



SPOKANE POLICE DEPARTMENT

Patrick M. Dobrow
Interim Chief of Police



Internal Affairs Exemption Log

Number	Material Withheld	Brief Explanation of Why Material Withheld	Legal / Statutory Basis
Witness Exemptions			
#1a	<u>Name / Identity</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
#1b	<u>Date of birth</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
#1c	<u>Personal home, work or cell phone number</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
#1d	<u>Residential address</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
#1e	<u>E-mail address</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
Juvenile Information			
#2a	Names of Juveniles who are in the Juvenile court system	Redacted to protect the personal information of a juvenile in the court system. May not be released to the public except by court order.	RCW 13.50.050 (Juvenile Courts and Juvenile Offenders) and RCW 13.50.100 (4) (a) and (b) (Keeping and Release of Records by Juvenile Justice or Care Agencies). <i>Deer v. DSHS, 122 Wn.App. 84, 94 (2004)</i>
#2b	Records relating to commission of Juvenile offenses.	Redacted to protect the personal information of a juvenile in the court system. May not be released to the	RCW 13.50.050 (Juvenile Courts and Juvenile Offenders) and RCW

		public except by court order.	13.50.100 (4) (a) and (b) (Keeping and Release of Records by Juvenile Justice or Care Agencies). <i>Deer v. DSHS, 122 Wn.App. 84, 94 (2004)</i>
#2c	Child Victim of Sexual Assault	This redaction protects information revealing the identity (name, address, location, or photograph) of child victims of sexual assault who are under age eighteen.	RCW 42.56.240(5) (Investigative, law enforcement, and crime victims)
#2d	Child victims or child witnesses	Information re a child witness / victim is protected to assure the rights under law: to not have name, address, nor photograph disclosed by any law enforcement agency w/o permission of the child or parents/guardians.	RCW 42.56.240(5) (Investigative, law enforcement, and crime victims)
ACCESS Database Info			
#3a	Information from WACIC/NCIC (ACCESS): <u>Criminal history information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3b	Information from WACIC/NCIC (ACCESS): <u>License Plate Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3c	Information from WACIC/NCIC (ACCESS): <u>Vehicle Registered owner information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3d	Information from WACIC/NCIC (ACCESS): <u>Wanted persons information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3e	Information from WACIC/NCIC (ACCESS): <u>Officer safety information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3f	Information from	WACIC/NCIC/III - information from	28 USC § 534 For criminal

	WACIC/NCIC (ACCESS): <u>Gun information</u>	ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3g	Information from WACIC/NCIC (ACCESS): <u>DOL Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3h	Information from WACIC/NCIC (ACCESS): <u>Stolen Vehicle Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3i	Information from WACIC/NCIC (ACCESS): <u>Missing Persons Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3j	Information from WACIC/NCIC (ACCESS): <u>Runaways or endangered persons</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3k	WACIC/NCIC (ACCESS): <u>DOC Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3L	WACIC/NCIC (ACCESS): <u>Stolen Property</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3m	WACIC/NCIC (ACCESS): <u>Court Orders</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
Personal Identifiers and Financial			

Info			
#4a	Social Security Number	This information constitutes personal identifying information unique to the holder and which, if obtained by the public could be abused or lead to identity theft.	RCW 42.56.050 (Invasion of privacy), RCW 42.56.230 (Personal information), 42.56.250(3)(8) (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt), 42 USC § 405(c)(2)(viii)(I) (Limits on Use and Disclosure of Social Security Numbers)
#4b	Driver's License or Identocard	This information constitutes personal identifying information unique to the holder and which, if obtained by the public could be abused or lead to identity theft.	18 USC § 2721 (Prohibition On Release And Use Of Certain Personal Information From State Motor Vehicle Records); RCW 42.56.050 (Invasion of privacy), RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
#4c	Credit/Debit Card Numbers	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
#4d	Electronic Check/Check Numbers	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
#4e	Card Expiration Dates	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
#4f	Bank Account Number	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
#4g	Financial Institution Account Number	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
Employees Files			
#5a	Photos of Spokane Police Department or other criminal justice employees	Photographs in the personnel files of employees and workers of criminal justice agencies as defined in RCW 10.97.030 are protected from disclosure for their safety and privacy.	RCW 42.56.250(8) (Employment and licensing)
#5b	Birthdates of criminal justice employees	Birthdates in the personnel files of employees and workers of criminal	RCW 42.56.250(8) (Employment and


		justice agencies as defined in RCW 10.97.030 are protected from disclosure for their safety and privacy.	licensing)
#5c	Personal Information in employee files	Personal information in files maintained for employees, appointees, or elected officials of any public agency is protected to the extent that disclosure would violate their right to privacy.	RCW 42.56.230(3) (Personal information), RCW 42.56.250(3) (Employment and licensing)
#5d	Employee training files	Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination	RCW 42.56.250(1).
Criminal History			
#6a	Criminal history <u>not</u> from ACCESS- Non-Conviction Data	Criminal history which has not led to a conviction or other adverse disposition is protected by state law and only released to Criminal Justice Agencies for law enforcement purposes.	RCW 10.97 (Criminal Procedure)
Officer Safety or Intelligence			
#7a	Intelligence, sensitive security, or tactical information	Record includes sensitive intelligence, security or tactical information the non-disclosure of which is essential to effective law enforcement.	RCW 42.56.240(1) (Investigative, law enforcement, and crime victims)
#7b	Undercover Officer identification	Contains information which could reveal the identity of an undercover officer, who undertakes ongoing dangerous / confidential undertakings to effect law enforcement purposes. Protected to preserve the life and personal safety of officer and family.	RCW 42.56.240(1) Specific intelligence information the nondisclosure of which is essential to effective law enforcement.
#7c	ID Records revealing covert law enforcement activity	Any record pertaining to a vehicle license plate, driver's license, or identocard revealing the identity of an individual performing undercover law enforcement, confidential public health work, public assistance fraud, or child support investigative activity.	RCW 42.56.230(7)(c) (Personal Information)
#7d	Law Enforcement Information Sheet	Contains confidential data used for law enforcement purposes. Disclosure has no legitimate value to the public and can endanger an individual's safety. Contains specific intelligence information the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.	RCW 42.56.240(1) (Investigative, law enforcement, and crime victims)
#7e	Confidential Informant information	Contains identifying information which could reveal the identity of a confidential informant. Considered intelligence information, used in a	RCW 42.56.240(1) (Investigative, law enforcement, and crime victims).

		confidential manner for law enforcement purposes, protected to preserve the life and personal safety of the informant and family. Specific intelligence information compiled by law enforcement, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.	Ashley v. Public Disclosure <i>Comm'n</i> , 16 <i>Wn.App.</i> 830, 836 (1977).
Photos			
#8a	Photos showing a deceased person	Disclosure would violate a person's right to privacy, and be highly offensive to a reasonable person.	RCW 42.56.050 (Invasion of privacy) RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
#8b	Photos showing highly sensitive material	Disclosure would violate a person's right to privacy, and be highly offensive to a reasonable person.	RCW 42.56.050 (Invasion of privacy) RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
#8c	Photo Montages	Disclosure would violate a person's right to privacy, and be highly offensive to a reasonable person.	RCW 42.56.050 (Invasion of privacy) RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
Protected by Law			
#9	Medical Records	Medical records consist of confidential and privileged information highly personal and restricted. The disclosure of medical records is regulated by state and federal law and not public information. Right to Privacy: Disclosure would be highly offensive to a reasonable person.	RCW 42.56.360 (Health care), 70.02.005 (Findings) and HIPPA (45 CFR 164.502). RCW 42.56.050 (Invasion of privacy) RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
#10a	Jail records	This redaction contains the records of a person confined in jail and is being protected pursuant to state law, as this information is only available to criminal justice agencies as defined in RCW 43.43.705.	RCW 70.48.100 (Jail register)
#10b	Jail booking photos	This redaction contains the records of a person confined in jail and is being protected pursuant to state law, as	RCW 70.48.100 (Jail register)

		this information is only available to criminal justice agencies as defined in RCW 43.43.705.	
#11	Autopsies, postmortems	Reports and records of autopsies or postmortems are confidential and exempt from public disclosure, but certain officials with authority to examine and obtain copies of such reports may access.	RCW 68.50.105 (Autopsies, postmortems – Reports and records confidential)
#12	Confidential Attorney Client Communications	This redaction protects confidential communications between an attorney and his/her client.	RCW 5.60.060(2)(a) (Privileged communications) <i>Hangartner v. Seattle</i> , 151 Wn.2d 439 (2004).
#13a	<u>Name/Identity</u> of accused police officers	This redaction protects names/identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#13b	<u>Date of birth</u> of accused police officers	This redaction protects the identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#13c	<u>Personal work, home, or cell phone number</u> of accused police officers	This redaction protects the identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#13d	<u>Residential address</u> of accused police officers	This redaction protects the identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#13e	<u>E-mail address</u> of accused police officers	This redaction protects the identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#14	Information concerning Mental Health Services	This redaction contains confidential information concerning services to either voluntary or involuntary recipients of mental health services. Such information, if disclosed, would invade an individual's privacy and possibly cause unintended consequences for that individual.	RCW 71.05.390 (Confidential information and records)



Spokane Police Department S.P.D. Internal Complaint Report

-  [Print](#) this incident.

Incident Entered By: Sergeant David Staben
Assigned Investigator: Sergeant David Staben

Incident Details

Date Received	Date of Occurrence	Time of Occurrence
7/14/2015	7/14/2015	21:00
Record ID #	Incident No	IA No
8906	15-241039	C15-064
Date/Time Entered		
7/15/2015 07:03		

Incident Summary

Officer Yen was arrested for First Degree Burglary DV. see attached reports.

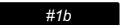
This allegation was found to be sustained per Chief Dobrow 02/11/16.

Incident Location

-  #1d

Reporting/Involved Citizen Information

 #1a

DOB:  #1b Race: White Gender: Female

Address

-  #1d

Phone

-  #1c

Involved Officers

Officer John Yen - Payroll Number:  #5c

Allegations linked to this officer

- Conduct Unbecoming Sustained 2/11/2016

Officer Witnesses

Officer Chan Erdman - Payroll Number: #5c

Officer Mario Juarez - Payroll Number: #5c

Officer Jeremy McVay - Payroll Number: #5c

Sergeant Richard Meyer - Payroll Number: #5c

Lieutenant Joseph Walker - Payroll Number: #5c

Attachments

Date Attached	Attachment Description	Attachment Type
7/15/2015	CAD and Officer Reports	pdf
7/23/2015	Kakuda Interview	wav
7/23/2015	IA additional #1	doc
10/21/2015	body camera video Yen interview	
10/21/2015	Body cam McVay	
10/21/2015	Body cam Hamilton	
10/22/2015	body cam McVay pre arrest	
10/23/2015	Walker Interview	MP3
10/26/2015	Phelps message	pdf
11/5/2015	Hamilton Interview	wav
11/23/2015	McVay Interview Transcript	doc
11/23/2015	Meyer Interview Transcript	doc
11/23/2015	Walker Interview Transcript	doc
11/23/2015	Yen Interview Transcript	doc
11/24/2015	Meyer interview	MP3
11/24/2015	Officer McVay interview	wav
11/24/2015	Officer Juarez interview	wav
11/24/2015	Cpl Daniel Interview	wav
11/24/2015	Officer Erdman interview	wav
11/24/2015	Officer Yen interview (1)	MP3
11/24/2015	Officer Yen interview (2)	MP3
11/24/2015	Yen rights	doc
11/24/2015	IA additional 2	doc
11/24/2015	Juarez Interview Transcript	doc
11/24/2015	witness officer rights	pdf
11/25/2015	IA Summary Yen	doc
12/1/2015	Daniel Interview Transcript	doc
12/1/2015	Erdman Interview Transcript	doc
12/2/2015	Hamilton Interview Transcript	doc
12/18/2015	all documents on file with the court	pdf
12/18/2015	Hamilton addional	pdf
12/18/2015	Lincoln county response in request for all documents	pdf
1/22/2016	ARP	pdf
2/11/2016	Finding Letter	docx
2/17/2016	Chief Dobrow Finding and Sanction Email	pdf
2/17/2016	Loudermill Hearing Notice	pdf

Chain of Command History

Sent Dt	From	To	CC	Approved
7/15/2015	Sergeant David Staben	Major Justin Lundgren	Director Timothy Schwering, Chief Patrick Dobrow, Chief Frank Straub, Captain David Richards,	<input checked="" type="checkbox"/>

			Lieutenant Joseph Walker	
Sender's Instructions: An IA investigation has been initiated reference the arrest of Officer Yen.				
Recipient's Comments/Response: IA to investigate				
7/22/2015	Major Justin Lundgren	Sergeant David Staben	(none)	<input type="checkbox"/>
Sender's Instructions: IA to investigate				
Recipient's Comments/Response: Routing was NOT handled in BlueTeam. The incident was forwarded into IAPro by IAPro user Sergeant David Staben				
7/27/2015	Sergeant David Staben	Sergeant David Staben	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: Yen complaint				
Recipient's Comments/Response: [Forwarded by Sergeant David Staben without completion notes]				
11/25/2015	Sergeant David Staben	Major Justin Lundgren	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: For your review				
Recipient's Comments/Response: Completed investigation.				
12/3/2015	Major Justin Lundgren	Sergeant David Staben	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: Dave, Please forward this investigation to Captain Richards' ARP for analysis. I concur with Sgt. Staben's assessment of this incident. After a thorough review of the facts of this case, I do not find the elements of First Degree Burglary satisfied. However, Officer Yen did enter into a plea agreement whereby he admitted to Trespassing. Any adverse criminal finding by a member is a serious violation of policy and should be analyzed by ARP. Justin				
Recipient's Comments/Response: [Forwarded by Sergeant David Staben]				
12/4/2015	Sergeant David Staben	Captain David Richards	Lieutenant David McCabe, Lieutenant Kevin King, Captain Thomas Hendren	<input checked="" type="checkbox"/>
Sender's Instructions: This is a new case in your ARP POD. I will be placing the files in your folder				
Recipient's Comments/Response: This ARP review is being assigned to Lt. King who is next up in the rotation. Thanks				
12/4/2015	Captain David Richards	Lieutenant Kevin King	Asst Chief Craig Meidl, Lieutenant David McCabe, Captain Thomas Hendren, Sergeant David Staben	<input checked="" type="checkbox"/>
Sender's Instructions: This is being assigned to Lt. King for the ARP review as he is next up in the rotation. Thanks				
Recipient's Comments/Response: ARP completed and attached. Any delays were due to the holidays and the request for additional material.				
1/22/2016	Lieutenant Kevin King	Internal Affairs	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: ARP completed and signed. Attached				
Recipient's Comments/Response: [Forwarded by Sergeant David Staben]				
1/22/2016	Sergeant David Staben	Lieutenant Steven Braun	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: This is a completed ARP				
Recipient's Comments/Response: [Forwarded by Lieutenant Steven Braun]				
1/22/2016	Lieutenant Steven Braun	Asst Chief Craig Meidl	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: A/C Meidl,				
Recipient's Comments/Response: A Loudermill hearing has been scheduled for Ofc Yen. The results of that Loudermill will be forwarded to the Office of Professional Accountability upon final determination of discipline by Chief Dobrow.				

2/9/2016	Ms Michelle Reiner	Sergeant David Staben	(none)	<input checked="" type="checkbox"/>
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Sender's Instructions: Please attach final documentation.

Recipient's Comments/Response: [Forward to IAPro by Sergeant David Staben without completion notes]

Assigned Investigator Signature Line

Sergeant David Staben

Chain of Command Signature Lines

Major Justin Lundgren

Sergeant David Staben

Captain David Richards

Lieutenant Kevin King

Lieutenant Steven Braun

Asst Chief Craig Meidl



SPOKANE POLICE DIVISION
INTERIM CHIEF OF POLICE
PATRICK M. DOBROW

***Internal Affairs Investigation
Case Finding Notice***

To: Officer John Yen #1169

Date: 02/11/16

From: Chief Rick Dobrow # 403

IA Number: C15-064

An internal review has been concluded concerning certain allegations of misconduct. These allegations stem from an incident that occurred on:

Date: 07/14/15

Report Number: 15-241039

Complainant: [REDACTED] #1a

Location: Spokane

Allegation #1: Conduct Unbecoming Standards 4.4, 4.8 4.9

Investigator: Sgt. Staben #592

Finding: Allegation #1 **Sustained**

Sanction: 5 day Suspension. 2 days accrued time may be forfeited. 5x10.67

Narrative: None.

Chief Rick Dobrow #403

This case file will be maintained in the Internal Affairs files and available for your review. In the event of an "Improper Conduct" finding, a copy of any disciplinary report will become a part of your personnel file.





SPOKANE POLICE DIVISION
INTERIM CHIEF OF POLICE
PATRICK M. DOBROW

Loudermill Hearing Notice

January 25, 2016

Officer John Yen
Spokane Police Department

RE: Internal Affairs Investigation # C15-064

Officer Yen, you have been accused of violating Spokane Police Department Policies.

Allegations 1: Conduct Unbecoming SUSTAINED

Standard 4.4:

Members of the Spokane Police Department shall maintain a level of conduct in their personal and business affairs in keeping with the high standards of the Spokane Police Department.

Standard 4.9:

Members of the Spokane Police Department shall at all times conduct themselves in a manner which does not discredit the law enforcement profession or the Spokane Police Department.

Allegation 2: Criminal Law violation SUSTAINED

Standard 4.8:

Members of the Spokane Police Department shall not engage in any activity which would create a conflict of interest or would be in violation of any law.

An Internal Affairs investigation was conducted and an administrative review panel completed a review and sustained these allegations. Pursuant to City policy, you have the right to respond to these listed violations. I would like to afford you the opportunity to present your case to me in a Loudermill Hearing prior to making a decision regarding these allegations.



I have scheduled this hearing to begin at **3:00pm on Tuesday, February 9, 2016**, in the Chief's Conference room. If you do not wish to attend this hearing, please contact Angie Napolitano at 625-4063. During the hearing you may convey any reasons or provide any information you feel is relevant to this matter. You have the right to representation by your union, co-worker, or an attorney at your expense. You may bring pertinent documentation and/or witnesses. Witnesses must have permission from their supervisors prior to attending the hearing. If you need additional time to prepare your presentation or to arrange for representation, please let me know.

Sincerely,



Rick Dobrow, Interim Chief of Police

1/25/16

Date

I hereby acknowledge receipt of notification:



Signature of Employee

01/28/16

Date and Time of Receipt

(NOTE: If there is a delay in conducting this hearing for any reason, that reason should be noted by the department. Once a new date, time and location have been determined, please make note of that change above.)

Original: Human Resources
Copy: Department
Copy: Appropriate Representative



SPOKANE POLICE DEPARTMENT



MEMORANDUM

CONFIDENTIAL – ADMINISTRATIVE REVIEW PANEL

I.A. # C15-064

Incident #15-241039

COMPLAINT: Conduct Unbecoming of an Officer/Criminal Charges

COMPLAINANT: [REDACTED] #1a, Spokane Police Department
OCCURRED: July 14th, 2015 / 2100
LOCATION: [REDACTED] #1d
EMPLOYEE: Officer John Yen #1169

On 1/18 /2016, an Administrative Review Panel was held to discuss this case. Present were:

- Captain Dave Richards
- Lieutenant Kevin King (Author)

- Captain Tom Hendren
- Lieutenant Dave McCabe

SUMMARY AND COMPLAINT

On July 14th, 2015, at approximately 2100, off duty Spokane Police Officer John Yen was involved in an argument with his then girlfriend, [REDACTED] #1a, [REDACTED] #1a is a [REDACTED] #1c [REDACTED] #1c. This argument started in Officer Yen’s vehicle while in route to [REDACTED] #1a residence, and then continued outside and inside the residence until Spokane Police Officers arrived.

Two witnesses, Waring and [REDACTED] #2d reported the incident to the police. Spokane Police Officers Jeremy McVay, Craig Hamilton, Maurio Juarez, and Chan Erdman arrived and investigated. Corporal Daniel was also present. SPD Sgt. Rich Meyers and Lt. Joe Walker responded as supervisors.

Sgt. Meyers and Lt. Walker consulted Spokane County Prosecutor Larry Haskell about the incident before making a charging determination. Officers arrested John Yen on the charge of First Degree Burglary. A Lincoln County Prosecutor was brought in as a Special Spokane County Deputy Prosecutor. Officer Yen plead guilty to a reduced charge of Second Degree Criminal Trespass.

The complaint is Conduct Unbecoming of an Officer with a criminal charge of Second Degree Trespassing. This falls under Canon Four: Standards 4.4, 4.8, and 4.9.

CANON FOUR

Members of the Spokane Police Department will so conduct their public and private lives that they exemplify the high standards of integrity, trust, and morality demanded of a member of the Spokane Police Department.

Standard 4.4:

Members of the Spokane Police Department shall maintain a level of conduct in their personal and business affairs in keeping with the high standards of the Spokane Police Department.

Standard 4.8:

Members of the Spokane Police Department shall not engage in any activity which would create a conflict of interest or would be in violation of any law.

Standard 4.9:

Members of the Spokane Police Department shall at all times conduct themselves in a manner which does not discredit the law enforcement profession or the Spokane Police Department.

FACT PATTERN

Witness/Complainants Waring and #2d

Waring and #2d were interviewed together by Officer Hamilton. That evening, they were together in Grant Park, across from the residence. They were approximately 100+ yards away from the residence when they witnessed Yen pull up in front of the house onto the sidewalk at a "very high rate of speed." They stated that Yen jumped out of his truck and appeared very upset, running after #1a to the front door. According to them, #1a repeatedly told Yen to leave, but he did not. They stated #1a had her arms extended as if to ward off Yen. They said #1a then went into the house, slamming the door behind her. Both initially said that Yen forced his way in, then corrected their statement, admitting they could not tell how he got in. They stated they could continue to hear arguing from inside. #2d said she could also see both continue to argue in an animated fashion from the windows of the house.

In viewing Officer Hamilton's body camera, both are obviously extremely distressed and concerned about what they witnessed.

#1a

Officer McVay's report

#1a gave a statement to Officer McVay. The first part of the interview was not recorded on Officer McVay's body camera.

In Officer McVay's report, #1a states that she and Yen have been dating for approximately 3 months. She states that she and Yen attended Escape. #1a states that Yen saw another male looking down her shirt at her breasts and he became angry with her about this, calling her a slut. #1a states they argued throughout the drive back to her residence. #1a states that when they arrived at her residence, she told Yen to leave. She states that she went into her house and either closed the door or was closing it when Yen forced open the door strong enough to strike the furniture behind it very hard.

She states that Yen was yelling at her and she backed into the kitchen. She states that Yen was yelling within an inch of her face. #1a states that the combination of Yen's forcing the door open and yelling in her face caused her concern for her own safety, so she pushed him back away from her with two hands on his chest. She states that she then went upstairs to her room and locked the door. #1a states that Yen followed her upstairs and that they continued to argue until the police arrived.

Officer McVay notes in his report that #1a repeats through the interview that she does not want to get Yen into trouble and that she is purposefully vague with her answers. This is also evident on the body camera footage of the interview.

In Officer McVay's report, he quotes #1a as stating that Yen had only stayed there 10 times, and doesn't live there. However, on Officer McVay's body camera, when asked about how many times Yen has stayed there, #1a clearly answers about 30 times. Officer McVay appears to record this in his notebook. This information is not relayed to Sgt. Meyer or Lt. Walker. Officer McVay, just prior to this second interview with #1a, states that he does not agree with Sgt. Meyer and Lt. Walker's decision to arrest Yen for First Degree Burglary.

#1a does state a couple of times that she and Yen argue frequently and that he has an "anger problem."

Through her attorney, #1a declined to be interviewed by IA.

Officer Yen

On 102915, Sgt. Staben interviewed Officer John Yen. Yen stated that he and #1a were arguing in his vehicle while driving to #1a residence. When they arrived back at #1a residence, he followed her to the porch. He states #1a put in a door code on the lock and went in. Yen states he tried to follow her in and she tried to shut the door on him, but his foot was in the door. Yen said he was surprised by her shutting the door on him. Yen said #1a

pushed him out of the doorway and closed the door and he immediately opened it. He said that #1a had moved further into the house and ultimately went into the kitchen to get some water. He said he continued the argument and got into her personal space. He said he was angry and yelling. Yens states that #1a slapped him while in the kitchen. He said she went into the bedroom and locked the door and they continued to argue. Yen said she told him to leave many times. They continued to argue through the door until police arrived. Yen said he went out and sat on the front porch with Officer Juarez.

When discussing the subject of establishing residency, Yen said that he has stayed over at #1a house many times. He said that he buys groceries for the house at times and that he does house cleaning. Yen said he knows the door code and had checked on the house when #1a is gone. He said that #1a has stayed at his residence.

Sgt. Staben asked Yen if he was asked these questions of residency the night of his arrest. He said he was only asked if he received his mail there and had keys. This is consistent with what Sgt. Meyer and Lt. Walker have said in reference to the facts they relied on for the question of residency.

On Officer Juarez's body camera, Yen states that he cleaned the kitchen as he apologizes for the messy house. (2:45) At one point he tells Officer Erdman that there is no one else in the house and that he would appreciate if he didn't walk around (3:05). At 5:05 Yen asks for the camera to be turned off.

Officer Juarez

Officer Juarez conducted a cursory interview with Yen. Yen advises Officer Juarez soon after contact that he is armed.

Yen states nothing physical happened and that nothing was broken. Yen states that he stays there regularly and has clothing and toiletries at #1a residence. When asked about a key, Yen states that the door lock is a combination code.

During the interview, Yen requests of Officer Juarez to turn off his body camera, which he obliges. Earlier, Yen requests officers to discontinue searching the house, stating that only he and #1a were present.

Corporal Daniel

Corporal Daniel had no pertinent information.

Officer Erdman

Officer Erdman stood by with #1a during both interviews that Officer McVay conducted. Officer Erdman states in his IA interview that he believed that Yen did not have residency

standing. He relies partially on personal knowledge of #1a and her residence. Officer Erdman's perception was that #1a was trying to minimize the incident, mainly by giving vague answers to specific questions.

