looking for my dog in my neighborhood. Under GRIGG he had no right to stop/seize me by using his emergency equipment. He could have consensually engaged me (he should have) or have the complainant identify me as the person who had committed a crime at which time he could have searched me incident to arrest. But he didn't, he chose to unlawfully detain me and tried to intimidate me and threaten me into waiving my constitutional right to be free from unreasonable searches and frisk.

Decisions from courts that have adopted the Ninth Circuit's analysis indicate that a Terry stop to investigate a completed misdemeanor is

- not appropriate for a claim of indecent exposure, *United States v. Jegede*, 294 F. Supp. 2d 704 (D. Md. 2003).
- not appropriate for noise violations, *United States v. Grigg*, 498 F.3d 1070 (9th Cir. 2007).

not appropriate for a simple trespass, *United States v. Hughes*, 517 F.3d 1013 (8th Cir. 2008) (vandalism a criminal trespass inherently involves some risk of confrontation with a property owner or lessee, this risk, standing alone, is not enough to outweigh the individual's strong security interests)

Under State v. Gatewood, Wn.2d, 182 P.3d 426 (July '08 LED see attached)

- **SUSPECT'S 1) EYES GETTING BIG AT SEEING POLICE, 2) FURTIVE GESTURE, AND 3) WALKAWAY DOES NOT ADD UP TO REASONABLE SUSPICION FOR TERRY STOP; ...**

Even with the facts of Gatewood, body response-big eyes, furtive movements, walking away, time of day, high crime neighborhood, etc. The court found there to not be reasonable suspicion for a Terry Stop.

I was in a upper level income, low crime neighborhood at 1030am. I greeted and stayed with the officer and never attempted to leave. There was not one factor from GATEWOOD, that the court found as reasonable suspicion for a TERRY Stop, in my circumstance.

Response to (2.)

Under STATE v COLLINS, 121Wn 2nd 168 (July '93 LED not attached)

- The court held there must be a “reasonable belief of danger”

N31 had no opportunity to assess or articulate any reasonable belief I was armed. The way he spoke and his demeanor indicated to me it is his normal course of conduct to frisk everyone he comes in contact with. He didn't even ask for my name or ID, Just I'm going to frisk you.

Under State v. Setterstrom, Wn.2d, 183 P.3d 1075 (July '08 LED see attached)

- **OFFICER COULD NOT LAWFULLY FRISK SEIZED MAN BASED SOLELY ON FACT THAT THE MAN WAS NERVOUS AND FIDGETING**

Again, none of these facts applied to this case I wasn't nervous or fidgety. I wasn't under the influence of alcohol or drugs. I simply and lawfully asserted my constitutional rights.

To justify a frisk without probable cause to arrest, an officer must have a reasonable belief, based on objective facts, that the suspect is armed and presently dangerous. Collins. Reasonable belief that the suspect is armed and presently dangerous means “... some basis from which the court can determine that the detention was not arbitrary or harassing.” State v. Behm, 117 Wn.2d 837 (1989).

We do not find such a basis here. The police received an anonymous call claiming Setterstrom was under the influence, heard a lie about his name, and observed his nervous, fidgety behavior. The record shows no threatening gestures or words. Setterstrom did not even stand. At most, the record shows that Setterstrom was under the influence; this is not a crime in itself.

Moreover, Setterstrom was lawfully in a public area of the DSHS building, filling out a DSHS benefits form. It seems likely that some people filling out benefits forms exhibit erratic behavior, making employment difficult and benefits applicable. This is not a situation

where the officers encountered Senterstrom in a dark alley in a crime-ridden area. See *State v. Glover*, 116 Wn.2d 509 (1991).”

“Surely officers may protect themselves when the situation reasonably appears dangerous, but a frisk is a narrow exception to the rule that searches require warrants. The courts must be jealous guardians of the exception in order to protect the rights of citizens. the justification for the frisk here was simply not sufficient.”