Officer Hamilton:

Officer Hamilton interviewed witnesses Waring and #2d who reported the incident to 911. These interviews are on body camera. Officer Hamilton did not talk to Yen or #1a. In his IA interview, he did say that he believed the probable cause was weak, however he thought there was cause to arrest Yen.

Sgt. Rich Meyer & Lt. Joe Walker:

Neither Sgt. Meyer nor Lt. Walker spoke to any of the participants of this incident during the investigation. Sgt. Meyer states that Officer McVay briefed the two of them. Based on the seriousness of the incident, Sgt. Meyer called Spokane County Prosecutor Larry Haskell. Sgt. Meyer relayed the information that Officer McVay provided. Sgt. Meyer intentionally left out the identities of Yen and #1a. Mr. Haskell determined that the crime of First Degree Burglary had been committed by Officer Yen. Sgt. Meyer then did make Mr. Haskell aware of the participant's identities.

Lt. Walker stated that he notified the DSO, Captain Richards, of the incident and the First Degree Burglary charge. Lt. Walker did not have any other pertinent information.

Additional information of note: In his IA interview, Sgt. Meyer was asked about his past dealings with Officer Yen. Sgt. Meyer spoke of a past Domestic Violence call they responded on together where Officer Yen was failing to take action and he had to order him to do so. Sgt. Meyer also notes during this incident, after Officer Yen was arrested, he asked him about consent to move his truck so it would not have to be towed. Officer Yen's reply was, "Well, I'll give you...I'll give you permission to move my car, if you give me my phone out of my car" (A direct quote by Sgt. Meyer who is recounting Officer Yen's response.)

Special Deputy (Lincoln County) Prosecuting Attorney Jeffrey Barkdull:

Because this incident involved an employee of the Prosecutors Office and a Spokane Police Officer, Lincoln County Prosecutor Jeffrey Barkdull was brought in as a Special Deputy Prosecuting Attorney for Spokane County. Multiple attempts were made by IA to obtain documentation from Barkdull regarding the decision to reduce the charges from First Degree Burglary to Second Degree Criminal Trespass. IA was referred to the Superior Court documents by Barkdull's administrative assistant. These do not include that information. Officer Yen did sign a guilty plea agreement to Second Degree Criminal Trespass on October 8th, 2015.

ANALYSIS

In his investigate report and interviews, Sgt. Staben put much effort and time into whether there was in fact probable cause to arrest Officer Yen for First Degree Burglary. It is clear to this author that there were some issues with the investigation. Most notable is the poor communication between the investigating officers and supervisors on scene. It is clear that at least one pertinent statement was not relayed to Sgt. Meyer and Lt. Walker. However, based on their IA statements, it does not appear that this would have had an impact on the decision made that night.

Facts that support the complaint are:

Officer Yen's behavior while in public caused such concern that a 911 call was placed. While being in an argument is certainly not a violation of policy, the manner in which one conducts themselves in view of the public while in an argument certainly can be. Here, Officer Yen quickly drove up to the front of the house and parked on the sidewalk. The yelling by him and #1a caught the attention of the two witnesses, Warring and #2d. Both were concerned by Officer Yen's behavior, the driving, yelling, ignoring #1a demand to leave, some manner of forcing the front door open, and continued yelling inside that they both believe it warranted an immediate call to 911. Both appeared visibly shaken and concerned by what they had witnessed.

Once contacted by Officers, Officer Yen makes multiple attempts to control their actions. When Officers McVay and Erdman entered the residence, he makes two attempts to limit the scope of where they could go. Officer Yen also suddenly enters the residence and goes to the base of the stairs in an apparent attempt to hear what is transpiring upstairs. Officer Juarez has to go in after him. Officer Yen wanders around near the base of the stairs, often putting his hands in pockets, even though he has identified he is armed. Officer Yen then requests that Officer Juarez turn off his body camera, which he does. Later, Officer Yen makes an attempt to bargain with Sgt. Meyer to get his cell phone. The manner and behavior in which Officer Yen conducts himself during the investigation is contrary to all investigative procedures that Officer Yen is very familiar with and utilizes himself when investigating crimes. Officer Yen's behavior during this incident is not what this committee expects of a police officer.

Officer Yen was arrested for First Degree Burglary and pled guilty to Second Degree Trespass. In his IA interview, Officer Yen states that he does not believe he should have been arrested or charged with either crime. However, he did voluntarily plead guilty to Second Degree Trespass.

CONCLUSION

Officer Yen violated Standards 4.4, 4.8, and 4.9.

Standard 4.4:

Members of the Spokane Police Department shall maintain a level of conduct in their personal and business affairs in keeping with the high standards of the Spokane Police Department.

Standard 4.8:

Members of the Spokane Police Department shall not engage in any activity which would create a conflict of interest or would be in violation of any law.

Standard 4.9:

Members of the Spokane Police Department shall at all times conduct themselves in a manner which does not discredit the law enforcement profession or the Spokane Police Department.

During the course of this investigation, additional information was brought to light from Officer Yen's hiring process regarding past domestic violence and anger management issues that is not directly connected to this issue. There appears there might be a pattern of anger and insubordination issues in his SPD work history as well. The ARP encourages additional review of this information.

FINDING

Conduct Unbecoming of an Officer - Sustained

DISCIPLINE RECOMMENDATION

N/A



Captain Dave Richards 01/21/16
Date



Lieutenant Kevin King / Author 1-19-16
Date



Captain Tom Hendren 1/20/16
Date



Lieutenant Dave McCabe 1-19-16
Date

Note: "Author" is to be placed behind the person that crafted the document



Spokane Police Department
Internal Investigation



CONFIDENTIAL
C15-064
Additional

Policy Being Investigated

Conduct Unbecoming

On 071415 Officer John Yen was arrested for First Degree Burglary DV. On 100815 he pled guilty to Trespass (non DV). This plea agreement was made in Lincoln County.

RCW 9A.52.020

Burglary in the first degree.

(1) A person is guilty of burglary in the first degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a building and if, in entering or while in the building or in immediate flight there from, the actor or another participant in the crime (a) is armed with a deadly weapon, or (b) assaults any person.

(2) Burglary in the first degree is a class A felony.

Complainant Interview Summary

#1a is the female involved. She is a #1c. I completed a phone cursory interview on the night of 071415. I had arranged to interview her the morning after and was directed to stand down until after the criminal investigation was finished. I wrote an additional report.

I also wrote an additional report on contact that #1a had with Cpl. Kakuda's wife via text.

I contacted #1a via email after Yen's criminal case was adjudicated. I was contacted by her attorney Chris Phelps, who said that she was refusing to be interviewed.

Officer Interview Summary

On 102915 I interviewed Officer John Yen, (see transcription). Yen said that they were arguing in his vehicle when they arrived back at #1a property. He followed her to the porch and she put in a door code on the lock and went in, he followed and she tried to shut the door on him, but his foot was in the door. He said he was surprised by her shutting the door on him. Yen said #1a pushed him out of the doorway and closed the door and he immediately opened it. He said that #1a had moved further into the house and ultimately went into the kitchen to get some water. He said he continued the argument and got into her personal space. He said he was angry and yelling. He said she went into the bedroom and locked the door and they continued to argue. Yen said she told him to leave many times. They continued to argue through the door until police arrived. Yen said he went out and sat on the front porch with Officer Juarez.

I discussed with Yen the subject of establishing residency. Yen said that he has stayed over at #1a house many times. He said that he buys groceries for the house at times. He does house cleaning. He said he knows the door code and had checked on the house when #1a is gone. He said that #1a has stayed at his residence.

I asked Yen if he was asked these questions. He said he was only asked if he received his mail there and had keys. This is consistent with what Sgt. Meyer and Lt. Walker have said in reference to the facts they relied on, for the question or residency.

On Officer Juarez body camera Yen states that he cleaned the kitchen as he apologizes for the messy house. (2:45) At one point he tells Officer Erdman that there is no one else in the house and that he would appreciate if he didn't walk around (3:05). At 5:05 Yen asks for the camera to be turned off.

Witness Interview Summary

The original 911 reporters stated that a male had forced his way into a female's home. They described some sort of physical thing occurring at the door. Interviews are on body camera.

On 102215 I interviewed Lt. Walker. The interview is transcribed. On 101715 I interviewed Sgt. Meyer. Both Lt Walker and Sgt. Meyer were not involved in interviews of Yen, Olsen or other Witnesses.

I interviewed all the officers at the scene. Please see the transcriptions. I am only highlighting significant points below.

Officer McVay:

Officer McVay interviewed #1a. He forgot to activate his camera on the first interview. He said he obtained a short version of the events on this first interview and then conferred with Sgt. Meyer and Lt. Walker. He went back to ask additional questions. Officer McVay did not recall #1a saying that Yen had stayed at the home 30 times and did not relay this information to the supervisors. I noted that Officer McVay appears to be writing this statement down in his notebook.

Officer McVay said that he did not agree with Sgt. Meyer on the burglary charge. I noted that he can be heard saying that he doesn't agree on his body camera as he is walking back up to ask some clarifying question.

Officer Juarez:

Officer Juarez had only a cursory interview of Yen. He did note in his report that he asked Yen if he had a key and about where he received his mail. Yen pointed out that it was a numerical key pad. Officer Juarez did not remember asking Yen if he knew the code.

I asked Officer Juarez if he would remove an unwanted guest if the facts were the same as in this case. He said that he would not.

Corporal Daniel:

Cpl. Daniel was not involved in the interviewing of either Yen or #1a. He stood by with Yen while Juarez met with the supervisors.

Officer Erdman:

Officer Erdman stood by with #1a during the entire interview. He believes that Yen did not have residency standing and relies partially on personal knowledge of #1a and her residence.

Officer Hamilton:

Officer Hamilton interviewed the witnesses that reported the incident to 911. These interviews are on body camera. Officer Hamilton did not talk to Yen or #1a. He did say that he believed the probable cause was weak, however he thought there was cause to arrest Yen. However he could not give any specifics.

Physical Evidence

There is some body camera footage. However the initial contact with #1a was not recorded. The most significant footage is the clarifying questions that Officer McVay asks #1a.

Investigative Summary

Officer Yen was in a heated argument with #1a who he had been dating for three months. The argument took place at her residence. They arrived in his vehicle and he was going to spend the night before the argument. #1a told him to leave and he followed her to the door. They continued to argue at the door. She went to go inside and his foot was in the doorway. She told him to leave. There was some sort of pushing on the door between them. #1a has said that she walked away and the door flew open, when there was no longer an opposing force. The witnesses in the park saw this and it appeared that Yen forced entry. Regardless of how exactly this happened #1a told Yen to leave and he went in. However there was no assault. She told him many more times to leave. There are some detail differences that seem inconsequential.

Officer Yen yelled at #1a and followed her into the kitchen. Officers reported that he backed her into the kitchen. The body camera recorded statement is not that strong on that subject. She clarifies that she went to the kitchen to get water. Thus it seems safe to assume that the issue was not clear in the first interview. #1a said she pushed him away and went upstairs and locked herself in the bedroom. They argued through the door and officers arrived during this time.

#1a was interviewed by Officer McVay. Yen was interviewed by Officer Juarez. The witnesses in the park were interviewed by Officer Hamilton. These officers briefed Sgt. Meyer and Lt. Walker. Lt. Walker briefed DSO Capt. Richards. Sgt. Meyer contacted prosecutor Larry Haskell. Yen was arrested for Burglary 1st. Yen was in possession of a firearm.

Officer McVay did not record the first contact with #1a. Officer McVay was sent to clarify issues after the first interview. It appears that these issues were about if Yen established residency, was #1a in fear, and was she assaulted.

Officer McVay appears to use an interview technique in which he makes a statement and looks for agreement from #1a. I noted these examples:

Officer McVay stated to #1a that Yen backed her up into the kitchen. #1a replies that she went into the kitchen to get water, with some agreement with the statement. Officer McVay stated to #1a that she locked herself in the bedroom because it was a safe place. #1a responded that it was because she wanted him to leave. Officer McVay accused her of lying or minimizing. It is only then #1a says that she was a little afraid and scared that she could be assaulted. It was stated very weakly.

During the clarifying questions, Officer McVay asks #1a how many times Yen stayed there. She replied, "a lot". He asks her, "What's a lot?" and she replies, "30 times". Lt. Walker stated that he was never briefed on this statement. Sgt. Meyer was also unaware of this fact.

Both Lt. Walker and Sgt. Meyer said that Yen had not established residency because he maintained another residence and did not have key. However the residence uses a key pad and it doesn't appear that they were aware of that, and that Yen was not asked about the code. Both of these officers rely on the forceful entry, aggression toward #1a, and her fear of assault to establish the crime they believe Yen intended to commit.

Sgt. Meyer called Prosecutor Larry Haskell and gave him the scenario and he said the charge would be Burglary 1st. Neither, Walker or Meyer knew that #1a said Yen had stayed at the house 30 times and thus that information was not relayed to the prosecutor. Sgt. Meyer did not appear to know exactly how long they had been dating. Officer McVay was sent to ask clarifying questions. Yet both supervisors don't know the answers to what appears to be a very significant statement, regarding how often Yen has been at the house. Even Officer McVay does not remember this fact, and appears to be writing it down in his notebook on the body camera footage.

#1a has refused to be interviewed in this investigation. Her attorney said that she stands by the statements made that night and I have reviewed these thoroughly where footage exists. #1a made statements to me the night of the incident and to the Kakuda's that would not be favorable to prosecution.

Officers responded to eye witness reports of a male forcing his way into a females home. Upon arrival they discover that the suspect is Officer Yen and the female is a #1c. Both of these people are very aware of the domestic violence laws. DV victims are often reluctant to give specific details. Officer McVay used a technique in his interview to try to get at the truth. Sgt. Meyer sent him back twice to get clarifying information. Sgt. Meyer then used an outside legal authority, county prosecutor, to arrive at a decision. Officers did not try to minimize the actions they took. On the body camera video Lt. Walker can be heard saying to Capt. Richards, "We have no other options". It appears Officers took the actions that they believe they were legally obligated to take. However the facts that appear to not have been relayed to supervisors, could have changed the decision making in this case. Officers appear to have made sure in treating Yen as any other citizen. However at the same time they missed basic steps common to every DV investigation. They were clearly uncomfortable in this situation and having to arrest a fellow officer.

The investigation also uncovered that officers never compared notes and tried to clarify any discrepancies with Yen. These common steps, used in every DV investigation, were not followed. Yen never had the opportunity to describe his version of events that Officers were relying on in their decision making.

There is no evidence of the intent to commit a crime therein. Officers rely on the forceful entry, aggressive advance, and fear to establish probable cause. Sgt. Meyer describes that he doesn't have to wait for an aggressor to assault him to defend himself. That is a good case for defense, but does not establish an assault. Without the intent to commit a crime therein, the burglary charge is not valid. It could be argued that getting in a person's personal space is an aggressive act. However if the people involved are intimate partners, than that action could be viewed in another way. With intimate partners, the boundaries between social space and personal space are not so clearly defined.

Officers are frequently called to unwanted house guest type calls. If on such a call, the residency facts were as discovered in this investigation, no enforcement action would be taken, and it would be called a civil matter. Yen made statements about cleaning the kitchen and trying to restrict Erdman's search of the house. Combined with #1a statement about him staying 30 times, there is evidence that Yen had standing. If Yen has standing as a resident, he should not have been arrested for burglary or trespassing. I asked Yen if he thought he was guilty of trespassing and he said no. I did not ask him why he pled guilty. However it's easy to understand why one would choose to do so, when facing a 1st degree Burglary charge. Yen did express concerns about the level of attention his case was given with his attorney. These concerns were not part of his interview.

Officer Yen had a firearm on his person. Officers are encouraged to carry firearms off duty. This firearm did not play a role in the incident other than to enhance the charge. Sgt. Meyer did not tell Larry Haskell that the suspect was an officer when he first relayed the information.

Based on the facts I have laid out in this summary, I do not believe the elements of the crime of Burglary in the First Degree have been met. I believe that the prosecutor was not presented with the whole story. The facts show that Officer Yen was a frequent guest and given regular access to the residence. I don't believe the charge of trespass is valid.

None the less, Officer Yen has pled guilty to trespassing, and is admitting to violating policy in doing so. He has accepted responsibility for the situation escalating and described how this will not happen again in his personal life or on the job. There is no evidence of any past instance of Officer Yen losing his temper on the job.

If Officer Yen had not pled guilty, I would not have been able to find a policy violation in this case. I am not convinced that a citizen in these exact same circumstances would have been arrested.

Sgt. Staben #592



Spokane Police Department
Internal Investigation

15-241039



Additional

On 071415 I was called at home by Director Schwering. I was advised that Officer Yen had been arrested for First Degree Burglary. I was instructed to call the victim, #1a and set up a time to interview her. The number was sent to me by text.

I called her 2320hrs. I introduced myself and told her I was with Internal Affairs. I asked her to tell me what happened. She appeared upset, but not overly so and was not crying or very emotional. She did express concern for Yen and also stated that she did not want this to happen.

It was not my intent to do a complete interview. However I took notes and this is what she said:

- They went out to dinner.
- Yen was angry that some other male was looking down her blouse and blamed her.
- He drove them to her home, She said, "He was going to come in anyway", (later I clarified that he was going to spend the night)
- She got out of the car and said, "I'm done, good bye, don't come in".
- He followed her to the door. She told him, "No, go away".
- He put his foot in the doorway as she tried to close it on him. There was some pushing in each direction, so she just walked away and the door flew open.
- There was no damage done by the door.
- She said, "Get out", He said, "No I'm going to talk to you".
- He followed her upstairs, they argued through the bedroom door and then the police came.

I asked #1a if she was aware of the charges. She stated that he was charged with First Degree Burglary. I asked her if she had been assaulted and she said no. I asked her if she felt like he intended to commit a crime. She said, "No". I said, "You are a #1c". She responded, "Yes". I said, "Do you feel like you are the victim of a burglary?", She said, "No".

I set up a time to interview her the next day. I was told to stand down until the criminal case was finished.

On 072015 I reviewed the reports and noted that Officer McVay's report was similar, but different in the manner in which the door was opened. He reported that it was violently forced. I contacted the prosecutor's office and was told that Mark Cipolla was assigned the case. I notified him of the difference via email.


Sgt. Staben #592



Spokane Police Department
Internal Investigation

15-241039



Additional

On 072115 I was contacted by Officer Kakuda. He notified me that he was friends with Officer Yen. He said that his wife, Chantel, had received some voice and text messages from #1a #1a after Yen's arrest. They were concerned about listening to them and he asked for guidance. I told him that he was under no obligation to share personal messages with the department.

Officer Kakuda said he wanted to play them in front of me and Chantel came to my office on 072315. I recorded the interview. She played me some voice messages. #1a called several times asking for a call back. On one message she says that she is concerned about Yen and that she wants someone else to know what was said.

The text messages consist of photos of the outside of #1a home. There is a message that reads:

These pics are of my home tonight between 9-920. This is what the "eyewitnesses" we're looking at, how could they have seen what they say. I just want someone to do some more investigation for him. I won't bother you again. But feel free to call me.

I notified Prosecutor Cipolla of the messages and prepared this report as they appear to be exculpatory.

A handwritten signature in black ink, appearing to read "S. Staben".

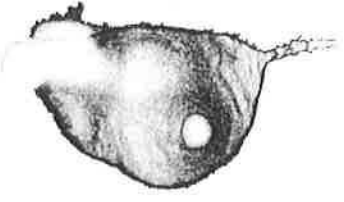
Sgt. Staben #592

RCW 9A.52.020

Burglary in the first degree.

(1) A person is guilty of burglary in the first degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a building and if, in entering or while in the building or in immediate flight therefrom, the actor or another participant in the crime (a) is armed with a deadly weapon, or (b) assaults any person.

(2) Burglary in the first degree is a class A felony.



Entered 07/14/15 21:04:20 BY 91112 911244
Dispatched 07/14/15 21:05:09 BY PCC03 1253
Enroute 07/14/15 21:05:09
Onscene 07/14/15 21:08:49
Closed 07/15/15 03:01:23

Initial Type: BURGR Final Type: BURGR (BURGLARY REPORT, RESIDENTIAL)
Initial Priority: 1 Final Priority: 1
Disposition: 1E Source: 9 Primary Unit: C481
Police BLK: SPC5EC
Group: P5 Beat: Map Page: 33
Loc: [redacted] #1d btwn [redacted] #1d (V)
Name: MARIYAH Addr: SAME Phone: 5097106720

/210420 (911244) ENTRY MALE PULLED UP TO HOUSE BROKE INTO HOUSE. XFER
/210448 CHANGE NAM: FEMALE --> MARIYAH
/210458 (1123) SUPP NAM: FEMALE,
TXT: MORIAH IS ON THE LINE, SHE STATED 1118 E
11TH IS THE ADDRESS
/210509 (1253) DISPER C481 #923 MCVAY, JEREMY
/210509 ASSTER C355 #1258 ERDMAN, CHAN
/210509 ASSTER C480 #740 JUAREZ, MAURIO
/210534 (713) *ASSTER K14 [redacted] #1d
#713 HAMILTON, CRAIG
/210542 (1253) CHANGE LOC: [redacted] #1d --> [redacted] #1d
[redacted] #1d
/210609 (1123) SUPP LOC: [redacted] #1d
NAM: MORIAH,
TXT: COMP IS AT GRANT PARK AND SHE IS WATCHING
THIS OCCUR. COMP STATED THAT TH E MALE WAS AT
LOC, GOT IN ARGUE W/FEMALE WHO WAS THERE. SHE
TOLD HIM TO LEAVE AND SHUT THE DOOR ON HIM AN
D HE KICKED THE DOOR IN.
/210652 SUPP TXT: COMP STATED THAT SHE ONLY SEES THE MALE A
ND FEMALE. THEY ARE IN THE UPSTA IRS OF THE HO
USE ARGUING.
/210714 SUPP TXT: THE MALE ARRIVED IN A TRUCK WHICH IS PARK
ED OUTSIDE THE HOUSE.
/210731 SUPP TXT: PLATE [redacted] #7c
/210823 SUPP TXT: PLATE IS A [redacted] #7c PLATE [redacted] #7c
/210825 (923) *REMINQ C481 MVEH, [redacted] #7c
/210843 *REMINQ C481 MVEH, [redacted] #7c
/210849 (1258) *ONSCNE C355
/210850 (1253) ONSCNE K14
/210856 (1123) SUPP
TXT: MALE IS A W/M, WEARING BLK SHIRT AND BLK
PANTS. MALE IS IN HIS 30'S.
/210954 SUPP TXT: COMP WARING, MARIYAH K 2/12/97. COMP IS A
AVAILABLE FOR CONTACT IF NEEDED.
/211042 (740) *ONSCNE C480
/211132 (1253) ONSCNE C481
/211200 MISC C481
/211245 (761) ASSTER L288 [redacted] #1d
#607 MEYER, RICHARD
/211318 (216) *ASSTER L166 [redacted] #1d
#216 WALKER, JOEY
/211409 (767) *ASSTER P303 [redacted] #1d
#767 DANIEL, JEREMY

INCIDENT REPORT

Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER	INCIDENT NUMBER 15-241039		
INCIDENT TYPE Arrest, Domestic Violence, Gun Involved, Information		INCIDENT CLASSIFICATION #1 BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2 DOMESTIC DSPT-FMLY	ATTEMPTED <input type="checkbox"/>
		INCIDENT CLASSIFICATION #3	ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4	ATTEMPTED <input type="checkbox"/>
		RESPONDING TO (Officer Assault)		ASSIGNMENT (Officer Assault)	
REPORTED ON Tue 07/14/2015 21:04	DATE/TIME	OCCURRED ON Tue 07/14/2015 21:04	DATE/TIME	OCCURRED TO Tue 07/14/2015 23:12	DISTRICT
DISPATCH TIME	ARRIVED TIME	CLEARED TIME	REPORT DATE 07/15/2015	REPORT TIME 00:09	EST. TOTAL PROPERTY LOSS
PRIMARY CHARGE 9A.52.020(1)(A) BURGLARY-1D(ARMED)					UCR/NIBRS CODE / 220
LOCATION OF INCIDENT #1d			LOCATION NAME (IF APPLICABLE)		
ENTRY POINT	METHOD	WEAPON/TOOL/FORCE USED	SECURITY	EVIDENCE	
TYPE OF PREMISE (FOR VEHICLES STATE WHERE PARKED) Residence/Home					
SOLVABILITY FACTORS PC Affidavit Completed, Suspect Arrested, Witness to Crime					
RELATED INCIDENT NUMBERS					INCIDENT XREF
ADDITIONAL REPORTING OFFICERS Lt. Walker, Sgt. Meier, Officer Juarez, Officer Hamilton, and Officer Erdman.					
VICTIM/WITNESSES/OTHERS <small>V-Deceased, OW-Owner of Property, C-Complainant, PE-Pedestrian, W-Witness, M-Missing, MIR-Parson Mentioned, O-Other, PC-Pedestrian - Cyclist, IIV-Institutional, PS-Passenger, RO-Registered Owner, RU-Runaway, S-Suspect, V-Victim - Individual, VB-Victim - Business, S-Legal Guardian, D-Driver, CV-Complainant is Victim, A-Arrested Person, CON-Contact</small>					
CODE A-1	NAME: LAST, FIRST, MIDDLE Yen, John W		SEX M	RACE/ETHNICITY A-Asian or Pacific	DATE OF BIRTH/AGE #5b
HEIGHT 5'06"	WEIGHT 150	BUILD Medium	HAIR Brown	EYES BRO - Brown	DESCRIPTORS
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP #5c			RESIDENTIAL STATUS	PHONE
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS				OCCUPATION	EMPLOYER PHONE
ADDITIONAL ADDRESSES 1100 W Mallon, Spokane, WA 99201					ADDRESS TYPE
ADDITIONAL PHONES (Work) (509) 242-8400, (Cell) #5c					
CHARGE LEVEL Felony Class A	DESCRIPTION 9A.52.020(1)(A) BURGLARY-1D(ARMED)				UCR/INCIC CODE /220
WARRANT #	BAIL	TYPE OF ARREST On-View of Arrest			MULTIPLE ARRESTEE SEGMENTS INDICATOR <input type="checkbox"/>

ID NO./NAME OF REPORTING OFFICER #923 - McVay, Jeremy	DISTRIBUTION Prosecuting Attorney	
APPROVAL #482 - Hendren, Tom	DATE/TIME 07/15/2015 02:48	

Incident Report #1

07/15/2015 02:58:38 982

INCIDENT REPORT CONTINUED

Spokane Police/Spokane County Sheriff

INCIDENT CLASSIFICATION BURGLARY-RESIDNTL				ATTEMPTED <input type="checkbox"/>		INCIDENT NUMBER 15-241039	
CITATION #		DATE	TIME	BOOKED WHERE Spokane County Jail		DATE 07/14/2015	TIME 22:31
ARREST LOCATION 1118 E 11th Avenue, Spokane, WA 99202				STATEMENT <input type="checkbox"/> ORAL <input type="checkbox"/> WRITTEN	CHARGES <input type="checkbox"/> ADMITTED <input type="checkbox"/> DENIED	SUSPECT ARMED WITH Revolver	
JUV. PAR/GRD. Notified <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NAME/RELATIONSHIP OF PERSON NOTIFIED		DATE & TIME NOTIFIED	NOTIFIED BY		DISPOSITION OF JUVENILE	
DRIVER'S LICENSE <input type="checkbox"/> FAKE	STATE	SOCIAL SECURITY NO. <input type="checkbox"/> FAKE	OTHER ID #4a				
CODE V-1	NAME: LAST, FIRST, MIDDLE #1a			SEX F	RACE/ETHNICITY W-White	DATE OF BIRTH/AGE #1b	
HEIGHT 5'07"	WEIGHT 165	BUILD Medium	HAIR Blonde or	EYES GRN - Green	DESCRIPTORS		
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP #1d			RESIDENTIAL STATUS		PHONE	
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS				OCCUPATION		EMPLOYER PHONE	
ADDITIONAL PHONES (Cell) #1c							
DRIVER'S LICENSE <input type="checkbox"/> FAKE	STATE	SOCIAL SECURITY NO. <input type="checkbox"/> FAKE	OTHER ID #4b				
RELATIONSHIP TO SUSPECT Victim was Girlfriend		VICTIM OF Offns. # 9A.52.020(1)(A) BURGLARY-1D(ARMED)			OFNDR. # A-1		
TYPE OF INJURY OR ILLNESS/DESCRIBE INJURIES None				TYPE OF VICTIM Individual		MEDICAL RELEASE OBTAINED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
HOSPITAL TAKEN TO	TAKEN BY		<input type="checkbox"/> EMPLOYEE <input type="checkbox"/> ON DUTY	ATTENDING PHYSICIAN		SUICIDE NOTE FOUND? <input type="checkbox"/>	HOLD PLACED BY
NARRATIVE							

On 07-15-2015 at approx. 2104 hours Officer Hamilton, Officer Erdman, Officer Juarez, and Myself responded to a burglary in progress at **#1d**. A female called in reporting a male and female were at the location arguing. She further advised the female went into the home by herself before the male kicked in the door and entered. The caller then stated she could see the male and female upstairs at the location in what appeared to be an argument. It was noted in the call the male arrived in a **#7c**.

Prior to my arrival I ran the license plate. It returned to John Yen. I immediately recognized the name as fellow SPD Officer. I requested a supervisor as I was exiting my patrol car given the circumstances.

As I approached the home I could hear arguing from the upstairs of the home. I could not make out the arguing as it was very muffled. I could not even tell if it was a woman's voice or a man's voice.

Officer Hamilton watched the back of the home. Myself and Officer Juarez knocked on the front door. At this time John Yen answered the door. His face was red and he appeared to be slightly out of breathe. Officer Juarez asked him what was going on and he said something similar to "its just an argument." I asked him to step outside and it appeared he was trying to shut the door behind him. He then looked into the home toward the upstairs and said something similar to "she's upstairs she

INCIDENT REPORT CONTINUED
Spokane Police/Spokane County Sheriff

INCIDENT CLASSIFICATION BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 15-241039
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ok." I had John step outside at this time. Officer Erdman and myself entered the home to assure the victim who was later identified as #1a was ok.

Upon entering the home I could see #1a at the top of the stairs. She seemed very angry and said something similar to "you know who that is, he's a cop." I advised #1a I knew who John was and I knew her as well. It should be noted #1a is a #1c #1c. I have received training from her on several occasions but have never had a personnel relationship or friendship with her. At this time #1a was still obviously very angry and excited from the incident. She kept saying "I just wanted him to leave."

#1a advised John and her have been dating for approx. 3 months. She stated tonight they went out on a date at "Escape Spokane." She advised when doing this activity a male was looking down her shirt at her breasts. She advised John was angered by this and blamed her. He was calling her a "slut" and arguing with her in his vehicle while they drove back to her home. Upon arriving at her home she stated she was done arguing with John. She exited his vehicle and told him to leave. She stated she went in to her home and was closing the door. She stated she is not sure if she got the door closed or not but John began to push his way in. She advised she attempted to keep him from coming in but could not keep the door closed with him pushing on it.

#1a let go of the door when she said John violently forced the door open. When he did this it slammed into a piece of furniture. John entered the home and began yelling at #1a. She stated at this time she had backed up all the way into the kitchen. John followed her into the kitchen and was yelling in her face. She stated John was within a inch of her face yelling at her. She was in fear at this time due to John violently pushing the door open. In addition he was yelling in her face from approx. 1 inch away. #1a told me she pushed John with two hands in the upper chest area to get him away from her. She told me at this time she went upstairs into her room and locked the door. #1a advised John followed her upstairs as well and they continued to argue through the locked door of the bedroom. #1a told me she locked herself in the bedroom because she was fearful of John and his "bad temper."

#1a advised after arguing through the door for sometime we arrived on scene and John went downstairs.

#1a advised she was not assaulted during this incident. However she stated her door may have hit her when she was attempting to stop John from forcing his way into her home.

#1a told me during this incident she told John to leave her home approx. 10 times. She further advised he does not live there and never has. She stated he will only stay from time to time.

It should be noted numerous times during my contact with #1a she would say "I don't want to get him in trouble" or "I just wanted him to leave." In addition she would not always answer my question right away and would be very vague with answers.

The above statement was taken during three separate interviews of #1a. It should be noted during my first and brief interview with #1a when we initially entered the home, and secured the scene I forgot to turn on my body camera. Once I realized this I turned it on for the remainder of the call except when I was advising Lt. Walker and Sgt. Meyer of the incident.

I advised Lt. Walker and Sgt. Meyer of #1a statement on this incident. They then advised me we had PC to arrest John for 1st burglary DV.

INCIDENT REPORT CONTINUED
Spokane Police/Spokane County Sheriff

INCIDENT CLASSIFICATION BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 15-241039
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We went back into the home and advised John he was under arrest. He was handcuffed (D/L) and searched incident to arrest. Upon doing the search I located a Smith and Wesson .38 revolver in his left pocket. John had advised us he had the revolver on him. I collected the revolver as evidence. Officer Juarez transported John to the Spokane County Jail where he was booked for 1st Degree Burglary.

I advised [REDACTED #1a] of the arrest and gave her a crimes victim card. I completed a LAP assessment with her. She did not screen in and did not want to talk to a advocate. During this time [REDACTED #1a] apologized continually. She also kept saying something similar to "he's not a bad guy."

See additional reports for more information.

See body camera footage for further details.

J. McVay #923

SUPPLEMENTAL REPORT

Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER	INCIDENT NUMBER 15-241039	
REPORT PURPOSE			REPORTED ON DATE Tue 07/14/2015	TIME 21:04
INCIDENT CLASSIFICATION #1 BURGLARY-RESIDNTL		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2	
INCIDENT CLASSIFICATION #3		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4	
DISPATCH TIME	ARRIVED TIME	CLEARED TIME	REPORT DATE 07/15/2015	REPORT TIME 00:31
PRIMARY CHARGE				UCR/NIBRS CODE
NARRATIVE				

On 07-14-15 at approximately 2105 hrs I was dispatched to [REDACTED] #1d in reference to a possible residential burglary in progress.

According to the complainant, who was across the street at Grant Park, the male arrived in a truck and got into a verbal argument with a female at the aforementioned address. Complainant further advised that the female could be heard telling the male to leave and eventually went inside the residence while closing the door on the male as he was outside the front door. According to the complainant, the male was seen kicking the door in and the male and female were then seen arguing in the upstairs portion of the residence.

A registration plate ([REDACTED] #7c) for the aforementioned vehicle parked in front of the residence was provided by the complainant and the male was described as a W/M in his 30's wearing a black shirt and black pants. Also responding to assist were Officer Hamilton (K14), McVay (C481), and Erdman (C355).

Upon my arrival I parked off to the west of the target address and while approaching the residence, I observed the vehicle in question partially parked on the sidewalk JWO of [REDACTED] #1d Ave. Officer McVay arrived shortly afterwards and as he was approaching he stated that the vehicle was registered to John Yen. While walking up the front steps I could see the lights in the 2nd floor window illuminated with curtains partially covering the window. I could also hear verbal arguing between a male and female although I could not decipher what was being said during the argument.

I knocked on the front door once officers were in place and a male answered the front door who I immediately recognized as Yen. Mr. Yen opened the door and exited from the residence and when asked what was occurring, he advised that it was an argument between him and his girlfriend, later identified as [REDACTED] #1a ([REDACTED] #1b). Mr. Yen told Officer McVay as he and Officer Erdman entered the residence that she was upstairs and was fine and nothing was broken. I explained to Mr. Yen that a complainant called from the park and could hear the arguing and observed what appeared to be a male (Yen) kicking in the front door. While on the front porch, Mr. Yen did advise me that he was carrying a firearm on his person.

According to Mr. Yen, he and his girlfriend were at a function together earlier tonight and got into an argument only and nothing physical occurred. Mr. Yen would not elaborate on what the argument was over although he claimed that this wasn't the first time they have gotten into an argument as he stated multiple times that it was only an argument. No visible injuries were observed on Mr Yen and he confirmed multiple times that it was only an argument and nothing physical took place. Mr. Yen inquired if I would turn off the body camera which I obliged his request.

ID NO /NAME OF REPORTING OFFICER #740 - Juarez, Mauricio		DISTRIBUTION City Prosecutors	
APPROVAL #482 - Hendren, Tom	DATE/TIME 07/15/2015 02:16		

Supplemental Report #1

07/15/2015 02:19:13 850

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 15-241039
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As I remained with Mr. Yen in the downstairs portion of the residence, he advised that he and #1a have been dating since sometime in April and he stays at her residence pretty regularly, although he still has his own place of residence. When asked if he had a key, Mr Yen stated that he did not due to the fact that it is a numerical code entry type of lock system. Mr. Yen confirmed that he does not get mail at this residence and he only has belongings such as clothing and toiletries at Ms. #1a residence. While Mr. Yen sat at the bottom of the stairs, he could hear footsteps walking around from the upstairs portion of the residence as Officer Erdman and Ms. #1a were the only people upstairs. Mr. Yen stated that nobody else was upstairs and none of the rooms other than Ms. #1a bedroom needed to be searched.

At one point Officer McVay advised me to contact Sgt. Meyer (L288) and Lt. Walker (L166) to brief them on any information I had. Cpl. Daniel (P303) remained with Mr. Yen as I contacted both Sgt. Meyer and Lt. Walker. I advised them that Mr. Yen was claiming that it was nothing more than an argument and that he was carrying his off duty weapon. Sgt. Meyer advised me to remain with Cpl. Daniel and Mr. Yen while a decision was made. He instructed me that based on statements that probable cause would possibly exist to charge Mr. Yen with 1st degree burglary DV.

I re-contacted Mr. Yen and remained with him and Cpl. Daniel until Lt. Walker and Sgt. Meyer eventually contacted Mr. Yen and advised him that probable cause existed to charge him with 1st degree burglary DV. Yen was subsequently placed under arrest for the aforementioned charge, handcuffed (d/l), and his off duty firearm was removed from his person and given to Officer McVay who placed the item on property. I escorted Mr. Yen to my patrol vehicle and he was searched incident to his arrest and placed in the rear passenger compartment of my patrol vehicle. I then transported Mr. Yen to Spokane County Jail and he was booked for 1st degree burglary (DV). At the request of Capt. Richards (L106), I took possession of Mr. Yen's city employee identification card from his property at jail and gave it to Capt. Richards.

Refer to Officer McVay's arrest report and additional reports by Officer Erdman and Corporal Daniel.

SPO Maurio S. Juarez #740
Spokane PD/ C480

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT ALL STATEMENTS MADE HEREIN ARE TRUE AND ACCURATE AND THAT I AM ENTERING MY AUTHORIZED USER ID AND PASSWORD TO AUTHENTICATE IT.

Supplemental Report #1

CONTINUED ON NEXT PAGE

07/15/2015 02:19:13.866

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 15-241039
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OFFICER: M. Juarez
NUMBER: 740
DATE:07-15-15
PLACE: Spokane, Spokane County, WA

Supplemental Report #1

END OF ADDITIONAL REPORT

07/15/2015 02:19:13.897

SUPPLEMENTAL REPORT

Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER	INCIDENT NUMBER 15-241039	
REPORT PURPOSE			REPORTED ON DATE Tue 07/14/2015	TIME 21:04
INCIDENT CLASSIFICATION #1 BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2		ATTEMPTED <input type="checkbox"/>
INCIDENT CLASSIFICATION #3	ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4		ATTEMPTED <input type="checkbox"/>
DISPATCH TIME	ARRIVED TIME	CLEARED TIME	REPORT DATE 07/15/2015	REPORT TIME 00:24
PRIMARY CHARGE				UCR/NIBRS CODE
NARRATIVE				

On 071415 at 2123 hrs, I responded to assist with a Burglary/DV incident at [REDACTED] **#1d**. Upon my arrival, Officers were already onscene, along with Lt Walker and Sgt Meyer. The Lt and Sgt were being briefed by Officer Hamilton and Ofc McVay. Officer Juarez & Ofc Erdman were inside the residence.

I eventually entered the house where Ofc Juarez had interviewed the male suspect identified as John Yen. Yen was seated at the bottom of the stairwell, on the main floor, just inside the front door. Ofc Erdman was upstairs with the female half of the incident. She was identified as [REDACTED] **#1a**. Ofc Juarez exited the residence to brief the Lt and the Sgt on his portion of the investigation. I remained with Yen until Ofc Juarez returned.

A short time later, I exited the residence and began taking photographs as evidence. I started in the park to the north of the residence where the witnesses had been as the incident was first ongoing. At the time of these photographs we were in total hours of darkness. When the incident was first called in by witnesses to 911, the time was 2104 hrs. At 2104 hrs on this particular day, it was not yet dark, but should be considered dusk. I started taking photographs from the witness vantage point in the park and continued taking photographs every few feet as I approached the residence.

I took photograph's of Yen's Ford Raptor truck which was parked outside the residence on 11th Ave. I also took several photographs of the front of the residence & front of the property, making my way up the stairs to front porch & front door.

It was eventually determined that Yen be placed under arrest for 1st Burglary - DV. He was placed under arrest and escorted out of the residence to a patrol car. See other Officer reports.

I remained inside the residence and took all other evidentiary photographs. See photographs.

At the conclusion of my shift, I will return to the scene once the sun has risen and it's daylight hours. I will take photographs from the park, again from the witness vantage point to get a daylight perspective.

See all Officer reports for all other information.

ID NO./NAME OF REPORTING OFFICER #767 - Daniel, Jeremy		DISTRIBUTION	
APPROVAL #482 - Hendren, Tom	DATE/TIME 07/15/2015 01:36		

Supplemental Report #1

07/15/2015 01:38:46.362

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

Page 2

INCIDENT CLASSIFICATION BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 15-241039
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Cpl Daniel #767 (P303)

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Supplemental Report #1	END OF ADDITIONAL REPORT
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07/15/2015 01:38:46.378

SUPPLEMENTAL REPORT

Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER		INCIDENT NUMBER 15-241039	
REPORT PURPOSE			REPORTED ON DATE Tue 07/14/2015	TIME 21:05	INCIDENT XREF
INCIDENT CLASSIFICATION #1 BURGLARY-RESIDNTL		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2		ATTEMPTED <input type="checkbox"/>
INCIDENT CLASSIFICATION #3		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4		ATTEMPTED <input type="checkbox"/>
DISPATCH TIME	ARRIVED TIME	CLEARED TIME		REPORT DATE 07/15/2015	REPORT TIME 09:20
PRIMARY CHARGE					UCR/NIBRS CODE
VICTIM/WITNESSES/OTHERS <small>V-Deceased, OW-Owner of Property, C-Complainant, PE-Pedestrian, W-Witness, M-Missing, MIR-Person Mentioned, O-Other, PG-Pedestrian - Cyclist, IN-Institutional, PS-Passenger, RO-Registered Owner, RU-Runaway, S-Suspect, V-Victim - Individual, VB-Victim - Business, G-Legal Guardian, D-Driver, CV-Complainant is Victim, A-Arrested Person, COA-Contact</small>					
CODE W-1	NAME: LAST, FIRST, MIDDLE Waring, Mariyah K			SEX F	RACE/ETHNICITY W-White
HEIGHT	WEIGHT	BUILD	HAIR	EYES	DATE OF BIRTH/AGE 02/12/1997 18
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP 911 S Aurthor, Spokane, WA 99202			RESIDENTIAL STATUS	PHONE
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS South Hill Senior Living			OCCUPATION Employed		EMPLOYER PHONE
ADDITIONAL PHONES (509) 710-6720					
CODE W-2	NAME: LAST, FIRST, MIDDLE #2d			SEX F	RACE/ETHNICITY I-American Indian or
HEIGHT	WEIGHT	BUILD	HAIR	EYES	DATE OF BIRTH/AGE 01/10/1998 17
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP 826 S Montavilla Drive, Spokane, WA 99224			RESIDENTIAL STATUS	PHONE
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS McDonalds 517 W 3rd Avenue, Spokane, WA 99201			OCCUPATION		EMPLOYER PHONE 455-7911
ADDITIONAL PHONES (360) 701-1340					

NARRATIVE

On 07-14-15 at about 2105 hours, I responded to a call of a burglary in progress at **#1d**

The complainant/witness, Mariyah K. Waring, reported seeing a male pull up to the house in a truck, get into an argument with a female at the house and then reportedly kicked the door in.

I pulled up on scene along with Ofc. Erdman. I saw the truck parked in front of the house but on the sidewalk. It was parked illegally and as if the driver pulled up fast without worrying about parking.

While other officers made contact at the front door, I spoke with the complainant/witness, Waring, and her friend, **#2d**, who also witnessed the incident. I spoke with the two across the street from the residence, in Grant Park.

ID NO./NAME OF REPORTING OFFICER #713 - Hamilton, Craig		DISTRIBUTION	
APPROVAL #766 - Dahle, Zachary	DATE/TIME 07/15/2015 10:43		

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

Page 2

INCIDENT CLASSIFICATION BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 15-241039
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I spoke with both of the girls at the same time. They reported seeing a truck pull up to the house at a "very high rate of speed." The male jumped out and appeared to be upset. He ran up the stairs and was yelling at a female that was on the porch. The female repeatedly yelled for the male to get out of her house and to leave. They described the encounter on the porch as an argument. They said the female had her arms extended as she was yelling for the male to leave. Due to the male's aggressive behavior and the female was trying to hold him off, they thought he could have been an intruder. The female then "slammed" the door shut and the male entered the house after her. The initially said he broke in but then stated they couldn't tell if he forced his way inside or just entered the home. They could hear them screaming at each other from inside the house and could also see them through the upstairs window that faced north towards the park. They described seeing them pushing and shoving each other through the windows on the second floor.

I asked if they actually saw either of the two assault the other and neither of them had. However, they didn't believe it was just animated arguing, they believed it was physical.

From where #2d said she was watching the incident through the windows, she was about 100+ yards away and there were blinds partially covering the windows. Waring said she had gotten closer when she called 911 and was actually able to get the vehicle license plate number and hear them screaming. She said the police arrived on scene shortly after.

This is just a summary of what the two witnesses told me. To see their statements more accurately, see the footage of the body worn camera I had on.

See the other reports for further information.

I CERTIFY (OR DECLARE) UNDER THE PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Ofc. Craig Hamilton 713
K14

Supplemental Report #1

END OF ADDITIONAL REPORT

07/15/2015 10:49:03 930

SUPPLEMENTAL REPORT

Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER	INCIDENT NUMBER 15-241039	
REPORT PURPOSE			REPORTED ON DATE Tue 07/14/2015	TIME 21:04
INCIDENT CLASSIFICATION #1 BURGLARY-RESIDNTL		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2	
INCIDENT CLASSIFICATION #3		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4	
DISPATCH TIME	ARRIVED TIME	CLEARED TIME	REPORT DATE 07/15/2015	REPORT TIME 00:10
PRIMARY CHARGE				UCR/NIBRS CODE
NARRATIVE				

On 07/14/15 at 2105 hrs, I was sent to [redacted] #1d on a possible Burglary in progress. Dispatch advised a female witness reported that a male just pulled up and broke into the house. Dispatch further advised the complainant was watching this from the park across the street. She stated the male at the location got into an argument with a female. The female told the male to leave and shut the door on him. The male "kicked" the door in. The complainant said the male arrived in a truck which was parked in front of the house.

I arrived at 2108 hrs. I moved to a position to observe the back of the house as other Officers were at the front. Officer Hamilton advised he was in a position to cover the back at which point I went back to the front. I arrived at the front door as Officers McVay and Juarez were about to knock. While standing on the porch, I could hear both male and female voices yelling.

Within a few seconds of knocking, a male came to the door and stepped outside. The male was identified as John Yen. Yen partially closed the door behind him and I heard him say, "Its okay, were just arguing". Officer McVay and I entered the house while Officer Juarez remained with Yen outside.

Inside the house was a female standing at the top of the stairwell which is just to your left as you enter the front door. She yelled to us, "You know who that is, he's a Spokane Police Officer". The female was obviously upset and appeared to have been crying. She further stated that, "...all I wanted him to do was leave".

The female was identified as [redacted] #1a

Officer McVay and I went upstairs to [redacted] #1a, who was now in her bedroom. Officer McVay took [redacted] #1a initial statements-see McVay's report.

I remained with [redacted] #1a in her upstairs bedroom while other Officer's continued the investigation. [redacted] #1a told me she and Yen had been out tonight with her sister and brother-in-law. They went to dinner at an event called "Escape Spokane". She had a one alcoholic beverage at approx. 1800 hrs but they had otherwise not been drinking. On their way home in Yen's truck, he called her a "slut" because he saw another man look down her shirt. An argument ensued inside the truck when they arrived at her house. She told him she wanted to end their relationship. She got out of the truck and went to go inside her house. Yen followed. [redacted] #1a said she repeatedly told Yen to leave. She opened her front door and tried to close it behind her. She believed Yen had his foot in the door and she was not sure if the door was completely closed. The next thing she knew, the door "violently flew open". [redacted] #1a said Yen followed her into the kitchen and then upstairs to her bedroom door where she had locked herself inside.

ID NO./NAME OF REPORTING OFFICER #1258 - Erdman, Chan		DISTRIBUTION	
APPROVAL #482 - Hendren, Tom	DATE/TIME 07/15/2015 01:46		

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

Page 2

INCIDENT CLASSIFICATION BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 15-241039
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Officer McVay recontacted [redacted #1a] and took further statements about what occurred between her and Yen while he was inside the house. As [redacted #1a] was explaining what occurred between them, it was apparent she was hesitant to provide specific details. She would not completely describe how he entered the house or the physical contact that occurred between them. When pressed for details, [redacted #1a] would stop and say such things as, "I don't want anything to happen to him. He is such a nice guy, he just has anger issues". In another instance she stated, "He is just young and can't control his anger".

Based on the collective statements and investigation, Yen was arrested for 1st Degree Burglary.

This concluded my involvement in the incident.

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Chan M. Erdman #1258
07/14/15

Supplemental Report #1	END OF ADDITIONAL REPORT
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07/15/2015 01:48:35.610

SUPPLEMENTAL REPORT

Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER	INCIDENT NUMBER 15-241039	
REPORT PURPOSE			REPORTED ON DATE Tue 07/14/2015	TIME 21:04
INCIDENT CLASSIFICATION #1 BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2		ATTEMPTED <input type="checkbox"/>
INCIDENT CLASSIFICATION #3	ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4		ATTEMPTED <input type="checkbox"/>
DISPATCH TIME	ARRIVED TIME	CLEARED TIME	REPORT DATE 07/15/2015	REPORT TIME 00:11
PRIMARY CHARGE				UCR/NIBRS CODE
NARRATIVE				

On 07/14/15 at approximately 2104 hours I heard dispatch requesting units respond to a burglary in progress call at #1d I heard witnesses were reporting that a male was breaking into a house and had kicked in the door. Dispatch asked K14 (Ofc Hamilton) to call into radio and then I heard someone request a supervisor, so at that point I began to respond towards the location along with Sgt Meyer.

I arrived on scene at approximately 2119 hours and while enroute I saw there was a license plate in the call history, so I checked it. It came back to a John Yen who I recognized was a SPD officer. I assumed at that time that was why a supervisor was requested. I made contact with Officer McVay and Sgt Meyer as well as Officer Hamilton.

Officer McVay advised us what information he had received from the female #1a that lives at the location. He said she and her boyfriend (Yen) had been arguing at another location and went back to her house on #1d. He advised us that she wanted to get away from Yen and wanted him to leave and she told him this multiple times. She said Yen does not live at the location on #1d and he had forced his way into the house.

Officer Hamilton also advised us the witnesses were in the park across the street and heard the arguing and saw the male enter the residence. We were told that Yen was still at the location and admitted there was arguing. I asked a couple of clarifying questions to determine if this was a DV situation and if Yen lived at the location. McVay went and confirmed that Yen did not live at the location and that they have been dating for a few months as boyfriend and girlfriend. It was clear at that point based on the officers investigation that this was a DV incident. It was also clear that Yen had forced his way into the residence and that the victim #1a was fearful of him.