Since the frisk was unjustified, we do not decide whether the officer took the frisk too far.”

And as in my case, the frisk wasn't justified so there was no basis for **OBSTRUCTING** thus no basis for **RESISTING!**

Terry Stop and Search Checklist

To STOP – You must have reasonable suspicion that a suspect is committing, has committed, or is about to commit a crime. Reasonable Suspicion must be based on specific, articulable, rational facts (Less than probable cause but more than a hunch.)

Articulate factors justifying stop. (Need multiple factors, at least one of which must come from the second column.)

<input type="checkbox"/> hour	<input type="checkbox"/> hand to hand movement
<input type="checkbox"/> high crime neighborhood	<input type="checkbox"/> eyewitness information
<input type="checkbox"/> appears lost or to not be a resident of the area	<input type="checkbox"/> concerned citizen
<input type="checkbox"/> unusual presence	<input type="checkbox"/> CI information
<input type="checkbox"/> standing on street corner	<input type="checkbox"/> co-defendant information
<input type="checkbox"/> nervousness	<input type="checkbox"/> personal knowledge of d's drug use
<input type="checkbox"/> flight-manner of movement	<input type="checkbox"/> personal knowledge of d's license suspension status
<input type="checkbox"/> drug trafficking neighborhood	<input type="checkbox"/> smell
<input type="checkbox"/> other	<input type="checkbox"/> defendant statement

To FRISK – You may frisk outer clothing for weapons and may search if you reasonably believe you are in danger.

Articulate factors justifying search for weapons.

<input type="checkbox"/> high crime neighborhood	<input type="checkbox"/> CI information
<input type="checkbox"/> guns common in neighborhood	<input type="checkbox"/> co-defendant information
<input type="checkbox"/> feel of weapons	<input type="checkbox"/> personal knowledge of d having weapons
<input type="checkbox"/> shape of weapon	<input type="checkbox"/> defendant's movements
<input type="checkbox"/> sight of weapon	<input type="checkbox"/> defendant's statements
<input type="checkbox"/> sound of weapon	<input type="checkbox"/> sight of ammunition
<input type="checkbox"/> concerned citizen information	<input type="checkbox"/> other

To QUESTION – You may demand the suspect's name and address and an explanation of the suspect's actions. You may detain him for a reasonable period of time to verify his answer. if he says

nothing or tells you to jump in a lake, that's your tough luck, you cannot do anything to the suspect. (My highlight and underline added but these are her words.)

BOTTOM LINE – You must be able to articulate reasons to distinguish the suspect from someone who just may happen to be there.

This checklist is from page 91 of **CONFESSIONS, SEARCH, SEIZURE, AND ARREST A GUIDE FOR POLICE OFFICERS AND PROSECUTORS MAY 2008** by Pamela B. Loginsky, Staff Attorney, Washington Association of Prosecuting Attorneys; [REDACTED]

None of the factors on this checklist for A TERRY stop and or a FRISK are present in my case.

I should not have been stopped and I should not have been ordered to consent to a frisk under threat of arrest. I should not have been assaulted, I should not have been arrested for Obstructing or Resisting, and I should not have been booked into jail.

Paragraph #1

Complainant reported a suspicious circumstance. No crime was reported. Not a misdemeanor, clearly not a felony.

I challenge his "awareness" of any burglary problem. Does he/ or did your investigation support his allegation of "awareness"? I have checked, there is no such support.

Paragraph #2

The information DRAPER had DOES NOT support a TERRY stop/frisk.

(Does Terry authority apply to all previously committed misdemeanors?)

U.S. v. Grigg, 498 F.3d 1076 (9th Cir. 2007) April '08 LED:06 (No; for those gross misdemeanors and misdemeanors that do not have potential for ongoing or repeated danger or risk of escalation, a Terry stop is not justified, at least if there is a reasonable alternative for identifying the suspect) See attached justifications and case law supporting my assertion.