I made phone contact with the DSO (Captain Richards), because of the circumstances and to consult with him to determine what course of action to take. Captain Richards agreed that because this was a DV incident we were mandated to make an arrest. Sgt Meyer also consulted with the Prosecutor and advised him of the circumstances. The Prosecutor agreed that this was a DV incident and that the appropriate charge would be 1st Burglary DV.

Sgt Meyer and I went to the residence where Yen was standing by with officers and I spoke with him. I advised him we had consulted with the Prosecutor and our supervisors and based on all of the information we had he would be placed under arrest/in custody for DV burglary. I also advised him we would not be asking him any further questions. He was cooperative while we spoke and advised officers he had a gun in his front pocket. Officers had already been made aware of the fact that he had a gun in his possession.

ID NO./NAME OF REPORTING OFFICER #216 - Walker, Joe		DISTRIBUTION	
APPROVAL #482 - Hendren, Tom	DATE/TIME 07/15/2015 01:35		

Supplemental Report #1

07/15/2015 01:38:36 395

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION BURGLARY-RESIDNTL	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 15-241039
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I then went upstairs where #1a was with another officer and I could see she was clearly upset. I advised her that Yen was being arrested. I asked her if he lived there and she said "no". She apologized that we were having to deal with this incident. I also asked her if this had occurred before, because it seemed unusual that this type of incident would just go from "0-60 mph" without some indication of a prior similar incident. She nodded her head and said he (Yen) had a temper.

I then advised Sgt Meyer to have all officers respond to the PSB to debrief Captain Richards and Director Schwering. I also responded to the PSB and was present during this briefing. Captain Richards and Director Schwering advised us that Yen would be placed on administrative leave. They also confiscated Yen's department issued firearms, department ID and computer.

See other officers reports for additional information.

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

OFFICER/NUMBER/CALL SIGN

J Walker #216 L166

Supplemental Report #1	END OF ADDITIONAL REPORT
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07/15/2015 01:38:36.426

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Sergeant Dave Staben

JL: Lieutenant Justin Lundgren

JY: Officer John Yen

JG: Sergeant John Gately

SG: Sergeant John Griffin

DS: Okay, we're now beginning this interview. The time is 14:07 and the date is October 29th, 2015. Present in the room are myself, Sergeant Staben, Lieutenant Lundgren, Officer Yen and Sergeants John Gately and Sergeant Griffin, representing the Spokane Police Guild. This interview is being recorded. Internal Investigations files are considered public records and are subject to release in accordance with Washington State Law. Officer Yen, do you have any concerns with the release of this investigation?

JY: No sir.

DS: Would you please confirm the spelling of your last name and tell me your personnel number?

JY: Y-E-N; personnel number 1-1-6-9.

DS: Have you read and signed your Administrative Rights and Responsibilities Form?

JY: Yes.

DS: Have you been offered a copy of those rights?

JY: Yes.

DS: Do you understand them?

JY: Yes.

DS: Have you been given a written overview of the allegations in this case?

JY: Yes.

DS: Do you understand that you are an accused officer in this investigation?

JY: Yes.

DS: The IA tracking number is Charlie 15-064 and allegation is Conduct Unbecoming. The complainant is [REDACTED] #1a. Officer Yen, how long have you worked for the Spokane Police Department?

JY: For like something like two and half years. Hired in May...May 2013.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: That's when you were hired as a regular officer?

JY: Yes.

DS: And before that you worked as a Reserve?

JY: As a Reserve Officer, yes.

DS: How long was that?

JY: Approximately two years.

DS: Do you have any specialty assignments?

JY: I'm on the TAC Team.

DS: What was your current assignment?

JY: Team 2 Dayshift, Patrol.

DS: Is that the team you were working on...well you weren't at work on the 14th of July, but working that assignment?

JY: Yes.

DS: Do you recall this incident?

JY: Yes.

DS: Okay. Well in your own words what happened here.

JY: Um...um...where would you like me to [unintelligible]?

DS: From the beginning.

JY: I guess...where would...from the incident, specifically, which part of the incident? I mean, we were...there's different times that we were together the whole night. Prior...like at dinner or [unintelligible]?

DS: Okay. So you were going out for dinner?

JY: Yes.

DS: Okay. Did you leave...go out together in the same vehicle?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

JY: Yes.

DS: Did you arrive back at the same vehicle?

JY: Yes.

DS: Were you in an argument at that time?

JY: Yes.

DS: Okay. Now you've been dating [REDACTED] #1a?

JY: Yes.

DS: How long?

JY: For two to three months at that time.

DS: Okay. When you arrived back at this...at the...her house, right?

JY: Uh hmm.

DS: What happened?

JY: We got out of the vehicle. We were arguing with each other about what I had told her and we walked up the stairs and we kept arguing and she told me either "she was done or to go home". I don't really remember the specifics and then I told her "no, we probably should talk about this" and she kept yelling.

DS: Where was that occurring?

JY: On the porch? On the porch or passed the doorway. I can't really remember exactly what was said and where we were. It kind of happened really quickly.

DS: But she had told you to leave at that time?

JY: She told me to leave at a [unintelligible]...at one point or another, in between that time. I don't know exactly what specifically she said and where it happened and where I was standing, but she told me "that she was done", which in my mind...the relationship, so. She told me "to..." I don't know, there was a lot of words said, I can't remember exactly. [Unintelligible].

DS: Okay. Then what happened next?

JY: Then she put in the door code and went inside and then I went...tried to enter too. I put my...as I was putting my [unintelligible] foot in the doorway, she tried to close the door on me. I just

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

kind of stood there with my foot in the doorway and she was trying to close it, yelling something on the other side. Probably along the lines of "stop or go home" and I stood there and finally I let go and the door closed and then I opened the door and went in...went inside and then...

DS: So you're saying the door closed completely?

JY: Uh hmm.

DS: So tell me about opening the door. Did you turn the knob?

JY: Yeah, I just turned the knob and opened it and she wasn't standing by the door at that time, because the door just opened.

DS: Okay.

JY: And we were standing in the middle (I don't know what you'd call it), right...the room before the living room and we were talking there and...and I just said "we should talk about it". Then she walked into the kitchen to get...oh wait...she walked into the kitchen to get water, then I followed her and we talked there too.

DS: Okay. How...how much force did you open the door with?

JY: I don't know a gauge or a meter, I just...I opened it. I mean the door opened, I didn't...I was mad, so I opened it and...it opened fast.

DS: Did it bang into anything?

JY: Whatever the wall was on the other side, probably, yeah.

DS: So how much time elapsed between the time the door closed and you opened it? Was...a short time? Long time?

JY: Oh it was short. It was closed and then, okay, open. It wasn't like I waited outside and then contemplated it. I just opened it right after she closed it.

DS: Okay. So, what were you thinking at that time that you went in the house?

JY: That we needed to talk about this, about our argument and what was going on.

DS: Okay and where was she when you first went in the door?

JY: She was standing way back by the stairway. I mean, she was away from the door, because I was shocked that she was so far back when I entered and she was just standing there.

DS: So when you pushed that door open, did you expect to feel some resistance on the other side?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

JY: I wasn't expecting anything. I was...I don't know, I wasn't...that wasn't on my mind, so I can't really answer that.

DS: Were you yelling?

JY: When I opened the door? I don't remember. I don't think I was.

DS: Were you emotional at that time?

JY: I was. I was emotional. I was upset about our argument, then about what she had...what I had said and what she had said.

DS: Okay. What sort of emotions were you feeling at that time?

JY: Sad, angry, just kind of embarrassed.

DS: So as...as you were having this argument, how close to her do you get?

JY: When we go into...I mean we were in a distance, like where you and I are sitting, just kind of...not...not just...I'm trying to get her attention of "hey, we should talk about this" and then she just keeps saying "no, I'm done" and then when we get into the kitchen I get close enough where I'm talking right in front of her and then she walks off, upstairs.

DS: So we're at a social distance right now, so you were in her personal space at that time?

JY: Yes.

DS: Okay. Did...did that get physical at all?

JY: She slapped me.

DS: Did she push you back at all?

JY: [Unintelligible] in the doorway, she pushed me. When I had [unintelligible]...yeah, she pushed me in the doorway.

DS: The doorway to what?

JY: At that door...only the door I went through. At the...

DS: The front door of the house?

JY: Yeah, when she...she pushed me there when I had my foot in the doorway. I do remember that now.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: So you got the door in between you, how...how did she push you with the door in between you?

JY: Oh she opened, then...then pushed.

DS: Like to try to get you out?

JY: Yeah. Yeah.

DS: Okay, so and is that when she got the door closed or...?

JY: Yeah.

DS: Okay. So let's go back to...back to the kitchen and you're in her personal space. You're...you're saying at that time she slapped you?

JY: Yeah.

DS: Why do you think she slapped you?

JY: I don't know.

DS: Has she hit you before?

JY: No.

DS: Have you hit her before?

JY: No.

DS: Do you think that she could've felt like you were going to hurt her?

JY: I can't answer that. I don't know...I don't know what she was thinking at the time.

DS: What was your reason for being in her personal space?

JY: Just heated, emotional at the time and...

DS: Okay, so you said after that she went upstairs?

JY: Uh hmm.

DS: Did you try to keep her from going upstairs?

JY: No.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: So at this time, how many times had she told you to leave?

JY: I'm not sure. I don't know the exact numbers on that.

DS: A lot?

JY: A lot.

DS: Okay. So when she went upstairs, where'd she go?

JY: Into her room.

DS: Did you go in there?

JY: No, she locked...closed the door, locked it.

DS: Do you think that she was afraid of you?

JY: I'm not sure. Maybe.

DS: Do you think that you were behaving in a way that would make someone afraid?

JY: Yes. Yes I do.

DS: So describe that behavior to me.

JY: Just...facial expressions probably, just [unintelligible]. Like a mean person and eyes scowling and a loud voice. Following somebody.

DS: Did you make fists?

JY: No.

DS: Did you ever raise your hands like you were going to strike her or anything?

JY: No. No.

DS: So, now she's in the bedroom with the door locked and what are you doing?

JY: Just telling her to come out from the other side.

DS: Did you pound on the door at all?

JY: I don't remember. I don't think so, because I knew she was in there, so. To me knocking on the door is if someone doesn't know you're on the other side.

TAPE TRANSCRIPTION

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COMPLAINT: Crime/Conduct Unbecoming

DS: Okay. Did she ever come out again before the officers got there?

JY: No, not by the time they got there.

DS: Okay. So, what happened when the officers got there?

JY: I immediately recognized they were there and went down and let them in.

DS: Okay. Where did you go at that time?

JY: Which time?

DS: After the officers came in.

JY: Sat down on the...I went outside to talk to them and...

DS: What did you tell them about what was happening then?

JY: That I was arguing.

DS: Okay, so...

JY: And then someone walked passed me and went in.

DS: So you remained on the front porch then?

JY: Yeah, I think so.

DS: Who was the officer that you were with?

JY: Juarez.

DS: Okay. Did Officer Juarez interview you?

JY: Just kind of asked me general questions.

DS: Like what?

JY: "What happened?" "Was it..." didn't really kind of like dig into..."argue...is it arguing?" I said "yeah". "Do you live here?" "Do you get mail here?" and then...I don't really remember, I mean it was pretty short, honestly.

DS: Okay. So you said you'd been dating for three months?

JY: Uh hmm.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: So, did you stay the night at that house?

JY: Often? Or at any point or just that night?

DS: [Unintelligible].

JY: Oh yeah.

DS: Were you going to spend the night that night?

JY: Yes.

DS: How often did you stay there?

JY: I wasn't...it wasn't...I couldn't give you like an exact amount of days, like I didn't have a schedule. It was depending on if she had the girls that night or...or not. Sometimes I stayed there if her kids were there and sometimes I didn't just because of work and stuff.

DS: Okay and out of three months, how many times would you say you've stayed there?

JY: It's hard to say, pretty often. In my mind I was...I was...if I didn't stay there I was there at some point after...in a day, I was there at some point or another.

DS: Okay. So, were you living there?

JY: I had stuff there, I was staying over.

DS: Like what kind of stuff?

JY: Clothes, I have a blender there, drills. I bought certain foods for the house. Had the door code. Would check when she was out of town for a couple days before that and I would check on the house and take care of the dogs and the cat.

DS: Did officers ever ask you if you had a key?

JY: Yeah, but I told them it's a door code house, so the girls don't even have keys. It's just...we would punch in a code.

DS: But...and you knew the code?

JY: Yes.

DS: Okay. Did you have a toothbrush there?

JY: Yes.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Any other toiletry type items?

JY: I can't remember, because I either had it in my bag every time. Every time I went in I'd bring my bag anyway, so. I either kept it there, but...

DS: Did you guys entertain there as a couple?

JY: What's that mean?

DS: I meant [unintelligible].

JY: Like parties?

DS: Have guests over, other couples or anything?

JY: No. No, with our work schedule we were just like always busy so.

DS: So what do you remember specifically that Officer Juarez asked you about the residency...these residency type question I'm asking you? Did he...you said he asked you if you got your mail there?

JY: Yeah. I remember him...it was him or Jeremy Daniels that asked me that? And I said "no, I don't get my mail there, I have my own mailing address, so". And that was it. That was one of the...it was kind of a key or a mailing, that was it.

DS: Okay.

JL: Did she ever stay at your residence?

JY: Yes.

JL: How often?

JY: Not as frequent as I would go over there, because she had the dogs and the cat and it was just easier for me to go there.

DS: So, at one time when you're on the porch and I think Officer Erdman is walking around in the house and...do you remember that?

JY: Yes.

DS: Do you remember saying something to him?

JY: I remember saying something to him, but I don't remember what I said.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Well you said "that you'd appreciate it he didn't walk around if there was no one else inside". Do you remember saying that?

JY: Oh yeah, something like that, yeah.

DS: So what made you feel that you had the authority to make that statement, to limit where he can move around in there?

JY: I guess I wanted him to check...if he was going to check on somebody like her, go check on her and not...I mean, there was nobody else there and I thought that he could trust me at that point. I was still in the mode of is... "There's an officer, he's telling there's no one in the house. There's no one else in the house."

DS: I guess I'm asking you if felt that you had some authority over the...the premise?

JY: Yeah. I...I felt like...

DS: Why? Tell me why?

JY: Because I've...she gave me permission to come and go as I wanted to there and to...I've took care of things there. I mean, that morning I cleaned everything up in the kitchen and cleaned the bathrooms a few week...weeks...yeah, the week before when she was gone and I just felt like it was [unintelligible].

DS: So you went there at times when she wasn't there?

JY: Yeah.

DS: What was your reason for going there when she wasn't there?

JY: Check on the house, make sure everything was okay and protect her stuff.

DS: Did you tell the officers any of these things?

JY: No, they didn't ask.

DS: So ultimately you were arrested in this and charged with 1st Degree Burglary?

JY: Yes.

DS: And...tell me what you think about that.

JY: I felt my actions that night led to the...I guess overall, the termination of what needed to be done and it was something that needed to take place. That was the system and it worked. I just followed with what the determination was.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

- DS: Okay and how was your case settled?
- JY: Plead...or they amended the charges to Trespass two and I plead guilty to Trespass two...2nd Degree.
- DS: Do you feel you trespassed?
- JY: No. I felt that I had legal standing there, but I don't feel that my actions of being rude and mean were justified. So, I think there was some wrongdoing on my part there, but yeah.
- DS: So if you had to summarize your wrongdoing, what was it?
- JY: It was being angry and...and saying things to her that I didn't mean or need to say. Getting emotionally caught up in something that could've been prevented. Not listening to her when she told me something and just being rude and disrespectful.
- DS: Do you think...do you believe that she had the authority to tell you to leave?
- JY: Yeah, I believe she has every right to say what she wants to say.
- DS: So, let's...let's talk a little bit about why you got so angry. Do you have problems controlling anger?
- JY: I don't have problems controlling the anger, I just...I guess I have a problem with how I choose to deal with it and that may not necessarily be the way that people want to see it and I get quiet and I hold it in. That night, she didn't like that, she doesn't like that I just get quiet and I think that's where my problem is of how to react.
- DS: Okay. Well you weren't...I mean you weren't being quiet when you...you got home to the...
- JY: [Unintelligible].
- DS: On the front porch and going inside, you weren't quiet. So are you saying that's an uncharacteristic way that you...?
- JY: That is very uncharacteristic of me. It was an argument that we started...just...the beginning of the night. It was...it was something that was just building up and by that time I just was done getting...being...being basically being told I was wrong for being quiet, so I did the opposite, I yelled.
- DS: Did you feel like you were in control of yourself?
- JY: No, not at all.
- DS: Have you loss control worse than that?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/29/2015 TIME: 14:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

- JY: No, not that I can remember.
- DS: So, since this happened and you're saying that's not the way you typically respond when you're angry. I mean, what things have you thought about how to deal with being out of control?
- JY: I've taken necessary steps to have preventive measures of having people there, family, friends, and professionally to just say that I can hold myself accountable for what I say and what I do and learn to...to be patient with things and you know take the step back if you need to and wait. It doesn't have to be done right then and there, like I used to think.
- DS: Do you feel like you could use any sort of counseling or anything for anger issues?
- JY: I think everybody can talk to a counselor for whatever reason and I think that's something that...yeah, I've utilized and could [unintelligible] utilizing. I think they're a good tool for anything.
- DS: Okay, so as...as a police officer here today, what sort of things are you going to do if you feel like you're getting angry on the street?
- JY: Take a step back, if I can't handle the situation have another officer step in. Know that at the time it's...we are kind of the...we are the last resort to help a situation at any given point and to realize sometimes that it's not just against us, but sometimes when people don't realize what they're doing at the time so you can't take everything personally.
- DS: Have you ever lost control of your anger when you're on the street?
- JY: No.
- DS: Okay and for the clarification of the recording, I want to say that we are talking about hypotheticals here.
- JY: Okay.
- DS: I'm not suggesting that you have lost control of yourself. I just want to...when were done with this interview be assured that you are aware of how to gauge yourself and how to...how to work through those situations.
- JY: Yes sir.
- DS: Do you have anything you'd like to add to this?
- JY: I just want to...to say that it's...I'm very sorry for everything that I've done and have caused. That it wasn't...it was very uncharacteristic of me and I've taken the necessary steps to make sure that this never happens again, set up plans and I'm just learning to...you know just like I said having the support systems in place from family and friends to outside and professionally

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COMPLAINT: Crime/Conduct Unbecoming

and just learning to be a better person and better officer and I've....there's no way that can describe how I feel everyday about this and just the different people I've affected. I don't...I've definitely learned and grown from it and will continue to and going through this of...just...it's been a growing up experience that I...not to be in bad terms, but I'm fortunately that took place for me as a person to learn from and hopefully be able to move forward and grow from it and continue to move forward.

DS: Alright, Lieutenant?

JL: Where did you have dinner?

JY: Tomato Street.

JL: Over at Francis and Division?

JY: Uh hmm. Is that Tomato Street? Yeah.

JL: How...how long were you there?

JY: I don't remember. It was less than an hour maybe.

JL: And then where did you go after that?

JY: Escape.

JL: What is Escape?

JY: It's a...I don't know how to explain it. It's a...like a...kind of like a team building thing, an event. It's a venue that you...the premise is your trying to escape and work together by finding all these clues to get out of jail err to get out of a room.

JL: Hmm.

JY: So you're escaping and they have different scenarios, but I think at the time they were like a few weeks open.

JL: So, were you arguing at all at Tomato Street?

JY: No, we weren't arguing there. She was a little...I think she was a little upset that I was late when I picked her up, but it wasn't like thought to knowledge. It was kind of like that feeling you just have, like you know "I think she's upset".

JL: Okay and so did either one of you consume any alcohol or anything?

JY: She did, yeah.

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JL: How much did she consume?

JY: I think she had a drink.

JL: And then did you drink at all?

JY: I don't drink, no.

JL: So, how long were you at Escape?

JY: Hmm...

JL: Just...just approximately.

JY: An hour or whatever their time limit...they have a time limit and get [unintelligible] a few [unintelligible]...a few minutes and...an hour or so.

JL: Is that where the argument began?

JY: No.

JL: Where did you go after Escape?

JY: Drove home, to her house.

JL: When did the argument begin then?

JY: At Lincoln...no...

JL: During the drive home?

JY: Yeah, during the drive home, yeah.

JL: So, if and correct me if I...I mischaracterize anything that you told Sergeant Staben. You're on the porch, you're...you're arguing, she pushes in the door code and opens the door. Is that correct?

JY: Uh hmm.

JL: At which time she goes through the door. She's indicating she don't...she wants you to leave? The evening is over kind of thing?

JY: Yeah.

JL: And you at one point, you put your foot in door to prevent her from closing is all the way.

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JY: I was about to enter behind her.

JL: Right.

JY: Yeah.

JL: But you put your foot in the door as she's closing it?

JY: Yeah.

JL: It prevents the door from closing all the way?

JY: Yeah.

JL: And then ultimately, the door does close all the way? Because you said you turned the handle and opened the door.

JY: Yeah, after she pushed me at that point.

JL: Okay, so your foots in the door, she pushed you?

JY: Yeah.

JL: And the door closed?

JY: Yeah.

JL: Did she lock the door at that point?

JY: No.

JL: When you and...you turned the doorknob and you pushed and you said that it...it came open kind of quickly?

JY: Uh hmm.

JL: At any point did she push back on the door?

JY: No.

JL: Never at any point did she...?

JY: Not at that point, when I opened it, she closed it, she was not even near the door.

JL: When did she push back on the door?

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JY: When I was there with my foot.

JL: Okay. So she went upstairs and you said that...did she lock the door...

JY: Uh hmm.

JL: To her bedroom? Has she ever done that before?

JY: Locked me out of the bedroom? No, I've been in the bed...we locked it when we go to sleep. I knew that she locked it because I could hear it.

JL: But she had never locked you out of the bedroom before?

JY: No.

JL: And what was your plan at that point?

JY: Talk to her through the door. Talk to her right there.

JL: And what if the police had never arrived that night. What were you going to do?

JY: Talk to her right there. I then maybe give up. I don't know.

JL: So, were you...were you carrying a firearm during this whole thing?

JY: Yes.

JL: And what firearm were you carrying?

JY: A Smith and Wesson 38, hammerless.

JL: Okay.

JY: The...I don't know the...

JL: Personally owned firearm?

JY: My off duty, secondary backup gun.

JL: Do you typically carry a firearm when you're not at work?

JY: Sometimes yeah, it depends on the situation. If I'm going out with...where I'm going, who I'm going with, if I'm with kids, generally I won't take it. If I'm with adults I take it.

JL: Did that firearm play into this situation at all at any time?

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JY: No.

JL: That's all I've got.

DS: Okay.

JG: We'll take a little break.

DS: Alright, we're going to go off the record here for a bit and it is 14:44.

[End of 1st Recording]

DS: Okay, we're back on the record. It is October 29th, 2015, with the John Yen interview and the time is 14:48.

JG: So John, Lieutenant Lundgren asked you about when you guys were walking into the door. You said you were just following her, is that normal for when you guys get there? You just follow her into the house?

JY: Yes.

JG: So when she shut the door, was that a surprise to you?

JY: It was, when she attempted to, yes it was a surprise to me...

JG: Okay, so...

JY: So I was [unintelligible], yeah, I was upset, yeah.

JG: Your foot in the door wasn't intentionally trying to prop it open, it was...you were just walking through?

JY: After the first time she did it, then yeah, that was the surprise to me.

JG: Okay. And then earlier you were asked if she could have been scared of you and your actions?

JY: Uh hmm.

JG: And then you characterized how normally you get quite?

JY: Uh hmm.

JG: Could her being scared be based on the fact the way you were acting was different than what you normally do?

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JY: Yes.

JG: Okay. That was it.

DS: Anything else?

JL: I don't have anything.

DS: Anything else?

JY: I don't, no. I just want to say I know what I did was on my part wrong, the way I acted and it won't affect...it won't happen again and it won't affect me and my job on the street and the people...the way that I treat people that I come in contact with and even my relationships and my family and friends. Just...I've taken necessary steps to make sure this doesn't happen ever again and just to be a better person from this, so. That's it.

DS: Okay. We're now concluding this interview, the time is 14:50.

[End of Recording]

SPOKANE POLICE DEPARTMENT - INTERNAL INVESTIGATION
RIGHTS / RESPONSIBILITIES FOR ADMINISTRATIVE INTERVIEWS

Employee: Officer Yen # 1169 (Accused X / Witness)

Incident or Citation #: 15-241039

Complainant: [REDACTED] #1a


Date/Time: 071415 Location: [REDACTED] #1d

Complaint: Conduct Unbecoming

-
1. The purpose of this interview is to determine if misconduct or violations of Rules and Regulations, Policies and Procedures, Code of Ethics or any other departmental guidelines have occurred.
 2. You have the right to be informed of your status regarding this investigation—whether you are the accused or a witness.
 3. You have no right to remain silent. You must fully and truthfully answer all questions relating to your official duties and/or potential violations of City of Spokane or departmental Rules and Regulations; Policies and Procedures; Code of Canons and Ethics. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
 4. You may have a union representative present to represent you or you may have an attorney that you have retained privately for consultation if you so desire. Reasonable time will be allowed for consultation, but you may not consult so frequently as to unduly interfere with the interview. Neither your attorney nor your union representatives may answer questions for you.
 5. All answers and statements may be used in departmental administrative or disciplinary proceedings and may result in administrative action up to and including dismissal.
 6. No information derived during this interview can be used in any criminal proceeding against you (except perjury or obstruction charges¹). However, these statements may be used against you in relation to subsequent departmental charges.

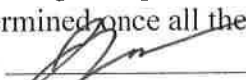
¹ The Fifth Amendment does not protect false statements from a later prosecution for perjury or obstruction of justice whether they occur under oath, with immunity, or during a governmental investigation. U.S.C.A. Const.Amend. 5; 18 U.S.C.A. § 6002. United States v. Veal, 153 F.3d 1233 (11th Cir. 1998)

7. This investigation and interview is confidential pursuant to the Spokane Police Department Personnel Complaint Procedure Policy 1020. In order to ensure that the integrity of the investigation is preserved and that all department rules and regulations are understood and followed, you shall not discuss the allegations or investigation with anyone except your union representative(s), attorney or supervisor. You may not allow anyone else to gain access to that information without the expressed authorization of the Chief or his/her designee. Additionally, if you are the accused employee, you may only disclose to others that you are the subject of an investigation.
8. You are hereby ordered to comply with the investigation currently being conducted by _____ and to provide any written statement and answer any questions pertaining to the investigation. *(For non-SPD investigations only)*

Employee's signature  Date 10/29/15 Time 1405

Administered by _____ Date _____ Time _____

As the witness/accused employee, I acknowledge receipt of formal written notification of an impending internal investigation prior to being interviewed. I further understand the cited violations will be determined once all the facts are gathered and the investigation is concluded.

Employee's signature  Date 10/29/15 Time 1405

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:14

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Sergeant Dave Staben
JM: Officer Jeremy McVay
JG: Sergeant John Griffin
SG: Sergeant John Gately

DS: Okay, we're now beginning this interview. The time is 05:14 and the date is November 3rd, 2015. Present in the room are myself, Sergeant Staben, Officer Jeremy McVay and Sergeants John Griffin and John Gately, representing the Spokane Police Guild. This interview is being recorded. Internal Investigations files are considered public records and are subject to release in accordance with Washington State Law. Officer McVay, do you have any concerns with the release of this investigation?

JM: No.

DS: Would you please confirm the spelling of your last name and tell me your personnel number?

JM: McVay, M-C-V-A-Y and my personnel number is 9-2-3.

DS: Have you read and signed your Administrative Rights and Responsibilities Form?

JM: Yes I have.

DS: Have you been offered a copy of those rights?

JM: Yes I have.

DS: Do you understand them?

JM: Yes.

DS: Have you been given a written overview of the allegations in this case?

JM: Yes.

DS: Do you understand that you are a witness officer in this investigation?

JM: Yes I do.

DS: The IA tracking number is Charlie 15-064 and allegation is Conduct Unbecoming and the complainant is [REDACTED] #1a. Officer McVay, how long have you worked for the Spokane Police Department?

JM: Eight years.

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COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Do you have any prior law enforcement experience?

JM: No I do not.

DS: Do you have any specialty assignments?

JM: I'm assigned to SWAT and CART.

DS: What was your assignment on July 14th, 2015?

JM: Graveyard Patrol.

DS: Do you recall this incident?

JM: Yes I do.

DS: In your own words, describe what happened.

JM: I got...got dispatched to a burglary in progress. A witness said that they saw a male either kicked in the front or force the front door open and then they saw what appeared to be possibly physical fights and screaming upstairs. So, in route to that...as I pulled up there was a plate in the call, brand new dispatcher, which are very slow, so they hadn't ran it yet or updated it and there was already a couple more...a couple units on scene. So, I was trying to get some more info, ran the plate. Realized that it was John Yen's plate. That's right as I was pulling up on scene, so I immediately requested a supervisor and met up with...I know...I know Hamilton...I think it was Hamilton and Erdman were already on scene. Immediately let them know that information. Then we kind of set up on the house until Mario showed up, I believe.

DS: What did you hear when you first [unintelligible]?

JM: I could hear some yelling and screaming upstairs. I don't recall being able to see anybody up there and it was kind of muffled. I couldn't...I couldn't tell what they were saying or anything.

DS: Was...could you tell if it was male or female or both?

JM: I couldn't. I couldn't.

DS: Okay, so when you guys went to the door, what happened?

JM: We kind of sat there for a second trying to listen some more, still yelling and screaming and then we knocked. John Yen came down, answered the door, his face was really red, he was out of breath. Mario greeted him and said "John, what's going on?" And he kind of looked behind him and started to step out and going to shut the door behind him. The...you know the DV trick that guys do a lot and so immediately at that point I wasn't gonna play that game. I told him to step away from the door. Tried to get him away from the door so it couldn't get locked. We went

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COMPLAINANT: #1a

COMPLAINT: Crime/Conduct Unbecoming

into to assure the victim was okay. At that point I had no idea who it was. As soon as we entered, she came around the corner at the top of the stairs. It's an old Craftsman house or Victorian, whatever you want to call it. So, there's a big long staircase just to the right as you enter and I could see her at the top of the stairs. She was upset, yelling and screaming. Immediately said "Do you know who that is? That's...he's a cop and..." and I was like "yeah, I know...I work with him. I know who it is and I know who you are", because I had gotten DUI Search Warrant Training from her. So, I got her calmed down and started my interview at that point.

DS: Okay, so this first interview that you did with her, you didn't turn your body camera on?

JM: I did not, no. I'd...I'd forgotten. It's like, as I was pulling up, I was running the plate, pulling up on scene, saw it was John Yen. I was like, awesome, request a supervisor and kind of hurried to let the other guys know before we got too far into it and then I just...I totally forgot.

DS: Um...

JM: And I'd only been wearing it at that time for...I'd...two weeks, maybe. I...I can't remember when [unintelligible].

DS: Where did you first interview take place?

JM: Upstairs in her bedroom.

DS: Okay. Who else was there [unintelligible]?

JM: Officer Erdman was standing there with me.

DS: Okay. Any other officer ever come in during that interview?

JM: Not that I recall, that I recall.

DS: Okay, so what was her demeanor like when you first began the interview?

JM: When I first began, she...she was angry. She was pissed off at the situation. I think she was pissed off at John, pissed off that we were there. So I got a quick interview from her and at that point honestly, my head, it was like...I was thinking "god are we gonna handle this...what...you know, is a supervisor on scene yet?" I'm like, this is a bad call to be on right now I guess, and so I got quick info from her. Realized that this was gonna be a bad call from my quick...just from the information she gave me. So, I had Officer Erdman standby with her, because by then Lieutenant Walker and Sergeant Meyer were on scene. Went and briefed them real quick and, like I said that's a quick interview, I'm gonna go re-interview her and at that time I turned on my body camera and went to try to get a better interview on her.

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COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: So tell me a little bit more about that first interview. What were the things that made you think this was going to be a [unintelligible]?

JM: Well just the stuff...she was so...I went and talked to her three times, it's hard to remember exactly what. I believe during the first interview she...I think she was more honest in the first interview. Not that she lied, but more cooperative, I'll say that. She basically said there was an argument, she told him to leave a whole bunch of times. More or less she was trying to shut the door or had shut the door. He forced his way in and then was yelling and screaming at her and then she...she told me that she had pushed him. So right there it's DV [unintelligible], right? So, at a minimum I had PC for her at that point, barring anything else that she had told me and then she...she's a [REDACTED] #1c it's not an easy person to interview. So, then she was...then I think she had calmed down and she was trying to way downplay everything to the point "well, it was just an argument and you know, nothing happened, it was just an argument" and I was like "[REDACTED] #1a you know DV laws as well as I do, you already admitted to me that you pushed him, so I have a misdemeanor DV Assault here at minimum. So you need to quit downplaying, which I know you're doing" and then she kind of opened up more and gave me the whole story. But honestly, I can't...I can't remember exactly what she said during the first interview, exactly what she said.

DS: So when you...when you briefed Lieutenant Walker and Sergeant Meyer, did you discuss what topics that you needed to clarify?

JM: Yeah, so my first interview was just quick, this is what we got, I'm going to go get a more...a more in depth interview. Then I did and then I briefed them on all that and...and to be honest, I can't even remember what they asked me to get follow up on to get more...more information on and then that was...that was the purpose of the third interview.

DS: Okay. So, did you review your body camera footage before you wrote your report?

JM: I did not.

DS: Okay. Have you reviewed it since?

JM: I have not.

DS: Okay. So, your camera was on the second and third time and I have reviewed those. Tell me what you remember about the second interview.

JM: Like I said, I can't...I...I have no memory of what she said during each interview, but...

DS: Okay.

JM: I think during the...the second interview, is when I actually called her on downplaying everything and explained to her what I had, what the laws were and to...that she needed to tell me the whole truth and everything like that or more detail, rather.

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DS: So ultimately he was arrested for?

JM: For 1st Degree Burglary DV.

DS: So, what were the issues in your second and third interview that you thought would be important if...?

JM: The big thing was obviously how he got into the house, right, and I'd...I'd established residency, which he had none, according to her. He had no belongings there, her house, she has kids, he stays there occasionally and then a lot of it was the...how he got into the house. Whether he forced his way in. What happened on the porch, how many times she asked him to leave, all that stuff.

DS: Do you believe that he intended to commit a crime inside that house?

JM: Yes and no. I don't know...I don't know. I think...I think it was very heated at that point between them. My biggest thing with the intent to commit a crime is...I...borderline, City Assault DV with the way she described him flinging the door open, slamming against the thing, yelling and screaming into her face to the point where...and I wish I had...I don't even know if we had pictures, but it was a long way into the kitchen. I mean, it's a big old house and she basically said she had to backpedal or retreat or whatever all the way into the kitchen at [unintelligible] point, he was still in her face. So, that...that was my intent to commit a crime, was the assault with how aggressive he was being towards her. That's...that's what she said why she felt in fear and she had to push him away.

DS: So was there was no other physical assault?

JM: Not that she alleged, no. We had witnesses that thought they saw.

DS: And those were the witnesses that were in the park?

JM: Yes.

DS: Okay. Now you talked about residency. How would that have affected the decision in this?

JM: Because if he lived there then he...he has every right to be in his house, so then the burglary would be totally out the window.

DS: What sort of things would you look at to establish residency?

JM: All kinds of stuff, I mean it's not...it's kind of a grey area a lot of times, but you know I mean, times somebody stays there? What kind of belongings do they have there? Do they get bills there? Do they pay rent there? And none of those are exclusive. If you have one, it doesn't mean you have residency necessarily but just kind of the totality of all those things.

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DS: Do you recall how many times she said that he stayed there?

JM: I don't, she...she just said he stays here and there, but she...she told me he does not live there. He just stays here and there, stays the night.

DS: Would you be surprised to know that on your body camera she responds that he stays there a lot and you asked her to quantify that she said thirty times.

JM: Yeah, I didn't know that. I don't remember that.

DS: Would that have changed at all?

JM: I don't think so, that still wouldn't be residency to me.

DS: Okay.

JM: Yeah.

DS: Did she...you talk to her about why she went upstairs and locked herself in there?

JM: I did. If I remember right, she...basically out of fear from the whole incident into the kitchen. He's yelling and screaming at her face and she said she just wanted to get away from him so she went upstairs and locked her bedroom door.

DS: Okay and on [unintelligible] on your body camera when you ask her that question, she says she went up there and locked the door because she wanted him to leave?

JM: Okay, alright. I would've like to watch the body camera video before, but...found out about the interview forty five minutes ago.

DS: Did you agree with the decision to...for him to be arrested for burglary?

JM: I...during our [unintelligible], it was brought up and I did not think we had the burglary?

DS: What...what are the reasons that you didn't think?

JM: Just the totality of it. She couldn't say whether she even shut the door and it's really...it's [unintelligible]...it's an argument between two people. It's not...I don't know, again, I just didn't think we had it.

DS: At one point on your body camera when you're walking back for one of these other interviews, you say...you make a statement, I don't agree with Sergeant Meyer?

JM: Yeah, I was talking about the burglary.

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DS: Okay.

JM: Uh hmm.

DS: Did you express that to...?

JM: I did, I told him and Lieutenant Walker that I did not think we had the burglary, but at the same time I was like, we...we have something here. I don't know that answer, I can't...you know, but I...I did not necessarily agree with the burglary charge, no.

DS: Do you recall any of their...this discussion about what crime you had about why they felt it was a burglary?

JM: I...Sergeant Meyer just brought it up. Him and Lieutenant Walker were talking more and I...I basically told them and I just kind of stepped back, it's way above my paygrade. In...in my opinion I should have not had to investigate this. I think that was kind of BS in my opinion. I think we should have called County or whatever, but it is what it is we're here now. So, I just kind of gave them the information I got, you guys get paid a lot more money than me to make decisions, here it is.

DS: So this was a very awkward position that you were put in?

JM: Absolutely.

DS: Have you worked a lot with Officer Yen?

JM: I have not, no. I've never worked on patrol with him. I've done a few training classes with him, that's about it.

DS: Do you think the quality of the investigation or was compromised at all by the fact that SPD was investigating one of their own?

JM: No, absolutely not. I...I was [unintelligible].

DS: Do you think at all that it was maybe charged up a little bit because of...?

JM: I...here's how...here's how we came to the charging decision. Sergeant Meyer called the prosecutor and...and this is what I was told by him. Told him all the facts and circumstances we had with no names attached to it and said what do you think we have? And he said "you have a burglary." And that's how the decision was...the final decision was made on charging.

DS: Where...did you witness any of that conversation?

JM: I did not, that's what Sergeant Meyer told me when we finally came to the conclusion and he said what we're going to charge him with.

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DS: Okay. I don't think I have anything else. Do you have anything else you'd like to add?

JM: Just that John and...and my relationship with him is totally professional, but from what I understand is there's kind of a history with him with DV stuff, some other mental stuff and the one thing I just want to get out there is...and I've talked to specifically Officer Hamilton and Officer err Corporal Daniel. The night of this is when I went up there I was like "holy shit, were gonna shoot John Yen." Just because of stuff I'd heard in the past and I just want to make that known that...I don't know this is hard, but it sucks to have to think that about one of your co-workers and I don't know if that's something the department needs to help him with or what...I don't know if the rumors about his past are true, but they're out there, so I just want to put that [unintelligible].

DS: So you...just for clarification you don't have any personal knowledge of those things?

JM: No, I do not.

DS: And, so I mean that's pretty serious, what you're saying thinking that you're...

JM: Yeah, that's...that's what I was thinking during this incident. I honestly thought we were gonna have to boot the door and do work per say.

DS: So it's just...do you know any persons that have personal knowledge of these situations you're talking about?

JM: No, no, they're just...they're just rumors to me. Obviously that's information you can get, I can't get it, I don't care to get it, but that...that was honestly in the back of my head during this incident.

DS: Okay. Anything else?

JM: No.

JG: No.

DS: Alright. We're not concluding this interview, the time is 05:32.

[End of Recording]

SPOKANE POLICE DEPARTMENT - INTERNAL INVESTIGATION
RIGHTS / RESPONSIBILITIES FOR ADMINISTRATIVE INTERVIEWS

Employee: Officer McVay # 923 (Accused / Witness x)

Incident or Citation #: 15-241039

Complainant: [REDACTED] #1a

Date/Time: 071415 Location: [REDACTED] #1d

Complaint: Conduct Unbecoming

-
1. The purpose of this interview is to determine if misconduct or violations of Rules and Regulations, Policies and Procedures, Code of Ethics or any other departmental guidelines have occurred.
 2. You have the right to be informed of your status regarding this investigation—whether you are the accused or a witness.
 3. You have no right to remain silent. You must fully and truthfully answer all questions relating to your official duties and/or potential violations of City of Spokane or departmental Rules and Regulations; Policies and Procedures; Code of Canons and Ethics. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
 4. You may have a union representative present to represent you or you may have an attorney that you have retained privately for consultation if you so desire. Reasonable time will be allowed for consultation, but you may not consult so frequently as to unduly interfere with the interview. Neither your attorney nor your union representatives may answer questions for you.
 5. All answers and statements may be used in departmental administrative or disciplinary proceedings and may result in administrative action up to and including dismissal.
 6. No information derived during this interview can be used in any criminal proceeding against you (except perjury or obstruction charges¹). However, these statements may be used against you in relation to subsequent departmental charges.

¹ The Fifth Amendment does not protect false statements from a later prosecution for perjury or obstruction of justice whether they occur under oath, with immunity, or during a governmental investigation. U.S.C.A. Const.Amend. 5; 18 U.S.C.A. § 6002. United States v. Veal, 153 F.3d 1233 (11th Cir. 1998)

7. This investigation and interview is confidential pursuant to the Spokane Police Department Personnel Complaint Procedure Policy 1020. In order to ensure that the integrity of the investigation is preserved and that all department rules and regulations are understood and followed, you shall not discuss the allegations or investigation with anyone except your union representative(s), attorney or supervisor. You may not allow anyone else to gain access to that information without the expressed authorization of the Chief or his/her designee. Additionally, if you are the accused employee, you may only disclose to others that you are the subject of an investigation.
8. You are hereby ordered to comply with the investigation currently being conducted by _____ and to provide any written statement and answer any questions pertaining to the investigation. *(For non-SPD investigations only)*

Employee's signature  Date 11/3/15 Time 0510

Administered by  Date 11/3/15 Time 0510

As the witness/accused employee, I acknowledge receipt of formal written notification of an impending internal investigation prior to being interviewed. I further understand the cited violations will be determined once all the facts are gathered and the investigation is concluded.

Employee's signature  Date 11/3/15 Time 0510

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:58

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Sergeant Dave Staben
JD: Corporal Jeremy Daniel
JG: Sergeant John Gately
SG: Sergeant John Griffin

DS: Okay, we're now beginning this interview. The time is 05:58 and the date, November 3rd, 2015. Present in the room, myself, Sergeant Staben, Corporal Daniel, Sergeants Gately and Griffin, representing the Spokane Police Guild. This interview is being recorded. Internal Investigation files are considered public records and are subject to release in accordance with Washington State Law. Corporal Daniel, do you have any concerns with the release of this investigation?

JD: No.

DS: Would you please confirm the spelling of your last name and tell me your personnel number?

JD: Daniel, D-A-N-I-E-L; 7-6-7.

DS: Have you read and signed your Administrative Rights and Responsibilities Form?

JD: Yes.

DS: Have you been offered a copy of those rights?

JD: Yes.

DS: Do you understand them?

JD: Yes.

DS: Have you been given a written overview of the allegations in this case?

JD: Yes.

DS: Do you understand that you are a witness officer in this investigation?

JD: I do.

DS: The IA tracking number is Charlie 15-064. The allegation is Conduct Unbecoming and the complainant is [REDACTED] #1a. Corporal Daniel, how long have you worked for the Spokane Police Department?

JD: Over twelve years.

DS: Do you have any prior law enforcement experience?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:58

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

JD: No.

DS: Do you have any specialty assignments?

JD: No.

DS: What was your assignment on July 14th, 2015?

JD: Team 13, Graveyard Corporal.

DS: Do you recall the incident?

JD: Yes.

DS: In your own words, what happened?

JD: I was upstairs at the time when the call came out and I remember hearing McVay ask for a supervisor and Rich Meyer was up there with me and we essentially left at the same time, because we kind of pulled up CAD real quick, realized who was involved and so we both responded to the scene.

DS: When you arrived on scene, what was going on then?

JD: So, Sergeant Meyer had already made it there, Lieutenant Walker was already there. They were talking to K9 Officer Hamilton and there was some officers inside the house, investigating.

DS: What did you do?

JD: So I stood by with him, listening to what the Officer Hamilton had got from the complainant slash witnesses from the park and then I was advised to go inside and relieve Officer Juarez, so he could come out and provide whatever information he had. So, I went inside and stood by with Officer Juarez briefly before we went outside. So, I remained with John Yen.

DS: Did Officer Juarez brief you on what happened?

JD: No, we just kind of stood there and monitored Yen and you know made some small talk or whatever between each other, but we didn't discuss anything with one another.

DS: Okay.

JD: While you were standing by with Officer Yen, was anyone with [REDACTED] #1a?

DS: Yes, McVay was...he kind of came in and out a few times, but Officer Erdman was with her I think the entire time.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:58

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

JD: Okay.

DS: Were you able to hear any...any of the conversation between those officers and [REDACTED] #1a?

JD: I could hear them talking, but I could not...I couldn't tell ya...I couldn't make out anything as far as what they were discussing.

DS: Okay. Did Officer Juarez ever come back?

JD: Yeah, he eventually came back after he went out and briefed the Lieutenant and Sergeant.

DS: Did you still remain there with Yen?

JD: Yes.

DS: Did you ever get briefed on this case prior to any decision making on arresting Yen?

JD: I think I knew the...the general jest of you know, what had gone on, but I wasn't really privy to what was being discussed between the Sergeant and the Lieutenant and any officers that were talking to them.

DS: So if you had to explain what the probable cause was in this case, would you be able to do that?

JD: Yeah, I probably could. Not as well as you know, the officers investigating, but yeah, I mean I could.

DS: And what do you think that is?

JD: As far as what he was arrested and booked for, that probable cause?

DS: Yes.

JD: Yeah, so obviously you have the...the DV dating relationship between the two. I believe it was determined at the scene that there was no legal standing for you know, Yen residing at that residence. I think the impartial witnesses have him more or less forcing his way into the residence. He was armed with a firearm, therefore, 1st Degree Burglary Domestic Violence.

DS: Now you've...talked about standing there, did...do you have any actual information on how they went about establishing that he didn't have standing?

JD: I think mainly through the interviews and I think as far as I know, there wasn't...it was stated that there was any mail being received there. That he maybe, you know, had stayed there off and on, but he had his own residence and I think it was just through interviewing them both that it was determined that.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:58

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Were you present during any of those discussion about that?

JD: I...I think I was briefly. I heard some of that talk, yes.

DS: Okay. Was there a discussion about what crime he intended to commit inside?

JD: I didn't hear any of that. I...I think all of that occurred outside with the Lieutenant and the Sergeant.

DS: Okay. Is there anything else you can think of that I need to know in this case?

JD: I don't...I mean I'd almost like to confer with you guys about you know, aside that...that...I mean for me it turned out to be something just uncomfortable and...and uneasy for me and just prior information that I had. I don't know if that's something that should or can be discussed.

SG: Do you want to go off tape then?

DS: Yeah, let's go off hear. So, we're going off for a minute and the time is 06:05.

[End of First Recording]

DS: Alright we're back on the record. The time is 06:07 and this is an interview of Corporal Daniel in the Yen case and for the sake of the transcription he requested a private meeting the guild representatives here and we're back on the record.

JD: I...I did notice that you left off Officer Hamilton on the witness list.

DS: Uh hmm.

JD: I...I didn't know if that was something intentional or not, but I just thought I would mention it.

DS: Yeah, I have an interview scheduled with him already.

JD: Okay. Other than that, feel free to ask any more questions that you have, but...obviously I took photographs at the scene, documenting whatever I could, so.

DS: Okay.

JG: No questions.

SG: Was there any damage to the door? Do you remember taking photographs of the door?

JD: Yeah, it's an older house and there didn't appear to be any new damage.

SG: That's all I have.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:58

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Okay. We're now concluding this interview, the time is 06:08.

[End of Recording]

SPOKANE POLICE DEPARTMENT - INTERNAL INVESTIGATION
RIGHTS / RESPONSIBILITIES FOR ADMINISTRATIVE INTERVIEWS

Employee: Cpl. Daniel # 767 (Accused _____ / Witness x)

Incident or Citation #: 15-241039

Complainant: [REDACTED] #1a

Date/Time: 071415 Location: [REDACTED] #1d

Complaint: Conduct Unbecoming

-
1. The purpose of this interview is to determine if misconduct or violations of Rules and Regulations, Policies and Procedures, Code of Ethics or any other departmental guidelines have occurred.
 2. You have the right to be informed of your status regarding this investigation—whether you are the accused or a witness.
 3. You have no right to remain silent. You must fully and truthfully answer all questions relating to your official duties and/or potential violations of City of Spokane or departmental Rules and Regulations; Policies and Procedures; Code of Canons and Ethics. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
 4. You may have a union representative present to represent you or you may have an attorney that you have retained privately for consultation if you so desire. Reasonable time will be allowed for consultation, but you may not consult so frequently as to unduly interfere with the interview. Neither your attorney nor your union representatives may answer questions for you.
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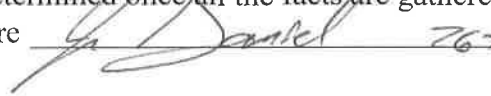
7. This investigation and interview is confidential pursuant to the Spokane Police Department Personnel Complaint Procedure Policy 1020. In order to ensure that the integrity of the investigation is preserved and that all department rules and regulations are understood and followed, you shall not discuss the allegations or investigation with anyone except your union representative(s), attorney or supervisor. You may not allow anyone else to gain access to that information without the expressed authorization of the Chief or his/her designee. Additionally, if you are the accused employee, you may only disclose to others that you are the subject of an investigation.

8. You are hereby ordered to comply with the investigation currently being conducted by _____ and to provide any written statement and answer any questions pertaining to the investigation. *(For non-SPD investigations only)*

Employee's signature  Date 11-03-15 Time 0600

Administered by  Date 11-03-15 Time 0600

As the witness/accused employee, I acknowledge receipt of formal written notification of an impending internal investigation prior to being interviewed. I further understand the cited violations will be determined once all the facts are gathered and the investigation is concluded.

Employee's signature  Date 11-03-15 Time 0600

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:37

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Sergeant Dave Staben
MJ: Officer Mario Juarez
JG: Sergeant John Gately
SG: Sergeant John Griffin

DS: Okay, we're now beginning this interview. The time is 05:37 and the date is November 3rd, 2015. Present in the room, myself, Sergeant Staben, Officer Juarez, Sergeants John Griffin and John Gately, representing the Spokane Police Guild. This interview is being recorded. Internal Investigations files are considered public records and are subject to release in accordance with Washington State Law. Officer Juarez, do you have any concerns with the release of this investigation?

MJ: No.

DS: Would you please confirm the spelling of your last name and tell me your personnel number?

MJ: J-U-A-R-E-Z; number is 7-4-0.

DS: Have you read and signed your Administrative Rights and Responsibilities Form?

MJ: Yes.

DS: Have you been offered a copy of those rights?

MJ: Yes.

DS: Do you understand them?

MJ: Yes.

DS: Have you been given a written overview of the allegations in this case?

MJ: Yes.

DS: Do you understand that you are a witness officer in this investigation?

MJ: Yes.

DS: The IA tracking number is Charlie 15-064. The allegation is...is Conduct Unbecoming and the complainant is [REDACTED] #1a. Officer Juarez, how long have you worked for the Spokane Police Department?

MJ: Thirteen years.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:37

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Do you have any prior law enforcement experience?

MJ: Yes.

DS: What was that?

MJ: Six and half years, North Providence Police Department in Rhode Island.

DS: Do you have any specialty assignments?

MJ: No.

DS: What was your assignment on July 14th, 2015?