██████████ NEVER asked to speak to me. The first words he said was "Drop the snowball." I already had it in my hand before I was aware of him. The snowball was in my right hand held at my side below my waist. It was never displayed in or held in a throwing motion.

If he had to tell me more than once I did not hear him. If he thought I was going to throw the snowball at him how he think such if I hadn't looked and seen him before he thought I was "looking through him"? I did drop it immediately.

I wasn't looking through him. I was astonished that a police car had pulled up behind me on the wrong side of the road with it's emergency lights on seizing me (State v. Stroud, 30 Wn. App. 392 (Div. II, 1981) Feb. '82 LED:05 (Turning on overhead flashers is a seizure) and ordering me to drop a snowball.

Paragraph #3

██████████ is incorrect. I looked at the ground when I made the snowball. I never saw or looked at ██████████ until after I had constructed the snowball and had been ordered from behind to drop it. ██████████ is correct that I didn't look at him as he approached otherwise I would have seen it wasn't BLAIR. I saw his car a block away and start my

direction, that is when I started the snowball construction. (Looking at the ground not at [REDACTED]s car approaching me.)

Paragraph #4

[REDACTED] must articulate his justifiable reason for his belief I or any person he lawfully stops may be armed. [REDACTED] had and did not articulate any such reason. Inarticulate "officer safety" concerns do not justify a TERRY stop/frisk. See attached justifications and case law supporting my assertion.

Paragraph #5

[REDACTED] ordered me that he was going to frisk me. I told him he didn't need to do that, I was looking for my dog.

He yelled at me that he WAS going to frisk me and that I needed to turn around and put my hands on my head.

I told him I would not.

[REDACTED] did not "...tried several times to get you cooperate without success..."

He unlawfully and without authority demanded I waive my constitutional right to be free from unreasonable searches twice, to which I declined.

[REDACTED] tried to intimidate me into consent to an unlawful search of my person by saying "You're this close to going to jail for obstructing." He was angry. He was trying to use color and aid of his uniform to intimidate me to comply. He never said I would be arrested for obstructing, nor that I was under arrest for obstructing.

It was during this time I told [REDACTED] I had identification, with the intent of showing him I was not a criminal and did belong in the neighborhood..

Be very clear about this; At no time ever before and not until after I was transported to the SPD chief's conference room was I ever advised I was under arrest for anything.

Paragraph #6

Again, Be very clear about this; At no time ever before and not until after I was transported to the SPD chief's conference room was I ever advised I was under arrest for anything. The only people who ever spoke to me were [REDACTED] who cuffed me and helped me up and said "yes sir", "no sir", and "please sir" after he saw my S.O. ID and told me to have a seat in the back of [REDACTED] car. And [REDACTED] who said something like what happened. They may have spoken amongst themselves but no one ever spoke to me, asked me questions or told me what was going on.

[REDACTED] stood in front of me and a little to my right. He gave me NO DIRECTIVES! I looked at him, told him I had ID and reached into my right front pants pocket to retrieve my ID. It was not until my hand was out of my pocket with my ID, credit cards, and paper money was out did [REDACTED] attack me. My hand was out of my pocket and in front of me at waist level. [REDACTED] grabbed my right arm (not left arm). PEGRAM grabbed my left arm (not my right arm). I told [REDACTED] I had ID. To just look at my ID.

He grabbed the ID and everything out of my hand and threw it into the wet snowy street without looking at it.

I DID NOT resist or fight back. I MAINTAINED my balance and NEVER tried to gain control of fight back. I was never aggressive. I was never given orders or directions on what they were trying to accomplish.

██████████ NEVER used any verbal skills to communicate what he was doing or what he wanted. The ONLY thing I resisted was being thrown onto the wet snowy ground.