MJ: Graveyard Patrol.

DS: Do you recall this incident?

MJ: Yes.

DS: In your own words, what happened here?

MJ: There was a call for a disorderly person/possible DV incident at the address in question. From a...from a witness in the park across the street. Once we arrived, I believe another officer had performed a check on a car that was in front err a truck in front of the house; came back to Officer err John Yen. We contacted him on the front porch. I remained with Officer Yen during the entire time, while officers interviewed the female that was upstairs, later identified as [REDACTED] #1a and another officer spoke to the person that was in the park.

DS: Did you conduct any sort of interview of Yen?

MJ: Yes.

DS: What did he say?

MJ: If I can refer to my report.

DS: Please.

MJ: Let's see. Basically he started out saying that it was an argument between him and his girlfriend, who I identified as [REDACTED] #1a. I tried to explain to him why we were there, that someone had called in an argument and that there was some arguing on the front porch. I guess the complainant also said...claimed of seeing a male kicking in the front door to that particular house. While I was talking to Officer Yen, he told me that he told me that he had his...his firearm on him. He later described to me the fact that he...he and [REDACTED] #1a had gone

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:37

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

to a function and they had an argument while at the function and...but there was nothing physical according to what he told me. He didn't really elaborate on what...what the argument was over. I didn't...okay, [unintelligible] I didn't observe any injuries on him and he repeatedly just said that it was an argument and that it was nothing physical.

DS: Did you see any damage to the front door?

MJ: Let's see, I don't recall and I don't remember if I noted it in here. I don't recall seeing any damage.

DS: Now you're...you had a body camera on, is that correct?

MJ: Yeah.

DS: At some point in this interview did he ask you to turn it off?

MJ: He did.

DS: Where were you at when he asked you to turn it off?

MJ: In the living room...in the front room, which I assume was the living room.

DS: So the first...first part of the interview you're on the porch?

MJ: Correct.

DS: And then you move into the...inside?

MJ: [Unintelligible].

DS: Okay. Did you ever have a meeting where you got together with the officer interview the other half and discuss what...what they said?

MJ: Yeah, we'd briefly gone outside and spoken to McVay and I think Officer Hamilton and Sergeant Meyer was there. It was just a quick conversation of what had...the other people had said that were involved and I was instructed to remain with Yen until a determination was made as to what...what charges we were looking at for...for him.

DS: Would it be safe to assume that the majority of the conversation that you actually had with Yen took place on the front porch?

MJ: For the most part, yes, because once we got inside I spoke to him a little more as far as what had happened and then after that it was you know, once he [unintelligible] to the fact that it was just an argument there wasn't a whole lot of interviewing going on after that.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:37

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Okay, so after the meeting with...with McVay...

MJ: Uh hmm.

DS: Did that occur on the front porch?

MJ: Yea...I believe we spoke on the front porch briefly and then we went out to the patrol cars.

DS: Okay, who was with Yen at the time that you went [unintelligible]?

MJ: There was another officer with me at the time. It was Corporal Daniel.

DS: So he stayed with Yen?

MJ: Yes.

DS: So you went out to the patrol cars and continued this discussion?

MJ: Correct.

DS: At that point in the conversation, did...had the decision made about what the charges would be?

MJ: At that time, not...not as of yet, no. I think they were leaning towards a...a DV Burglary type situation.

DS: Did you...do you recall what McVay said about what he had found out?

MJ: Not specifically, no.

DS: So after that...that was essentially the first time that all of you guys were together..

MJ: Uh hmm.

DS: That had some information?

MJ: Uh hmm.

DS: Did anybody go back to Officer Yen and try to question him on any of the details that were conflicting?

MJ: Not that I'm aware of, no. Unless, Corporal Daniel interviewed him, but I don't know that he did.

DS: So did you go back and stand with Yen after this little powwow?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:37

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

MJ: Yes. Yes and then we remained there until Sergeant Meyer and Joe err Lieutenant Walker came in and advised him of what was going on.

DS: Do you recall Officer McVay making a couple of other trips up there to ask other questions?

MJ: Yes.

DS: Did you overhear any of those questions?

MJ: I couldn't.

DS: Okay. Did you ever hear any statements by Ms. [REDACTED] #1a at all?

MJ: No, I did not.

DS: Do you have a good understanding what the probable cause was here to arrest Yen for 1st Burg?

MJ: Uh hmm.

DS: Go ahead and tell us [unintelligible].

MJ: Basically the fact that the...it was determined err...determined that he didn't have residency at the occupancy and he forced his way in based on the statements from the witness and he was armed at the time.

DS: Did you ask any questions about residency?

MJ: I did, yes.

DS: What were they?

MJ: I actually noted it in my report. The...the door had some sort of a...a keypad. Right, I asked him if he had a key and he said he didn't, because it had a key...a numerical code type lock system.

DS: Did you ask him if he knew the code?

MJ: Actually I did not ask him if he knew the code, but I...I assumed that he did seeing that he'd...it was...he was making it clear that he was coming and going and he was staying a few nights a week. Actually I noted that he said he stayed at her house pretty regularly. Although he had his own residence.

DS: So, given those same facts there, say if you went to an unwanted guest house and the person had been staying there as often and she reporting a report, would you feel comfortable trespassing that person from [unintelligible]?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:37

COMPLAINANT: #1a

COMPLAINT: Crime/Conduct Unbecoming

MJ: Would I feel comfortable trespassing, knowing that they were able to come and go as freely as they...as...as if it was...?

DS: As the facts that you found out in this?

MJ: Probably not.

DS: Okay. Did you or did you hear anyone else relay to the supervisors, these questions about residency?

MJ: I don't know if anyone else did. To be honest I don't remember when it was that I...established the fact that he was coming and going, like was staying there regularly after I'd spoken to Sergeant Meyer and Lieutenant Walker. I [unintelligible]...I'm thinking that it was after I talked to them and then they continued their powwow to make their decision.

DS: Okay. Have you worked around Officer Yen much?

MJ: No. [Unintelligible]

DS: Okay.

MJ: Briefly when he was on, I think power shift, but other than that, not...not very much.

DS: Are there any things that you know about from personal experience with Officer Yen that I should know about in this investigation?

MJ: No I...I mean I...I know him due to friendship through another officer, but other than that, no. I don't...I don't...I don't hang out...I don't hang around Officer Yen outside of work.

DS: Okay. Are there any other facts about Officer Yen that I should be aware of at all?

MJ: Not that I know of, no.

DS: Okay. Do you have any?

JG: No questions.

SG: Did you ever get to talk to the officer that was interviewing Ms. #1a and compare notes?

MJ: McVay, I think briefly when we went out and spoke to Sergeant Meyer. It was a pretty brief conversation. I just basically...I explained to him that he was insisting that it was just an argument and it wasn't anything more than that, so.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 05:37

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

SG: And then when you found out the information about how often and how freely Mr. Yen was able to come and go and that was after you'd already talked to Sergeant Meyer, did you go back and relay that information to him?

MJ: I did not.

SG: Okay. That's all I have.

DS: Anything else you'd like to add?

MJ: No.

DS: So I understand that this was an awkward position for you guys to be in. Do you feel that because of that any of this investigation was compromised in any way?

MJ: No.

DS: Okay. Alright, we're now concluding this interview, the time is 05:51.

[End of Recording]

SPOKANE POLICE DEPARTMENT - INTERNAL INVESTIGATION
RIGHTS / RESPONSIBILITIES FOR ADMINISTRATIVE INTERVIEWS

Employee: Officer Juarez # 740 (Accused / Witness x)

Incident or Citation #: 15-241039

Complainant: [REDACTED] #1a

Date/Time: 071415 Location: [REDACTED] #1d

Complaint: Conduct Unbecoming

-
1. The purpose of this interview is to determine if misconduct or violations of Rules and Regulations, Policies and Procedures, Code of Ethics or any other departmental guidelines have occurred.
 2. You have the right to be informed of your status regarding this investigation—whether you are the accused or a witness.
 3. You have no right to remain silent. You must fully and truthfully answer all questions relating to your official duties and/or potential violations of City of Spokane or departmental Rules and Regulations; Policies and Procedures; Code of Canons and Ethics. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
 4. You may have a union representative present to represent you or you may have an attorney that you have retained privately for consultation if you so desire. Reasonable time will be allowed for consultation, but you may not consult so frequently as to unduly interfere with the interview. Neither your attorney nor your union representatives may answer questions for you.
 5. All answers and statements may be used in departmental administrative or disciplinary proceedings and may result in administrative action up to and including dismissal.
 6. No information derived during this interview can be used in any criminal proceeding against you (except perjury or obstruction charges¹). However, these statements may be used against you in relation to subsequent departmental charges.

¹ The Fifth Amendment does not protect false statements from a later prosecution for perjury or obstruction of justice whether they occur under oath, with immunity, or during a governmental investigation. U.S.C.A. Const.Amend. 5; 18 U.S.C.A. § 6002. United States v. Veal, 153 F.3d 1233 (11th Cir. 1998)

7. This investigation and interview is confidential pursuant to the Spokane Police Department Personnel Complaint Procedure Policy 1020. In order to ensure that the integrity of the investigation is preserved and that all department rules and regulations are understood and followed, you shall not discuss the allegations or investigation with anyone except your union representative(s), attorney or supervisor. You may not allow anyone else to gain access to that information without the expressed authorization of the Chief or his/her designee. Additionally, if you are the accused employee, you may only disclose to others that you are the subject of an investigation.

8. You are hereby ordered to comply with the investigation currently being conducted by _____ and to provide any written statement and answer any questions pertaining to the investigation. *(For non-SPD investigations only)*

Employee's signature M. S. J. J. Date 11-3-15 Time 0535

Administered by [Signature] Date 11-3-15 Time 0535

As the witness/accused employee, I acknowledge receipt of formal written notification of an impending internal investigation prior to being interviewed. I further understand the cited violations will be determined once all the facts are gathered and the investigation is concluded.

Employee's signature M. S. J. J. Date 11-3-15 Time 0535

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/05/15 TIME: 13:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Sergeant Dave Staben
CH: Officer Craig Hamilton
PC: Sergeant Paul Carpenter
TO: Officer Tim Ottmar

DS: Okay, we're now beginning this interview, the time is 13:07 and the date is November 5th, 2015. Present in the room, myself, Sergeant Staben, Officer Hamilton and Sergeant Carpenter and Officer Tim Ottmar, representing the Spokane Police Guild. This interview is being recorded. Internal Investigation files are considered public records and are subject to release in accordance with Washington State Law. Officer Hamilton, do you have any concerns with the release of this investigation?

CH: No.

DS: Would you please confirm the spelling of your last name and tell me your personnel number?

CH: H-A-M-I-L-T-O-N; 7-13.

DS: Have you sign...read and signed your Administrative Rights and Responsibilities Form?

CH: I have.

DS: [Unintelligible] have you been offered a copy of those rights?

CH: Yes.

DS: Do you understand them?

CH: Yes.

DS: Have you been given a written overview of the allegations in this case?

CH: Yes.

DS: Do you understand that you are a witness officer in this investigation?

CH: I do.

DS: The IA tracking number is Charlie 15-064 and the allegation is Conduct Unbecoming and the complainant is [REDACTED] #1a. Officer Hamilton, how long have you worked for the Spokane Police Department?

CH: I don't know, thirteen years.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/05/15 TIME: 13:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Do you have any prior law enforcement experience?

CH: I do, with the Sheriff's Office.

DS: How long was that?

CH: About three and a half years.

DS: Do you have any specialty assignments?

CH: K9 Officer.

DS: What was your assignment on July 14th, 2015?

CH: I was working as a K9 Officer.

DS: Do you recall the incident?

CH: I do.

DS: Tell me what you remember about this thing.

CH: I just remember them dispatching a call, a burglary in progress. A guy trying to break in the front door of a house. So, I self-dispatched myself to the call and myself and it turned out, Officer Erdman were the first ones on scene and kind of a weird...where...where it's located. It took us a little bit to get up there and as we were walking up, we saw the truck parked on the...the sidewalk of the residence. Didn't hear or see anybody outside and then I had no idea who was involved in the incident as far as it being another officer and just as other officer arrived on scene I was told that it was Officer Yen...Officer Yen's truck that was involved and I noticed it was parked up on the sidewalk kind of like it...you know, I mean it wasn't not how you'd usually park a truck and then I went to the back of the house. I actually already had Leo with me already, my dog. I went to the back of the house and it was kind of a hairy situation because those can often turn really bad it seems like and I didn't see Yen at all and...but I stood back, watched the back of the house. Kind of looked in through a window. I could see...I saw a male moving around in there, but I couldn't tell who it was and I do remember thinking that...I don't know for some reason I had a pretty eerie feeling about this one. I remember looking for a tree to stand by...behind and there was nothing to stand behind. For whatever reason I was thinking that I needed something...a little more cover than that. I also had it in my head that if Yen were to run out that back door and you know, try and escape for whatever reason; I already made it in my mind I would send Leo and again, just because I had no idea what was going on and then from there I heard that they were talking to Yen out front and so then I went and talked to some witnesses.

DS: And did you have your body camera on when you were talking to them?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/05/15 TIME: 13:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

CH: I did.

DS: What do you remember of those interviews?

CH: Well I spoke to two of the female witnesses that called in and they were in...they were in the park across the street to the north and I spoke with both of them at the same time trying to figure out what exactly took place and they'd mentioned that they saw the truck, which turned out to be Yen's truck, pull up at a high rate of speed, saw the male jump out and they described it as the female sitting up on the front porch err she was already up there somehow and he jumped out of the truck, very animated, throwing his arms around and ran up to the...the front porch. They said that they got in a...they were arguing and fighting and the female had her arms up like this saying "get out of my house or leave my house" something to that effect and the guy was...like I said, they said very, very, appeared to be very angry and actually they said when he ran...when he jumped out of it looked like they were...he was going to kick someone's ass and then she ended up going inside of the front door and they said that they...they heard or saw the door slam shut and then he went in after her, after the door slammed. I asked them if they...if he forced his way in or just opened the door and went in and they said they didn't know. They couldn't tell either way and then from there they saw that they had moved upstairs. There was a...a window, picture type window up above on the second floor that faced the park and they said that it looked like they were in a physical fight. I tried to clarify that to see if it was, you know, I mean if they actually saw people getting punched or whatnot and they said "no", they couldn't tell for sure and then from there...I tried to get, you know, I tried to find out exactly where they were standing and the blinds were...there's blinds or curtains or something like that, so from my understanding they could...they could see them, but not actually see them, you know maybe a silhouette [unintelligible] other...other than maybe a little bit of an opening in the...in the blinds. So, I went back, tried to figure out where they were standing and what exactly they could see and had taken place and it was just kind of up in the air as far as what actually they would have been able to see and what they assumed took place, so.

DS: Okay. After you talked to them, what did you do?

CH: I went back, told the other officers that were there, you know, we're trying to figure out what exactly we had. We knew it was a shit sandwich and [unintelligible]...

DS: In that meeting, you tried to figure out who...what you're going to do. Who was in that meeting?

CH: I think McVay was there. I believe Sergeant Meyer was there at one point and Lieutenant Walker.

DS: Do you recall what Mc...Officer McVay said about what he discovered?

CH: Hmm, not exactly. I...I know that he had talked to the female, but I...I can't remember exactly what the...their conversation was, not without looking at my video.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/05/15 TIME: 13:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Was Officer Juarez involved in that meeting?

CH: Very possible, he was there. I can't remember, I mean there was a few times we got together and discussed you know what exactly was going on and I think McVay...McVay...after we initially got together, McVay went back and tried to clarify some things with the female half of the situation.

DS: Do you know what kind of things he was trying to clarify?

CH: Not without assuming and looking at my video to see what he said. I think trying to maybe just figure out exactly...you know if there was an actual assault and whatnot, but I don't...I don't recall that.

DS: Would you be able to describe the probable cause for this arrest?

CH: Well that's kind of where it got shitty, because...was that in my opinion it was weak, but there was enough to make an arrest. We were just trying to figure out what charge exactly to go with and actually I did ask the females, the witnesses if they'd ever seen that truck there before; trying to establish if he had any type of residency or whatnot.

DS: Did they live in the area?

CH: Yeah, yeah they lived in the area and they both said they had never seen the truck there before. What that means [unintelligible], I mean, you know, but...

DS: So when you say the PC was weak? Did you know what...

CH: Well...

DS: Why do you think that?

CH: Because we didn't have...just going off of memory, we didn't have the...well the...the...because I think we ended up charging him with Residential Burglary. Correct, is that the original charge?

DS: Uh hmm.

CH: Yeah, just trying to figure out you know, if we had the just a Misdemeanor Assault or if we ended up with a Felony for Residential Burglary and I think we were just trying to figure out what exact charge we had, not trying to overcharge, you know, because it was...we didn't want to overcharge just because it was a police officer, but we didn't want to undercharge it either.

DS: Did you guys have discussions about that?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/05/15 TIME: 13:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

CH: Yeah. I remember, you know, everyone was just trying to figure out exactly which route to go. Which...which charge was most appropriate and truly I...I gave my opinions and then I just kind of stayed out of it too.

DS: What was your opinion?

CH: I...I didn't necessarily think that there was enough for the Residential Burglary, because I felt like if it would have been anybody else we wouldn't be charging Residential Burglary on him. If it's Joe Blow, citizen we'd probably charge him with a City Assault DV and call it good. So...and that...but that was just my opinion.

DS: What was the assault? Can you tell me what you think the assault was?

CH: I...I don't know if it was off of what she had said, the female half...?

DS: If you don't know, you don't know.

CH: Yeah, yeah, I don't...I don't. I don't know.

DS: Did you...when...when this group discussion was taking place, what sort of things did you hear discussed about standing the residency at that place?

CH: I don't recall. Yeah, I don't recall as far as whether he lived there or not? Yeah.

DS: So, when you said that you talked to the witnesses about whether they saw his truck there or not, was that...did you go back and ask them that question or [unintelligible]?

CH: No, that was original...that was on my original contact.

DS: Okay. Did you hear any discussion in this group take place about how often he stayed there at that house?

CH: I don't know. I mean, I know there's...all that stuff was discussed, but I don't remember exactly, you know, that portion of it. As far as what the...you know, he said and...

DS: I'm going to take a gander at your report here again just to make sure we got everything. So you never actually saw Yen at all?

CH: I did when I first...when I initially came back around, before I went over and spoke with the witnesses. I came back around, walked up the stairs and saw him standing there with...it might have been Corporal Daniel, but somebody was standing up on the front porch with him.

DS: Did you make any observations about his demeanor?

CH: Yeah, he was calm...he was calm. He was cooperative. I said "hey Yen", turned around and left.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/05/15 TIME: 13:07

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Have you worked with Officer Yen?

CH: I've been on a few calls with him.

DS: Is there anything of note that is pertinent to this investigation?

CH: No.

DS: Can you think of anything else that we need to know?

CH: Nope.

DS: Sergeant Carpenter, anything?

CP: Did you ever see or talk to the female?

CH: I never talked to her, I don't remember ever seeing her. I think they were all inside the house. Truly, I went and spoke with the witnesses and [unintelligible].

TO: I do not have anything?

DS: Anything else?

CH: No.

DS: Okay, we're now concluding this interview the time is 13:22.

[End of Recording]

SPOKANE POLICE DEPARTMENT - INTERNAL INVESTIGATION
RIGHTS / RESPONSIBILITIES FOR ADMINISTRATIVE INTERVIEWS

Employee: Officer Hamilton # 713 (Accused / Witness x)

Incident or Citation #: 15-241039

Complainant: #1a

Date/Time: 071415 Location: #1d

Complaint: Conduct Unbecoming

-
1. The purpose of this interview is to determine if misconduct or violations of Rules and Regulations, Policies and Procedures, Code of Ethics or any other departmental guidelines have occurred.
 2. You have the right to be informed of your status regarding this investigation—whether you are the accused or a witness.
 3. You have no right to remain silent. You must fully and truthfully answer all questions relating to your official duties and/or potential violations of City of Spokane or departmental Rules and Regulations; Policies and Procedures; Code of Canons and Ethics. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
 4. You may have a union representative present to represent you or you may have an attorney that you have retained privately for consultation if you so desire. Reasonable time will be allowed for consultation, but you may not consult so frequently as to unduly interfere with the interview. Neither your attorney nor your union representatives may answer questions for you.
 5. All answers and statements may be used in departmental administrative or disciplinary proceedings and may result in administrative action up to and including dismissal.
 6. No information derived during this interview can be used in any criminal proceeding against you (except perjury or obstruction charges¹). However, these statements may be used against you in relation to subsequent departmental charges.

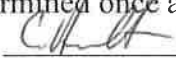
¹ The Fifth Amendment does not protect false statements from a later prosecution for perjury or obstruction of justice whether they occur under oath, with immunity, or during a governmental investigation. U.S.C.A. Const.Amend. 5; 18 U.S.C.A. § 6002. United States v. Veal, 153 F.3d 1233 (11th Cir. 1998)

7. This investigation and interview is confidential pursuant to the Spokane Police Department Personnel Complaint Procedure Policy 1020. In order to ensure that the integrity of the investigation is preserved and that all department rules and regulations are understood and followed, you shall not discuss the allegations or investigation with anyone except your union representative(s), attorney or supervisor. You may not allow anyone else to gain access to that information without the expressed authorization of the Chief or his/her designee. Additionally, if you are the accused employee, you may only disclose to others that you are the subject of an investigation.
8. You are hereby ordered to comply with the investigation currently being conducted by _____ and to provide any written statement and answer any questions pertaining to the investigation. *(For non-SPD investigations only)*

Employee's signature  Date 11/05/15 Time 1300

Administered by  Date 11/05/15 Time 1300

As the witness/accused employee, I acknowledge receipt of formal written notification of an impending internal investigation prior to being interviewed. I further understand the cited violations will be determined once all the facts are gathered and the investigation is concluded.

Employee's signature  Date 11/05/15 Time 1300

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Sergeant Dave Staben
CE: Officer Chan Erdman
JG: Sergeant John Griffin
PC: Sergeant Paul Carpenter

DS: We're now beginning this interview. The time is 16:35 and the date, November 3rd, 2015. Present in the room, myself, Sergeant Staben, Officer Erdman, Sergeants John Griffin and Carpenter, representing the Spokane Police Guild. This interview is being recorded. Internal Investigation files are considered public records and are subject to release in accordance with Washington State Law. Officer Erdman, do you have any concerns with the release of this investigation?

CE: No I do not.

DS: Would you please confirm the spelling of your last name and tell me your personnel number?

CE: E-R-D-M-A-N; 12-58.

DS: Have you read and signed your Administrative Rights Form?

CE: Yes I have.

DS: Would you like a copy of those?

CE: No.

DS: Do you understand them?

CE: Yes.

DS: Have you been given a written overview of the allegations in this case?

CE: No.

DS: That's that interview request thing I said that has the charge and the complainant stuff on it.

CE: Okay. Did I receive that?

DS: You should have.

CE: Okay. Via Email?

DS: Yes.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

CE: Okay.

DS: Oh, you're not sure...?

CE: No, I opened it and it wouldn't open, so I...I do not have that.

DS: Would you like to have a written one or could I tell you what they are?

CE: You can tell me.

DS: Okay. Do you understand that you are a witness officer in this investigation?

CE: Yes.

DS: The IA tracking number is Charlie 15-064. The allegation is Conduct Unbecoming and the complainant is [REDACTED] #1a.

CE: Okay.

DS: How long have you worked for the Spokane Police Department?

CE: Six months.

DS: Do you have any prior law enforcement experience?

CE: Yes.

DS: What's that?

CE: I spent nineteen years with Spokane County. Five years as a corrections officer, almost fifteen years as a deputy.

DS: Okay. What's your current assignment?

CE: Power Shift, Patrol South.

DS: Do you have any specialty assignments?

CE: I do not.

DS: What was your assignment on July 14th, 2015?

CE: Power Shift, Patrol South.

DS: Okay, do you recall the incident?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: #1a

COMPLAINT: Crime/Conduct Unbecoming

CE: Yes.

DS: Okay in your own words, what happened here?

CE: So we got sent to...essentially it was a DV, but it came in as a...a Burglary. A witness who was at the park...in the park saw what appeared to be a man breaking into a house. She could hear the female yelling, you know, "leave" and...and that was the information we had going to the incident.

DS: Okay, when you first arrived.

CE: Uh hmm.

DS: Which officers were on scene?

CE: Myself and Officer Hamilton arrived on scene first and we kind of took perimeter positions initially, because we were the only ones there. Just kept an eye on the house and then I believe McVay and Juarez showed up slightly thereafter.

DS: Okay. Did you go to the front door?

CE: I went to the back and then...and once they got on scene we kind of had it...the house surrounded per say. Hamilton said he had the back, so I went up front with...and went up to the front steps it was Juarez and McVay.

DS: Could you hear any yelling at that time?

CE: Yes.

DS: What did you hear?

CE: I could hear mostly a female yelling, but you could hear a male and a female voices.

DS: What was the female saying? Could you tell?

CE: I...I don't recall specifically. I don't recall specifically.

DS: Were you aware of whose vehicle was parked out front at that time?

CE: Initially no, however through an acquaintance I knew Ms. #1a and so I knew that was Ms. #1a house.

DS: So what happened next?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

CE: We knocked and after...I don't recall, but it seemed like there was a duration of time, maybe thirty seconds and then Officer Yen err Yen stepped outside, closed the door behind him and was...was obviously...it was an awkward situation, obviously. He didn't appear to have any injuries, didn't appear very distraught, but kind of had the mentality, like "nothing to see here" type of thing. You know, "everything's fine, we're just arguing" type of thing and then I believe Officer McVay said "John, you know we have to go in and find out if everything's okay." At which point, I believe he stepped aside, stayed with Office Juarez on the porch and Officer McVay and I went in.

DS: Okay. What did you see inside?

CE: She was very upset. Ms. [REDACTED] #1a was yelling, kind of pacing around. Mostly yelling and referring back to my report and I...I can remember it off the top of my head too is...she...she said "do you know who that is? That's a Spokane Police Officer." Or "You know who he is? He's a Spokane Police Officer." And we acknowledged that and I believe McVay kind of took over the conversation and...and tried to calm her down a little bit. Which, it took her a few minutes, but...but she did ultimately calm down and then she said you know, "all...all I wanted him to do was leave."