██████████ NEVER communicated what his efforts were for or what he wanted me to do. I challenge anyone who thinks they heard me be advised I was under arrest. It NEVER happened! The only thing ██████████ ever said that could remotely be construed to an advisement was ██████████ saying "You're this close to going to jail for obstructing."

Paragraph #7

██████████ did aim his TASER at me. He did order me to the wet snowy ground. I told him to check my ID. He was making a mistake and he didn't need to be doing this.

I didn't want to get all wet and cold. That is why I did not prone out in the wet snowy street as he directed.

I didn't pull my shoulders back and challenge him to shoot me. I put my hands up at shoulder height in a submissive, non-threatening gesture because I did not want to get TASERED.

I did tell ██████████ that if he tasered me I would sue him. He was not justified in his escalation of force.

Paragraph #8

I was on the wet snow and ice on the sidewalk proned out as directed prior to the other officers arriving. O'BRIEN kneed me in the neck while I was laying on the snow, he couldn't have done that if I hadn't become compliant.

I maintain that I DID NOT engage in criminal conduct.

██████████ had NO articulable reason, suspicion, or justification to lawfully demand I submit to a frisk;

As every officer knows, Terry v. Ohio frisk authority is generally not automatic following a stop based on reasonable suspicion, except for stops for types of crimes where a person is likely to be armed, such as armed robbery or assault with a weapon. Beyond that, officers must support frisks in their reports with a description of articulable objective facts. Such justification is highly fact-based, depending on the totality of the circumstances, taking into account not only the seriousness of the crime and the officer's experience and training, but also a variety of other things. Such justification should recount such things as: suspicious bulge in suspect's clothing consistent with presence of a weapon; poor lighting; suspect's bulky clothing; suspect's criminal record; intelligence about danger specific to the particular suspect; suspect's sudden move toward a pocket or area; suspect's awkward movements as if trying to hide something; suspect's erratic and/or aggressive words or other behavior; officer's need to transport the suspect; officer's need to do something else that will make the officer vulnerable to attack from the suspect; suspect's failure initially to

stop vehicle or otherwise heed the officer's request to stop; presence of an empty holster or knife sheath or knife or gun; officer's arrest of suspect's companion; lone officer outnumbered by potentially hostile persons; and other facts bearing on the assessment of danger.

██████████ did not have a lawful reason to stop or seize me. And by his own admission he had no reason to frisk me. I was on a city right of way with a lawful purpose. I WAS cooperative with his request to "disarm" myself from the snowball, and I was not otherwise aggressive or threatening. ██████████ and ██████████ both stated they had "tunnel vision" which can be caused by intense anger from a surge of adrenaline and oxygen which could also trigger their aggressiveness and over reaction.

I could NOT obstruct an officer who was not "in the discharge of his or her official powers or duties." He was not in the discharge of his official powers or duties because he had overstepped his authority in the stop and demand for the frisk.

I did not resist arrest because that requires I intentionally prevent or attempt to prevent a peace officer from lawfully arresting me. I was never lawfully placed under arrest, therefore I could not intentionally prevent an arrest.

I was guilty of "POP" or Pissing off the Police. I did not submit to his unlawful demand to submit to a frisk. He overreacted with anger and intimidation. When that did not work he further overreacted by going hands on. ██████████ and ██████████ both stated they had "tunnel vision" which can be caused by intense anger from a surge of adrenaline and oxygen which could also trigger their aggressiveness and over reaction.

#3)

The discrepancies in my compelled statement and the officers at the scene are only one part of this incident. There are numerous and substantial discrepancies within the officers and citizen's recollections and statements in relation to their actions and perceptions. In fact there are outright contradictions. This "tunnel vision" they experienced could explain some of their discrepancies.

There are differences in the officers reports and the interviews of those same officers conducted by Lt. ROSE.

Remember the arena incident. Remember the discrepancies in that case. Those discrepancies were resolved through a complete and thorough investigation and interview process. But taken on their own they did not put our deputies in good light.

I take exception that the discrepancies are characterized or automatically assumed to be my failure to respond fully in a truthful manner.

Everything I wrote in the compelled statement and everything I have written in this Loudermill response is 100% the truth. I have not lied, misstated, misled or in any other way failed to respond in any way but a truthful manner.

I don't understand Lt. ROSE's following assertions. They have already been asked and answered previously in this LOUDERMILL.

Paragraph #1

This is exactly my assertion.

Paragraph #2

[REDACTED] is wrong.

Paragraph #3

[REDACTED] car was a block away and slightly cocked nose pointed south,(towards me). I did not have a clear view of the side of the car. Also, understand the car was covered in road grime due to the weather. I didn't see any stickers or markings.

Paragraph #4

I don't keep up on what car BLAIR is currently driving. I only knew last I saw he was driving a white Taurus.

Paragraph #5

[REDACTED] is wrong.

Paragraph #6

This is exactly my assertion.

Paragraph #7

Be very clear about this; At no time ever before and not until after I was transported to the SPD chief's conference room was I ever advised I was under arrest for anything.

[REDACTED] without justification wrongfully ordered me to submit to a search. I declined. I told [REDACTED] I had ID before I reached into my pocket. HE didn't grab my RIGHT arm until after it was out of my pocket and I was holding my ID. [REDACTED] grabbed my LEFT arm.

Paragraph #8

██████████ did NOT see and hear a lot of things a competent authority should have. He also did not say or communicate a lot of things he should have.

Paragraph #9

██████████ is wrong. He grabbed my left arm not my right arm. The ID was in my right hand. It was removed from my right hand by ██████████ and thrown in the street by ██████████. It did not fall from my jacket pocket.

He did not give me any verbal commands ever. I never heard his voice. His statement originally was that I was struggling so violently that I was throwing him around. Yet in the interview he recanted and said that may have been "too strong" a description.

Paragraph #10

I submit the complainant heard ██████████ tell me to turn around and place my hands on my head so he could search me since ██████████ NEVER told me I was under arrest or to put my hands behind my back.

Comp was 70 to 90 feet away, and was also behind me. I didn't thrust my chest out. I didn't pull my arms away. I DID only maintain my balance. We did not move more than one foot from our original contact position.

The complainant is not a very good witness or was not interviewed very well.

From 70 to 90 feet how much conversational tone could she hear? Why are her perceptions held as absolute truths? She could not have heard ██████████ tell me 5 times I was under arrest because he did not. Not even ██████████ or ██████████ wrote he told me five times...

I never swore, I never said "fucking". I never said "ass". I submit if she heard anyone say "fucking" it was ██████████ saying "I'll fucking tase you." Although I do not recall him saying such.

Paragraph #11

This is exactly my assertion.

Paragraph #12

Again, I put my hands up in a submissive gesture, not a challenge for him to shoot me.

Paragraph #13

██████████ and the complainant are wrong. ██████████ writes he acknowledges my statement I had ID.

I was cooperative that I "disarmed" myself from the snowball. I was uncooperative in that I refused to waive my constitutional rights and submit to an unlawful search.

[REDACTED] may have said 5 times for me to get on the cold wet snowy ground. Each time I asked him to look at my ID now in the street. NEVER did he advise I was under arrest. The only directives were to lay in the cold wet street.

Paragraph #14

I don't know where the back up officers were when I complied by laying prone on the wet snow because my hood was over my head and I couldn't see anything. I did feel moments after I was prone [REDACTED] knee me in the back of the neck. (I know it was him not because I saw him but because he was searching and cuffing and I saw him when he helped me up and it was the same voice.

Paragraph #15

You are incorrect. The only time I swore was when [REDACTED] kneed me in the neck and wrenched my arm up and I yelled Jesus Christ, look at my ID.