DS: So she...was she upstairs when this was going on?

CE: Yes.

DS: Did [unintelligible]...?

CE: [Unintelligible] could kind of see...I...I vaguely remember, it was like a balcony or something. Upstairs where you could see ya...from...as you stepped in the doorway, you could see her up there.

DS: Did you go upstairs after that?

CE: Yes.

DS: Were you present when she was interviewed?

CE: For the most part, yes.

DS: Did you do any interviewing yourself?

CE: No. McVay asked most of the questions pertaining to the crime itself. I mostly listened to her vent as far as what happened.

DS: So what did she tell McVay?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

CE: She told...they kind of started from the bottom. You know, they'd been out with some friends. They...on the way back, he called her a slut, I believe and the reason she thought that he said that or the reason he told her he said that is because she...she wasn't at the time, but she was wearing...and I assumed she was wearing like a low cut dress and he believed somebody was looking down her shirt and...so he called her a slut, because of maybe the way she was dressed, I guess is what assumed. So then that started the argument and then in the car she told him you know, she'd had it and I don't remember if she told him she wanted to end the relationship or she insinuated it, but she told him she was done and then she walked into the house. He followed her, she tried to close the door and he kind of...from what I understood there was kind of a struggle at the door and he ended up kind of pushing his way in, is how I understood it.

DS: Okay. What happened after he got inside?

CE: Just an argument and she...I remember her saying that she kept repeat...repeating to him "I just want you to leave, just leave, just leave." She said she just kept saying that and he kept trying to...from what I understood from her, kept trying to you know, talk her out of, you know, ending the relationship, is how I understood it.

DS: Did she talk about going into the kitchen?

CE: Not that I recall.

DS: Did she talk about going upstairs?

CE: I...I recall Officer McVay asking her questions about going into her room and whether or not the door...I think there was some discussion of whether or not the door was locked and he forced his way in or not, but...but that was a conversation McVay had with her.

DS: Do you remember what she said about that?

CE: I remember her being really vague about any pinpoint questions he asked. When...whenever he would ask her you know, like "Was the door locked?" or "Did he kick the door?" Any...because she know...she's in the field and kind of knows the law, so whenever he would ask a questions where she...she would recognize "Oh if I say that, it's probably not going to go well for John." She...she would hold back, obviously.

DS: Okay. At some point, McVay goes out of the room and my understanding goes down and confers with the Sergeant.

CE: Uh hmm.

DS: Did you remain in the room at that time?

CE: I stayed with her the whole time.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Did she make any other statements to you?

CE: No. Just...[unintelligible] after she...she had calmed down and she...it took her awhile, but after several minutes she had calmed down and she was totally normal and she went from being pissed to just being what I would call frustrated at the whole situation. Frustrated that he...that he was acting the way he was. Frustrating that...frustrated that he didn't leave when she asked him. So I think she was just upset at the whole situation, but she...I don't think she ever felt like she was in danger or that she was scared. I never once got the feeling that she was scared, just mostly frustrated.

DS: So, I...I know there's two times on body camera where McVay comes back and asks some clarifying questions. Were you the officer that was present in the room at that time?

CE: Yes.

DS: Okay. Do you remember Officer McVay asking him how often Yen stayed at this house with her?

CE: I do remember him asking, but I don't remember the answer, but it seemed like it was...had been over a couple month's period...a couple times a month maybe.

DS: Okay. Do you remember Officer McVay asking her if she went up in the bedroom and locked the door because she was...because it was a safe place?

CE: I remember him asking her specific questions about the door being locked and her being very vague about the answers.

DS: Okay.

CE: And like, she wouldn't come right out and say that she locked it, but some of the questions leading up to it insinuated that she had locked it and then when he specifically asked her if the door was locked, she...she did really, from what I can recall, didn't really answer.

DS: Okay. Did you go and confer with the other officers at all on...?

CE: I was absent from all of the...that end. I was with her the whole time.

DS: Did you see any injuries on Ms. [REDACTED] #1a ?

CE: No I did not.

DS: Did you see any damage to the property?

CE: It...it seemed like when we first when in the front door, there was something tipped over, laying on the floor, whether it was a potted plant or [unintelligible] it seemed like it was a small stand

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

with a potted plant or it...just looked like there was something tipped over on the floor as we entered the front door.

DS: Okay. Do you have a...or feel like you have an understanding of what the probable cause for...was in this case?

CE: Uh hmm.

DS: Okay. What do you think that is?

CE: Well, he didn't have residency there and he entered against her will. She...she...it was obvious that she had told him to leave. It had even been overheard by the female in the park, where she told him to leave or get out or...so he was clearly not welcome there. It wasn't his home, he entered and remained unlawfully and then they found probable cause that he committed a crime there [unintelligible]...

DS: What was the crime?

CE: Again, that's...I was absent from the conversation, but apparently they determined that an Assault or Threat...Threat of an Assault occurred while he was in the house and I think to a Domestic Violence Assault.

DS: And when you say they determined, you're...you're saying that you weren't part of making that decision?

CE: I wasn't...I wasn't there. We were upstairs a long time while they were down there.

DS: Now you did talk about residency. What...what things do you recall about the interview that determined residency or lack of?

CE: I...I don't...I don't think there was ever...ever a question. There was never a question in my mind that it was not his house or that he lived there. It was clear to me that he had a residence of his own, sometimes stayed there, clearly not an established resident.

DS: Okay. If you were say going on an unwanted guest call...

CE: Uh hmm.

DS: And a homeowner wanted a person removed. How many times would a person need to stay...be a house guest at a place before you would not feel comfortable removing them?

CE: A couple weeks straight and...and not have another residence, not be compensating that person with money or anything like that or not having... "okay, I'll buy the groceries". [Unintelligible] there was no...things like that would...would kind of develop a residency in my opinion where none of that was present here.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Do you feel like the interview that was conducted was sufficient to explore those issues?

CE: I...I knew that it was clear in my mind, so I want to say yes. I mean, we probably could've asked some more questions, which...which I...I do remember him asking her how many times he had stayed there and I don't recall specially the answer, but like I said it was clear in my mind and I think it was clear in Officer McVay's mind that...that he did not live there.

DS: Now you're saying "he" was asked?

CE: When officer McVay asked "her".

DS: Oh, asked her.

CE: Yeah.

DS: Okay. Now you're saying it was clear in your mind, is...is that because of what you heard in the interview or is that because you're familiar with her and you know that's her house?

CE: It could've been a combination of [unintelligible].

DS: Okay. Alright. Did you observe Officer Yen get arrested?

CE: No. I was upstairs with her and heard the click of the handcuffs while they were downstairs and she lost it, started crying. [Unintelligible] observe [unintelligible].

DS: Okay. So you never observed whether Officer Yen made any statements after the arrest or...?

CE: No, I never saw him at all after that.

DS: Did you [unintelligible] still remain there until the Lieutenant and Sergeant came back?

CE: Yeah. Yeah, I...the Lieutenant came up and kind of gave her whole rundown of what was going on and that's when I left.

DS: And what was her reaction to that?

CE: Again, frustration. I think she repeated, probably a dozen times though, you know "all I wanted him to do was to leave".

DS: Is there anything else you think I need to know about this investigation?

CE: Not that I can think of. Again, she just was really frustrated that he...she said that these type of arguments happened often and she seemed to like him. So, that's where she was really struggling because they would have...they had such a good time that night and then he would

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 11/03/15 TIME: 16:35

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

kind of flip a switch, which seemed to happen often, which was why she was so frustrated. It's like, "we had such a good time tonight" and then now he's doing this.

DS: Okay. Anything from you guys?

JG: I don't have anything.

DS: Anything else?

CE: No.

DS: Okay. We're now concluding this interview, the time is 16:53.

[End of Recording]

SPOKANE POLICE DEPARTMENT - INTERNAL INVESTIGATION
RIGHTS / RESPONSIBILITIES FOR ADMINISTRATIVE INTERVIEWS

Employee: Officer Erdman # 1258 (Accused / Witness x)

Incident or Citation #: 15-241039

Complainant: [REDACTED] #1a


Date/Time: 071415 Location: [REDACTED] #1d

Complaint: Conduct Unbecoming

-
1. The purpose of this interview is to determine if misconduct or violations of Rules and Regulations, Policies and Procedures, Code of Ethics or any other departmental guidelines have occurred.
 2. You have the right to be informed of your status regarding this investigation—whether you are the accused or a witness.
 3. You have no right to remain silent. You must fully and truthfully answer all questions relating to your official duties and/or potential violations of City of Spokane or departmental Rules and Regulations; Policies and Procedures; Code of Canons and Ethics. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
 4. You may have a union representative present to represent you or you may have an attorney that you have retained privately for consultation if you so desire. Reasonable time will be allowed for consultation, but you may not consult so frequently as to unduly interfere with the interview. Neither your attorney nor your union representatives may answer questions for you.
 5. All answers and statements may be used in departmental administrative or disciplinary proceedings and may result in administrative action up to and including dismissal.
 6. No information derived during this interview can be used in any criminal proceeding against you (except perjury or obstruction charges¹). However, these statements may be used against you in relation to subsequent departmental charges.

¹ The Fifth Amendment does not protect false statements from a later prosecution for perjury or obstruction of justice whether they occur under oath, with immunity, or during a governmental investigation. U.S.C.A. Const.Amend. 5; 18 U.S.C.A. § 6002. United States v. Veal, 153 F.3d 1233 (11th Cir. 1998)

7. This investigation and interview is confidential pursuant to the Spokane Police Department Personnel Complaint Procedure Policy 1020. In order to ensure that the integrity of the investigation is preserved and that all department rules and regulations are understood and followed, you shall not discuss the allegations or investigation with anyone except your union representative(s), attorney or supervisor. You may not allow anyone else to gain access to that information without the expressed authorization of the Chief or his/her designee. Additionally, if you are the accused employee, you may only disclose to others that you are the subject of an investigation.
8. You are hereby ordered to comply with the investigation currently being conducted by _____ and to provide any written statement and answer any questions pertaining to the investigation. *(For non-SPD investigations only)*

Employee's signature  Date 11-3-15 Time 1632

Administered by  Date 11-3-15 Time 1632

As the witness/accused employee, I acknowledge receipt of formal written notification of an impending internal investigation prior to being interviewed. I further understand the cited violations will be determined once all the facts are gathered and the investigation is concluded.

Employee's signature  Date 11-3-15 Time 1632

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/27/2015 TIME: 11:02

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Sergeant Dave Staben

RM: Sergeant Rich Meyer

DS: Okay, we're now beginning this interview. The time is 11:02 and the date is October 27th, 2015. Present in the room are myself, Sergeant Staben and Sergeant Meyer. This interview is being recorded. Internal Investigations files are considered public records and are subject to release in accordance with Washington State Law. Sergeant Meyer, do you have any concerns with the release of this investigation?

RM: No.

DS: Would you please confirm the spelling of your last name and tell me your personnel number?

RM: Rich Meyer, 6-0-7; M-E-Y-E-R.

DS: Have you read and signed your Administrative Rights and Responsibilities Form?

RM: I have.

DS: Have you been offered a copy of those rights?

RM: I have.

DS: Do you understand them?

RM: I do.

DS: Have you been given a written overview of the allegations in this case? That's the notice for this interview I sent you.

RM: I have.

DS: Do you understand that you are a witness officer in this investigation?

RM: I am.

DS: Are you appearing here without a guild representative by your own choosing?

RM: I am.

DS: The IA tracking number Charlie 15-064. The allegation is Conduct Unbecoming and the complainant is [REDACTED] #1a. Sergeant Meyer, how long have you worked for the Spokane Police Department?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/27/2015 TIME: 11:02

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

RM: Approximately eighteen years as a Sworn Commissioned Officer and five years as a Reserve Officer prior to that.

DS: Do you have any specialty assignments?

RM: I do not.

DS: What was your assignment on the date in question here?

RM: Team 16, Shift Supervisor.

DS: Okay. So I first wanted to ask you, have you worked around Officer Yen?

RM: Very limited.

DS: Had you formed any impression of him prior to this incident?

RM: I did. I...I had actually did a DOC on...I was prepare...I'd prepared a documentation of counselling on him. I think it was at the beginning of this year and it was when he was working for Sergeant Tom Lee and it was an incident where a Domestic Violence up on Lidgerwood...it's...the call sat on screen. I ended up taking it. I asked for backup. Officer Yen was my backup and as the male sat up there, he had visible injuries and actually prior even before that, we knocked on the door and we were getting ready to...he was like "uh, no one's answering the door". I was like, "well, we should knock harder" and after we knocked out of there was like a clown car. Just the den of thieves start coming out and we ended up making the investigation and during the course of the investigation it was...it was pretty evident to me that no action was going to be taken had I not been there to say "no, this needs to happen". In fact, when I went to go arrest the female suspect that was laying in the bed. I had her...after doing...conducting the interview, developing probable cause, I had her stand up. Officer Yen was with me and I had her in wrist control and we kind of had an awkward silence there and I asked him to take out his handcuffs to handcuff her and he rolled his eyes at me, so I was going to write him up for his...based off of his demeanor and what...what was transpired there. It was obvious that he didn't like that I told him to handcuff the suspect. So, I talked with my Lieutenant, at the time was Tom Hendren and I wrote up and due to the fact that he worked for Sergeant Lee and not on my team, I let Sergeant Lee and them take care of it and I think it ended up just being a wash that...you know.

DS: Okay. Do you recall this incident?

RM: I do.

DS: Who was on scene when you arrived?

RM: When I arrived on scene, Lieutenant Walker, Officer McVay, Officer Hamilton, Officer Juarez and I believe Corporal Daniels, if I recall correctly.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/27/2015 TIME: 11:02

COMPLAINANT: #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Okay.

RM: There was five officers.

DS: Were there any other officers involved in this call other than that, that your aware of?

RM: Beside the actual...we learned that...that it was Officer Yen that was involved inside the house.

DS: Right, but no reporting officers or...[unintelligible]? I didn't know if you said Erdman [unintelligible]?

RM: Oh, you know, officer...I did...I didn't know initially that Officer Erdman was on scene, because I think he stayed up with Ms. #1a until I actually...finally when everything was done, but I had no interaction with Officer Erdman [unintelligible] initially. The ones that I had dealt with were outside. I think Officer Erdman was inside with the victim.

DS: Did you have any interactions with the victim?

RM: No.

DS: Did you have any interactions with Officer Yen?

RM: I did.

DS: Can you talk about that?

RM: So, after we developed probable cause to arrest him for the Burglary, I went in to...myself, Lieutenant Walker and I don't know who...I think it was Corporal Daniels who was sitting and watching him and I think Officer Juarez to advise him that, you know, we developed probable cause, he was going to be placed under arrest and I assisted in the patting him down and I discovered a handgun in his front [unintelligible] pocket.

DS: Was he cooperative?

RM: Yeah, I mean he didn't resist us, he didn't do anything like that. He was [unintelligible] cooperative. Afterwards...so I dealt with him at that incident and then we told him we weren't going to discuss anything pending the administrative review and advised him of his rights. I placed him in the car and I noticed that his truck was back...blocking Ms. #1a car and it would have prohibited her from getting out. I...myself make it a stance that once I arrest somebody, I don't go back into their car and it's just my own personal thing. I'm not going to go search someone's car. I'm not...

DS: Uh hmm.

TAPE TRANSCRIPTION

IA CASE #: C15-064

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COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

RM: Obviously, we can't search incident to arrest, but I wasn't going to make any concessions or anything based off of him...his status as a police officer and I didn't note it in my report because I didn't think it was part of the criminal part of it, but afterwards I asked him "hey, would you give consent to someone move your car so I don't have to have it towed. It's illegally parked on the sidewalk and Officer Yen attempted to manipulate me based off of...he's like "well..." because he initially asked for his phone and he said "well, I'll give you...I'll give you permission to move my car, if you give me my phone out of my car" and I told him "that ain't going to happen, I'm not Monty Hall, we're not making a deal here. You're not going to manipulate me." And he then became remorseful and then was like "yeah, just go ahead and move my car", and I was like because it's the only option. Ms. [REDACTED] #1a needs to get to work tomorrow or be able to freely come and go from her residence and if the cars blocking then I'm going to have it towed, just like I would with anybody else.

DS: Uh hmm.

RM: So, in...in that sense he was...he was cooperative, but I think he attempted to manipulate me once in back of the patrol car with the whole getting his phone.

DS: Okay. Do you know who interviewed Ms. [REDACTED] #1a ?

RM: I think...I want to say it was Officer McVay and Officer Erdman I believe.

DS: Okay. Since you didn't have contact with Ms. [REDACTED] #1a, who briefed you on the circumstances?

RM: Officer McVay briefed myself and Lieutenant Walker at our cars.

DS: Okay. So, do you recall what that briefing was?

RM: Yeah he said that the initial call had come in and a third party individual had called and reported that they heard some yelling and screaming and a male at the front door of this residence and I think it was 1118 East 11th. So, the independent parties called and I believe Officer Hamilton was contacting them and Officer McVay had...as he was arriving on scene ran the plate and asked for more people and that was when they determined that that it was John Yen involved and he kind of just explained to me that Ms. [REDACTED] #1a told him several times to get out and yell out after he had pushed his way through. All the while, she stepped...kept walking back as he kept on coming at her and yelling and screaming at her because of an argument that took place prior to that getting to the house.

DS: So ultimately you guys called the prosecutor?

RM: So, after...after we made...we made...after we decided that this was a serious enough event to call the DSO because it was one of our officers involved, Officer err Lieutenant Walker was dealing with calling the DSO. I advised him that I would call...and I felt that it was a serious enough matter based off of who the employ...our employee and a [REDACTED] #1c Employee, I have Larry Haskell's personal phone number. I...I don't make a habit of calling the

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/27/2015 TIME: 11:02

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

prosecutor to help me determine probable cause or not. Given the circumstances and the...the severity of this, I called him and kind of did a blind..."hey Larry, wanted to tell ya this is what's going on". Didn't tell him any names and I asked him for his advice on what he think we had based off what was described to me and I described the incident in which Officer McVay had lined up in his report. The...the whole pushing his passed the doorway, yelling and screaming although no assault had actually taken place, the fear or the potential to get assaulting based off of her wheeling back, going back after getting yelled out, being fearful of Officer Yen. I called him and laid it all out with no names, nothing involved and he collectively said "yeah, you have...you have first burg based off of that", even though no assault had been committed, based off of the...the actions of pushing pass the doorway and [unintelligible] John in front of

[REDACTED] #1a

DS: Okay. So you...in your description to Mr. Haskell, you...you described that she was not physically assaulted?

RM: I described that he wasn't physically assaulted, but the action on John keep coming at her and her telling him several times to "get out, get out" and she was fearful and to the point of getting pushed back all the way to her kitchen, which is probably from the front door to the kitchen about forty feet.

DS: Okay. Were you aware that the first part of this conversation with [REDACTED] #1a is...was not recorded?

RM: I was after the...when McVay came back and I wanted some clarifying elements of what was going on, he said that he neglected or forgot to turn on his body camera and so I advised him that I wanted it on and I wanted points clarified and I think I put in my report here...

DS: [Unintelligible].

RM: I...I think...oh I asked him to verify if John had ever stayed or resided at that address as...established residency? Had either one of them been drinking and was she fearful of an assault? So, I had those points clarified and I believe he went back on camera and asked those questions with the body camera.

DS: Okay. What do you recall him finding out about his residency status [unintelligible]?

RM: That he would stay overnight, but he maintained his own residence and did not establish residency there. It wasn't his house.

DS: Is there any certain number of times that would make that...change that situation to you?

RM: For establishing residency?

DS: Yeah.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/27/2015 TIME: 11:02

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

RM: In a...in a Domestic Violence situation? Yeah, I would say if someone has a key to the residence. If someone gets mails there, you know, has a change of clothes or you know...If I come over while you're at work, three o'clock in the afternoon and sit and...start making dinner or anything like that, then yeah, I would say...say yeah, you then have residency. If you come in free and...come and go freely, then yeah I would say that you could establish residency there.

DS: Did Officer McVay relay to you how often Yen stayed there?

RM: Not that I...I mean, not that I recall right of the get...bat that I made note of in my report, but he...it was that he had stayed there, you know, sometimes on the weekends or his weekend because we have a flexed shift schedule that he would stay there at...occasionally, but I don't know if he gave an exact number of days of...how many days that he stays here a month.

DS: Now on...have you reviewed the body camera video?

RM: I...I have not.

DS: Okay. On the video Ms. [REDACTED] #1a says that she...that he has stayed there around thirty times and stayed there a lot. Would that have affected what you thought of the situation?

RM: You know, it...it depends on if...if they're...their courtship lasted you know, two months, then he stayed there thirty days, then yeah, but if it was over a course of a year or two years...I...I don't know what the course of their relationship was. I know that they were in a significant dating relationship.

DS: Okay. Alright. Have you become aware of any other facts that need to be considered in this case?

RM: Um...and I know...and I don't know the legalities of it all. I know that next night, or that...that same night, following into the next morning, I work Graveyard Patrol. I was on a search warrant for a fugitive for a drive by shooting. We ended up call out SWAT and by this time people are hearing because an email had gone out. I was approached by Lieutenant...Lieutenant Wohl and said that he was on his hiring board and they...he said has documentation that they recommended not hiring him based off of some prior history of what had happened and I didn't get into specifics with him. I said "you may want to keep that document and...because it'll probably come in handy when Internal Affairs comes by, but I'd heard you know through the rumor mill of this department that there has been some concerns with his stability and that's Officer Yen's stability and his anger management issues.

DS: Okay. Have you made any personal observations of those things?

RM: Me personally? No. I...again, my work around him is very limited.

DS: Okay. Is there anything else you'd like to tell me about this case?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/27/2015 TIME: 11:02

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

RM: I think that the...the severity of it with...again, like I said, I don't normally call a prosecutor. I know that there's people out there that call prosecutors or call their supervisors for assistance. I am...I'm comfortable with knowing what facts and circumstances are in a case. I felt the severity of this to call Larry on his personal phone, because I have it from when he was a US Attorney that it was a significant enough matter to call. Especially, if it's with one of his employees and given that it's a Domestic Violence situation, I've been doing this job for eighteen plus years and I know that Domestic Violence victims are often going to recant their statements. So I thought it was imperative to document everything that was occurring and to get an outsiders perspective of the situation due to that and then I know that his civil matter has...he has plead guilty to Trespassing. I don't think...I've...I've worked in investigations, federally, I've worked at local cases and I know that just because we get a plea deal, doesn't negate what has occurred originally and I...I think that the officers here did the best job that they can and to...to get facts and circumstances and I think at that time they had PC for Residential Burglary. Regardless if it got negated down, it doesn't negate that what occurred that day and we asked about not physically getting assaulted. I don't...as...as a police officer, I don't need to wait to get his to charge someone with 3rd Assault. I think the intentions or the inference of intent of getting assaulted by her wheeling back forty feet from doorway to kitchen is an inference of "I'm going to get assaulted" because of her scared nervousness and I think that then as times goes over, either they mend fences, they mend ways and both of these individuals are familiar with Domestic Violence laws and what has to happen to us. I think given what was...happened here, you have an independent party that had no reason...I mean, we didn't just drive up here to go in and mess with John and [REDACTED] #1a We got called there. It wasn't a call that any of these officers wanted to do and I think that the significance in that just it...it's telling. So, I...I mean I wanted to stress that just because we get a plea deal, doesn't negate what occurred that night and I think there was probable cause.

DS: Alright. We're now concluding this interview, the time is 11:20.

[End of Recording]

SPOKANE POLICE DEPARTMENT - INTERNAL INVESTIGATION
RIGHTS / RESPONSIBILITIES FOR ADMINISTRATIVE INTERVIEWS

Employee: Sgt. Meyer # 607 (Accused / Witness x)

Incident or Citation #: 15-241039

Complainant: [REDACTED] #1a

Date/Time: 071415 Location: [REDACTED] #1d

Complaint: Conduct Unbecoming

-
1. The purpose of this interview is to determine if misconduct or violations of Rules and Regulations, Policies and Procedures, Code of Ethics or any other departmental guidelines have occurred.
 2. You have the right to be informed of your status regarding this investigation—whether you are the accused or a witness.
 3. You have no right to remain silent. You must fully and truthfully answer all questions relating to your official duties and/or potential violations of City of Spokane or departmental Rules and Regulations; Policies and Procedures; Code of Canons and Ethics. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
 4. You may have a union representative present to represent you or you may have an attorney that you have retained privately for consultation if you so desire. Reasonable time will be allowed for consultation, but you may not consult so frequently as to unduly interfere with the interview. Neither your attorney nor your union representatives may answer questions for you.
 5. All answers and statements may be used in departmental administrative or disciplinary proceedings and may result in administrative action up to and including dismissal.
 6. No information derived during this interview can be used in any criminal proceeding against you (except perjury or obstruction charges¹). However, these statements may be used against you in relation to subsequent departmental charges.


¹ The Fifth Amendment does not protect false statements from a later prosecution for perjury or obstruction of justice whether they occur under oath, with immunity, or during a governmental investigation. U.S.C.A. Const. Amend. 5; 18 U.S.C.A. § 6002. United States v. Veal, 153 F.3d 1233 (11th Cir. 1998)

7. This investigation and interview is confidential pursuant to the Spokane Police Department Personnel Complaint Procedure Policy 1020. In order to ensure that the integrity of the investigation is preserved and that all department rules and regulations are understood and followed, you shall not discuss the allegations or investigation with anyone except your union representative(s), attorney or supervisor. You may not allow anyone else to gain access to that information without the expressed authorization of the Chief or his/her designee. Additionally, if you are the accused employee, you may only disclose to others that you are the subject of an investigation.
8. You are hereby ordered to comply with the investigation currently being conducted by _____ and to provide any written statement and answer any questions pertaining to the investigation. *(For non-SPD investigations only)*

Employee's signature  Date 10/27/15 Time 10:57

Administered by  Date 10/27/15 Time 10:57

As the witness/accused employee, I acknowledge receipt of formal written notification of an impending internal investigation prior to being interviewed. I further understand the cited violations will be determined once all the facts are gathered and the investigation is concluded.