Paragraph #16

That is not exactly correct. I never identified myself as a deputy sheriff but I did yell for anybody to look at my ID. I did say each time, you're making a big mistake, look at my ID.

Paragraph #17

This is exactly my assertion.

Paragraph #18

I don't know who searched me and found what since I was face down in the snow and ice and my head was covered.
I did say the ID was mine, I ever said my name was PATRICK BUNCH when they asked. She lifted my hood up before the search and put it back down after speaking and left to speak to other officers. This was after the search, not during.

Paragraph #18

This is exactly my assertion.

Paragraph #19

DRAPER is incorrect. The only thing he said that could be remotely construed as such was his statement he meant to be intimidating "You're this close to going to jail for obstructing"
The complainant is incorrect.

██████████ and ██████████ are incorrect, I never heard and I maintain I was never advised I was under arrest at any time prior to Chief NICKS.

I ask you to think about it. From the very beginning I maintain such. I said such to Chief NICKS. WHY? Because I never heard anyone ever advise me I was under arrest or what I was being charged with.

██████████ did NOT remind me of anything at the Chief's office. AFTER NICKS advised me of the charges then and only then did she advise me that I "had a right to an attorney" fulfilling another requirement of a lawful arrest that had previously been omitted.

The initial contact with ██████████ until he went hands on with me was in my estimation less than one minute. The reports would lead one to believe this was a prolonged event where he used many and varied communication tools to gain my compliance. It was not. I asserted my right not to submit to a search and it angered him and his further actions demonstrated his emotional distress.

I think it is important for you as the Sheriff to consider the actions of ██████████ Place anyone of your deputies in ██████████ place. Any citizen in my place complains to you for unlawful arrest, use of force, and violations of civil rights.

Would you, could you, defend and justify his actions as lawful and correct? Would you investigate him for the numerous policy violations?

I remember a similar incident with Deputy ██████████ and the discipline he received for his wrongful arrest. He went hands on and violated case law much like ██████████

As for my arrest, How many times have our officers made arrests that have later resulted in the sergeants, detectives, or prosecutors un arresting, dropping, or dismissing the charges? My case was dismissed by the city prosecutor prior to my scheduled first appearance. I am confident it would have been dismissed otherwise at first appearance. My point is often times arrests are made on what is believed probable cause, but upon closer scrutiny the "arrest" is not prosecutable, such as in this case.

I truly regret all the controversy and negative light my actions have placed upon the Office of the Sheriff, my family and myself. For that I am truly sorry and apologize.

CITIZEN COMPLAINT

IA #: 09-0014

COMPLAINANT: Internal

MEMBER INVOLVED: Sgt. Pete Bunch

COMPLAINT: Failure to submit to orders from Competent Authority/ Criminal Arrest

By: Lt. Bill Rose

Date: 03/27/09

On 03/26/09 I was advised by Sheriff Knezovich that the DSA believed Sgt. Bunch should have been given an oral interview. He asked that I proceed with conducting such an interview. Sgt. Bunch's Loudermill response was due on 03/27/07. Sheriff Knezovich told me he would make the DSA aware that we would be conducting an interview per their request.

On 03/27/09 at approximately 1200 hours Sgt. Bunch came to the OPS office to turn in his Loudermill. I advised him that I did not expect his response due to the requested oral interview that had been scheduled for Monday 03/30/09 at 0930. Sgt. Bunch told me that he really only wanted the chance to respond to any questions that arose due to his Loudermill response. He was not asking for the type of interview I was preparing for. I told him it sounded like he was looking for the hearing the Sheriff would have after he read the case file and Loudermill response. He told me that either way he would be here at 0930 Monday. He asked that I read his response and see if I had any direct questions in regard to it.

I contacted Sheriff Knezovich at 1230 hours. I explained what Sgt. Bunch had told me. He decided that we could dispense with the scheduled interview and he would begin reviewing the case file and Loudermill response. I was not able to advise Sgt. Bunch of the change due to him going home early.