Employee's signature  Date 10/27/15 Time 10:57

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/22/2015 TIME: 15:03

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Sergeant Dave Staben

JW: Lieutenant Joe Walker

DS: Okay, we're now beginning this interview. The time is 15:03 and the date is October 22nd, 2015. Present in the room are myself, Sergeant Staben and Lieutenant Walker. This interview is being recorded. Internal Investigations files are considered public records and are subject to release in accordance with Washington State Law. Lieutenant Walker, do you have any concerns with the release of this investigation?

JW: No.

DS: Would you please confirm the spelling of your last name and tell me your personnel number?

JW: W-A-L-K-E-R; personnel number is 2-1-6.

DS: Have you read and signed your Administrative Rights and Responsibilities Form?

JW: Yes I have.

DS: Have you been offered a copy of those rights?

JW: Yes.

DS: Do you understand them?

JW: Yes.

DS: Have you been given a written overview of the allegations in this case?

JW: Yes.

DS: Do you understand that you a witness officer in this investigation?

JW: Yes.

DS: Are you appearing here without a representative from the Lieutenants and Captains Association of your own choosing?

JW: Yes.

DS: The IA tracking number is Charlie 15-064 and allegation is Conduct Unbecoming and the complainant is [REDACTED] #1a. Lieutenant Walker, how long have you worked for the Spokane Police Department?

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/22/2015 TIME: 15:03

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

JW: Twenty seven years.

DS: What's your current assignment?

JW: Patrol Lieutenant assigned to swing shift and power shift.

DS: What was your assignment on July 14th, 2015?

JW: Same assignment, swing shift and power shift Lieutenant.

DS: Do you recall this incident?

JW: Yes I do.

DS: Before we get into the nuts and bolts of that, I wanted to ask you; have you worked around Officer Yen prior to this?

JW: Not close or directly, but I've seen him out working DUI Specials and that, so.

DS: Had you formed any impressions of him prior to this incident?

JW: I thought he was a good hard worker, dependable, just from what I'd seen.

DS: Other than this incident itself, are you aware of any other information that would be pertinent to this investigation?

JW: Not until after this incident and it would be just rumors, so.

DS: Okay. So, going back to the incident itself. Who was on scene initially? Do you know...remember?

JW: I believe K9 Officer Hamilton, Rich err Sergeant Meyer and I, I think arrived right about the same time. Officer McVay, I want to say there were at least two or three other officers there as well.

DS: Okay. So was a Sergeant already on scene when you got there?

JW: I believe he arrived right around the same time. I don't know for sure without looking at the CAD report.

DS: Had officers already concluded interviews or began interviews?

JW: They were in the middle of the interviews and interview process. I remember Officer Hamilton was in the park at the time talking to the...I believe the original complainants or people that had called in and then the other officers were at the residence owned by [REDACTED] #1a

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/22/2015 TIME: 15:03

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Where did you go in the beginning there?

JW: I actually just pulled up on #1d and stayed there. Kind of between the park and her place and Sergeant Meyer was there with me about the same time.

DS: Okay. Did you participate in any of those interviews?

JW: No, not until the very end when I advised Officer Yen that he was going to be placed under arrest and then also had a brief conversation with [REDACTED] #1a. I believe it was after we advised him he was under arrest.

DS: Okay. We'll get back to that.

JW: Okay.

DS: In the end, I want to keep to keep it chronological here.

JW: Okay. Yeah.

DS: So after the interviews were completed, did they brief you on the circumstances?

JW: Yeah, they...they spoke with Sergeant Meyer and I believe it was Officer McVay spoke to Officer err Sergeant Meyer and I at first and it was still during the interview process and then Off...K9 Officer Hamilton also advised us what they had been told from both parties and then also the witnesses in the park and that was initially what we were told what was occurring and then we asked Officer McVay to go ask a couple of clarifying questions of...I think it was the victim, [REDACTED] #1a.

DS: Okay. Did he actually go back a couple times to ask clarifying questions?

JW: I believe he did, yeah.

DS: Okay. Did you view the...any of the body camera stuff on this incident?

JW: I don't know for sure if I did, I believe Captain Torok did and we may have discussed it. I don't remember if I did or not and it would have been after the fact, yeah.

DS: But...but not at...

JW: No.

DS: At this time, while you're on scene?

JW: No.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/22/2015 TIME: 15:03

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: So, do you recall what those...was said in those briefings?

JW: Originally...if I can kind of go back, when I first heard the call come out it sounded like a burglary in progress based on the witnesses calling in and I also heard dispatch asking for officers or the K9 Officer Hamilton to call them, which is unusual. Especially, when they're in route to a call or just arriving there and I know one of the officers said he was tied up and they said they needed somebody to call and so I assumed something...there was more to the call at that point. I pulled the call up and started that way and I saw that Sergeant Meyer was also started that direction. I...I saw a vehicle license in the call, ran the plate and saw it came back to Officer Yen and so at that point I still wasn't sure if he lived at the location we were going to or how all that was related, but I knew that you know, based on an officer being involved in...in the call, at least the brief description I had that there was more to it. So, when I got to the scene and we started to hear what Officer McVay was relaying to us, it was looking more and more that this was probably going to be some type of Domestic Violence situation. Unknown at the time if it was, you know, any kind of physical assault or just an argument or...or more than that, but given what the witnesses told us, you know, in the call history, it definitely appeared that there was more to this and the way the call came in it you know, sounded like it was pretty serious, so.

DS: Do you...do you remember what you were told about what [REDACTED] #1a said to McVay?

JW: Yeah, just bits and pieces of it. That they had gotten [REDACTED] #1a and Yen had gotten into an argument earlier in the night, ended going back to his place, and there...I think there was some confusion...confusion whether she rode with him back to her place or he followed her back there. I...I think that was one of the things that I wanted to...to confirm and then they ended up going err she went into her house from what McVay was saying trying to get away for Yen and didn't want him in her house and then I think that's probably tying that in with the witness statements that somehow or another the door was pushed in, kicked in, I think was the witness statements at first err the way the call came in. She was trying to tell him to just leave, again, these are statements from McVay. He refused to leave and then officers arrived and contacted him there at the residence. So, he hadn't left by the time we got there either, so.

DS: Kay, who determined what the charge was going to be in this?

JW: So, based on what we were hearing, it was clearly a Domestic Violence situation based on...and McVay did relay that they were in a dating relationship from her.. [REDACTED] #1a statements in a dating relationship, clearly an argument. The witness statements that there was some kind of altercation there at the door or to get into the residence. We were also told that he...Yen did not live at the residence. So, based on that Sergeant Meyer and I conferred that, you know, it was a Domestic Violence situation. I notified the DSO who was Captain Richards at the time, advised him what we had and just to run it by him basically to see if he was seeing the same thing. He agreed that this was...at the time appearing to be more of a...either...well looked like a Domestic Violence Burglary charge until the officers were able to find a little bit more out. While I was speaking with Captain Richards, Sergeant Meyer and I had talked prior to that about calling the prosecutor and I know Sergeant Meyer has a good relationship with Larry Haskell, the Prosecutor from previous work they'd done. Thought it would be a good idea because this was

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/22/2015 TIME: 15:03

COMPLAINANT: #1a

COMPLAINT: Crime/Conduct Unbecoming

looking so serious at the time to confer with him. Sergeant Meyer spoke with Haskell, but didn't use any names of the parties involved and Larry Haskell told Sergeant Meyer that this was a Burglary, unknown to him who was involved and at that point we knew that we had probable cause and...to arrest Officer Yen, so.

DS: Why do you think that this fits the elements of 1st Degree Burglary?

JW: So, the dating relationship...[shuffling papers]

DS: Okay, yeah.

JW: We have the dating relationship between the two and I believe it was a few months that they'd been dating. He...it kind of goes back to what you had asked earlier. I found out...by speaking to #1a that he did not live there, I think was one of the questions I'd asked her and also we had McVay confirm that again. So a dating relationship, he didn't live there, he was armed with a weapon, which I didn't know at the time while we were speaking with the officers until the very end when we made contact with Officer Yen. So, he was armed at the time and also there was a physical altercation, you know, between him and...err Yen and #1a and...and based on that and what we described to the prosecutor who ultimately has the final say on all charging decision. We felt that everything we had fit the elements of 1st Degree Burglary.

DS: What specific physical altercation are you talking about?

JW: I believe one of the officers, it might have been McVay said that there was a...she was...she was fearful and I can see that when I talked to her too that she was afraid of him being in her residence, tried to keep him out and I believe the door...when he pushed the door or kicked the door or whatever happened there based on the statement; the door swung open into her and so those are the...the elements I guess you could say.

DS: So going back to after he's arrested and you talk to #1a that final time.

JW: Uh hmm.

DS: Who was the officer that was with you that...?

JW: I believe there were two or three officers up there. I went into her room and then there were two others I think close by or by the doorway. She was sitting on the bed, very upset. You know, I asked her...well one of the statements I made, you know "How...how do we go from zero to sixty?" Meaning, how do we go from an argument to people calling in a burglary in progress and she knew what I meant to this and she said that...or I asked her "If there's any other incidents like this?" and she nodded her head, yes and said that he had a temper and I think that...you know, some of the other things I asked her you know, about him living there or whatever too, but.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/22/2015 TIME: 15:03

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Do you remember if Officer McVay was up there that last time?

JW: I don't, for sure.

DS: The reason I'm asking that...

JW: Yeah.

DS: Is there's no body camera video of that portion of the conversation.

JW: Okay. Yeah and I know for sure there were, I believe, two other officer and again, the way her bedroom err the room was set up, the...the doorway was there and I think someone was by the doorway and someone might have been at the top of the stairs the way the house was set up.

DS: Are you aware that there's no body camera video of the first part of the interview?

JW: Yeah. I...I think that was one of the reasons we...it is actually one of the reasons that we had McVay go back in and re-contact her. Just because, again, how serious this was looking and that her statements needed to be recorded.

DS: As far as you know, was...was Sergeant Meyer not involved in the interviews?

JW: No, he wasn't.

DS: He was with you?

JW: Yeah, he was...he was with me.

DS: Okay. In this interview and in your report, a number of times you mentioned that Yen did not live there?

JW: Uh hmm.

DS: Is there any number of times a person can be a guest where that would change your perception of [unintelligible]?

JW: Yeah, and I think, you know one of the comments I made, I believe to McVcay when we were discussing about going asking some clarifying questions. For me it would change if you know the person had clothes there, toothbrush, you know toiletries, things that clearly you know, they plan on staying there for some period of time. I didn't get any indication of that from the officers while we spoke, you know to them about the living arrangements or that they had a relationship and I didn't get that from her either. That...my impression was is they're boyfriend and girlfriend, been dating for a couple months or so, but he did not live there.

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/22/2015 TIME: 15:03

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: Are you aware that when Officer McVay asked her that question about how...how often he was there, she said a lot and he asked her "How many times?" and she said "30".

JW: Yeah [unintelligible]...

DS: Were you aware of that?

JW: No, I was not.

DS: Did he relay that to you at all?

JW: No.

DS: Okay. Would that change your perception of this at all?

JW: Over...for me, if it's twenty, thirty times or whatever. If that's just coming over and visiting, no. That to me doesn't mean somebody lives there. If it's twenty or thirty times over the course of three months and he's there for a week at a time or again, has clothes there, staying there. I could see where it would change. You know that...I think one of the things I asked too was "Did he have a key to let himself in?" That is a...a big part of this to me. If he had a key that he could let himself in and out, then he's clearly a welcomed guest in her house, but I didn't get any indication of that either, that night at least.

DS: So, was there any problem after he was arrested with him?

JW: No, he was very cooperative. Sergeant Meyer was there and a couple of the other officers when I advised him what was gonna occur. He told us that he had a gun on him still or in his possession. He...he apologized for all of us being in that position. Like I said, he was cooperative the whole time. At least, you know in my contact with him, so.

DS: Okay. Are there any other facts or circumstances that I need to know about in this case?

JW: Not that I can think of, you know, other than I think I saw the original invite or whatever for interviews and I didn't see everybody...or all the officers that were there and I would just say everybody had a piece of...of the call I guess that night. So I would just make sure that everybody that was there at least on the CAD call be interviewed or if there's anything...again, just because of the...the seriousness of this.

DS: The officers I listed out here are the ones that made a report...

JW: Okay.

DS: Of some kind.

JW: And I would...

TAPE TRANSCRIPTION

IA CASE #: C15-064

DATE: 10/22/2015 TIME: 15:03

COMPLAINANT: [REDACTED] #1a

COMPLAINT: Crime/Conduct Unbecoming

DS: I can go back and make sure there's [unintelligible] reports...

JW: I would the CAD history...yeah just to be safe. The CAD history just to make sure that everybody that was there be interviewed again, just because of the seriousness, but other than that, yeah, I don't have anything else, so.

DS: Okay. We're now concluding this interview, the time is 15:22.

[End of Recording]

SPOKANE POLICE DEPARTMENT - INTERNAL INVESTIGATION
RIGHTS / RESPONSIBILITIES FOR ADMINISTRATIVE INTERVIEWS

Employee: Lt. Walker # 216 (Accused / Witness x)

Incident or Citation #: 15-241039

Complainant: [REDACTED] #1a

Date/Time: 071415 Location: [REDACTED] #1d

Complaint: Conduct Unbecoming

-
1. The purpose of this interview is to determine if misconduct or violations of Rules and Regulations, Policies and Procedures, Code of Ethics or any other departmental guidelines have occurred.
 2. You have the right to be informed of your status regarding this investigation—whether you are the accused or a witness.
 3. You have no right to remain silent. You must fully and truthfully answer all questions relating to your official duties and/or potential violations of City of Spokane or departmental Rules and Regulations; Policies and Procedures; Code of Canons and Ethics. Refusal to do so may result in subsequent disciplinary action up to and including dismissal.
 4. You may have a union representative present to represent you or you may have an attorney that you have retained privately for consultation if you so desire. Reasonable time will be allowed for consultation, but you may not consult so frequently as to unduly interfere with the interview. Neither your attorney nor your union representatives may answer questions for you.
 5. All answers and statements may be used in departmental administrative or disciplinary proceedings and may result in administrative action up to and including dismissal.
 6. No information derived during this interview can be used in any criminal proceeding against you (except perjury or obstruction charges¹). However, these statements may be used against you in relation to subsequent departmental charges.

¹ The Fifth Amendment does not protect false statements from a later prosecution for perjury or obstruction of justice whether they occur under oath, with immunity, or during a governmental investigation. U.S.C.A. Const.Amend. 5; 18 U.S.C.A. § 6002. United States v. Veal, 153 F.3d 1233 (11th Cir. 1998)

7. This investigation and interview is confidential pursuant to the Spokane Police Department Personnel Complaint Procedure Policy 1020. In order to ensure that the integrity of the investigation is preserved and that all department rules and regulations are understood and followed, you shall not discuss the allegations or investigation with anyone except your union representative(s), attorney or supervisor. You may not allow anyone else to gain access to that information without the expressed authorization of the Chief or his/her designee. Additionally, if you are the accused employee, you may only disclose to others that you are the subject of an investigation.
8. You are hereby ordered to comply with the investigation currently being conducted by _____ and to provide any written statement and answer any questions pertaining to the investigation. *(For non-SPD investigations only)*

Employee's signature J. Walker #216 Date 10/22/15 Time 1502

Administered by [Signature] 592 Date 10/22/15 Time 1502

As the witness/accused employee, I acknowledge receipt of formal written notification of an impending internal investigation prior to being interviewed. I further understand the cited violations will be determined once all the facts are gathered and the investigation is concluded.

Employee's signature J. Walker #216 Date 10/22/15 Time 1502

FILED

JUL 15 2015

SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON)
)
Plaintiff,)
)
v.)
)
YEN, JOHN W,)
A M [REDACTED] #5b)
)
Defendant(s))

NOTICE OF ARREST
(NTARST)

NO. 2015-01-02629-2

RPT# 150241039

RCW 9A.52.020(1)(A)DV

The above-named defendant was arrested on 07/14/2015 and is scheduled for a First Appearance for the following:

BURGLARY-1D(ARMED)DV x 1

Due Out: 7/17/2015 10:53:00 PM

Address(es): [REDACTED] #7c

County ID: 0349761

NOTICE OF ARREST

REC'D - SPOKANE
POLICE RECORDS
2015 JUL 15 AM 10 30

SPOKANE POLICE DEPARTMENT
CHARGING REQUEST AND WITNESS LIST
Superior Court State of Washington

DATE: 07-14-2015

REPORT NUMBER: 15-241039

CHARGES REQUESTED: 1st Degree Burglary DV

DEFENDANT: Yen, John W. #5b

STATUS: In Custody

VICTIM(S): #1a #1b
DATE/TIME OF CRIME: 07-14-2015 2104 hours
LOCATION OF CRIME: #1d
INVESTIGATOR: J. McVay #923
APPROVED BY: LZG

WITNESSES	ADDRESS	PHONE #
1. #1a	#1b	#1c
2. Waring, Mariyah K.	unknown	509-710-6720
3. #2d	unknown	unknown
4. J. McVay #923	1100 W. Mallon	242-8400ext20923
5. C. Hamilton #713	1100 W. Mallon	242-8400ext20923
6. M. Juarez #740	1100 W. Mallon	242-8400ext20923

EVIDENCE CONSISTS OF: Photographs of overall scene, Smith and Wesson J Frame revolver Serial #CTJ5877

SUBMITTED TO PROSECUTORS OFFICE

RECEIVED BY: _____ DATE: _____ TIME: _____

FILED

JUL 15 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

15-1-02629-2

STATEMENT OF INVESTIGATING OFFICER
AFFIDAVIT OF FACTSSTATE OF WASHINGTON
COUNTY OF SPOKANE

REPORT NUMBER: 15-241039

DEFENDANT: Yen, John W. [REDACTED] #5b

The undersigned, a law enforcement officer, competent to testify, states as follows: That he/she believes a crime was committed by the above named defendant/defendants in the City and County of Spokane, State of Washington, because:

The victim, [REDACTED] #1a can testify to the following:

1. She was present during this incident on 07-14-2015 at [REDACTED] #1d Spokane, WA. The Defendant was her boyfriend of 3 months at the time of this incident.
2. The defendant and she went out on a date. An unknown male was looking down her shirt at her breasts. This angered the defendant and caused an argument. He blamed her for this and was calling her a "slut."
3. They continued to argue in the defendant's truck until they arrived at her home ([REDACTED] #1d). She told the defendant she was done arguing with him and to leave.
4. The defendant did not listen to her and refused to leave. They continued to argue until she went into her home. As she was closing her front door or just after she closed it the defendant attempted to open the door. She attempted to hold the door shut which was partially open with the defendant pushing on the other side. Eventually she was unable to hold the door. She let go of it and the defendant forced it open violently. When he did this it slammed into a piece of furniture that was behind the door.

5. The defendant approached her and was yelling in her face. She backed up approx. 30-35 feet into the kitchen area at which time the defendant was approx. 1 inch from her face yelling into it. She was in fear for her safety at this time due to the defendant's irrational and aggressive behavior. Using two hands she pushed the defendant in the upper chest to create space and defend herself.
6. After pushing the defendant she went upstairs into her bedroom and locked the door. She did this to protect herself from the defendant. They continued to argue and yell through the door of the bedroom until police arrived.
7. The defendant has a bad "temper" and has yelled at her in the past. She knows how bad his temper is and this contributed to her fear during this incident.

Witness, Mariyah K. Waring, can testify that:

1. She was at Grant Park located near 11th and Ivory on 07-14-15 at about 2100 hours, in the City of Spokane, WA.
2. She saw a male pull up at a high rate of speed and stop in front of the house at [REDACTED] #1d
3. The male appeared to be very upset and approached the female victim on the front porch.
4. The female victim was yelling "get out of my house" repeatedly.
5. The two were arguing on the front porch and the female was holding the male back with her arms extended.
6. The female went inside of the house and she heard the door "slam" closed.
7. The male then entered the house after the female, even though she had yelled multiple times to leave.
8. She saw what looked like the two "pushing and shoving" and heard them screaming at each other. This was through the second level windows facing the park while she was on the phone with 911.

Witness, [REDACTED] #2d can testify that:

1. She was at Grant Park located near 11th and Ivory on 07-14-15 at about 2100 hours, in the City of Spokane, WA.
2. She saw a male pull up at a "very high rate of speed" and stop in front of the house at [REDACTED] #1d
3. The male appeared to be very upset and ran up the stairs to the female victim on the front porch.
4. The female victim was yelling "get out of my house" repeatedly and then slammed the door.
5. The male then got into the house but she couldn't tell if he used force or just opened the door.
6. She thought due to the male's behavior and how the female was holding her arms up to keep him back that he could have been an intruder.
7. The male then entered the house after the female slammed the door shut.

8. She saw what looked like the two "pushing and shoving" and heard them screaming at each other. This was through the second level windows facing the park and she was a further back into the park.

Officer M. Juarez can testify to the following:

1. He responded to this incident on 07-15-2015 at [REDACTED] #1d Ave Spokane, WA.
2. He contacted the defendant who stated this incident was only an argument.
3. The defendant said he was arguing with the victim on the front porch when she entered her home and shut the door on him. He opened the door without incident and went inside to continue talking with her.

Officer C. Hamilton can and will testify that:

1. He was working as a police officer for the City of Spokane, WA in the County of Spokane on 07-14-15 at 2100 hours.
2. He responded to a call of a burglary in progress at [REDACTED] #1d where it was reported that a male had pulled up to the house in a truck, got into an argument with a female and then "kicked the door in."
3. He contacted the two witnesses in Grant Park and took their statements, which were also video recorded on his body worn camera.

Officer J. McVay can testify to the following:

1. I responded to this incident on 07-14-2015 hours at [REDACTED] #1d Ave Spokane, WA.
2. I interviewed the victim, [REDACTED] #1a
3. Upon searching the defendant incident to arrest I located at Smith and Wesson revolver in his left pant pocket. It was loaded with 5 .38 special +P rounds. I placed the revolver on property as evidence.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. (9A.72.085)

DATE: 07-15-2015

PLACE: SPOKANE, WASHINGTON

SIGNATURE:  #923

4

Location 2W12

OFFICE OF PRETRIAL SERVICES
First Appearance Evaluation

Date 07/15/2015

Name YEN, JOHN W

Race Asian

Sex M DOB [REDACTED] #5b

Charges:	Crime	Description	Agcy	Report #	SC #	Bond Amt	Court
	017707	BURGLARY-1D(ARMED)DV	002	150241039	151026292		SCT

Mailing Address [REDACTED] #7c Lives At [REDACTED] #7c
 1122
 Phone Numbers CP: [REDACTED] #7c Address Verified Yes
 Renting/Buying Renting Length at Addr 1 YR + Res Length in Spokane 8 YRS
 Lives With SELF #1a
 VICTIM
 Prior Addresses APT 212 Prior Cities HAWAII

Marital Status Single Spouse Children NONE
 Mother Alive Yes Name [REDACTED] #7c
 Father Alive Yes Name [REDACTED] #7c
 Has Other Relatives in Spokane No Relatives NONE Family Ties Verified Yes

Employed Yes Occupation LAW ENFORCEMENT Employment/Income Verified Yes
 Employer 2 YRS Employed Length
 Income 5500/MO
 Emp / Income Notes Other Income Education Level 4 YRS COLLEGE

- # Adult Felonies 0
- # Adult Misdemeanors 0
- # Juvenile Felonies 0
- # Juvenile Misdemeanors 0
- # Misd Administrative 0
- # Misd Fail to Appear 0
- # Misd Fail to Comply 0
- # Felony Arrest Warrants 0
- # Felony Fail to Appear 0
- # Felony Fail to Comply 0
- # Felony LFO 0
- Felony Community Custody No
- Misdemeanor Probation No

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JUL 15 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Mental Health Problems No Notes NONE

Substance Abuse Problems No Notes NONE

Pre-screen for Drug Court - Criteria Not Met - *Prosecutor Determines Eligibility

Verification Reference #1 [REDACTED] #7c
 Verification Reference #2 [REDACTED] #1a GF- VICTIM

Attorney Choice Private Attorney Notes DEF HIRING PVT ATTY

THE INFORMATION WAS VERIFIED BY THE DEFENDANT'S GIRLFRIEND (VICTIM). THE DEF LIVES BY HIMSELF IN AN APARTMENT ON [REDACTED] #7c HE HAS LIVED AT THAT ADDRESS FOR OVER ONE YEAR. THE DEF HAS LIVED IN SPOKANE FOR EIGHT YEARS AND IN HAWAII PRIOR. HE HAS NO FAMILY IN THE AREA. THE DEF IS EMPLOYED WITH THE SPOKANE POLICE DEPARTMENT. THE VICTIM DOES NOT RESIDE WITH THE DEF.

A CRIMINAL HISTORY SEARCH FOUND NO PRIOR CONVICTIONS, WARRANTS, OR ARRESTS.

THE DEF REPORTS NO TREATMENT NEEDS.

RECOMMENDATION IS BASED ON LACK OF CRIMINAL/WARRANT HISTORY AND VERIFIED TIES TO THE AREA.

OR Recommendation: YES Finding By STROMBERGER, AARON Title Pretrial Services Officer

FILED

JUL 15 2015

SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON,
Plaintiff,

vs.

YEN, JOHN
Defendant.

No. 15-1-02629-2

TEMPORARY
NOTICE OF APPEARANCE

YOU AND EACH OF YOU PLEASE TAKE NOTICE that the office of the Spokane County Public Defender's having been temporarily appointed as counsel for the defendant in the above-entitled cause, hereby appears for the First Appearance and requests that all further papers, process and pleadings herein, be served upon the undersigned at the address listed below.

DATED this 15 July 2015.

SPOKANE COUNTY PUBLIC DEFENDERS
1033 W. Gardner
Spokane, WA 99260-0280

FILED

JUL 15 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Race A Sex M DOB #5b Height 5'6 Weight 150 Hair br Eyes br
DPA Case # _____ Report # 15-241039

DISTRICT/SUPERIOR COURT OF WASHINGTON
FOR THE COUNTY OF SPOKANE
STATE OF WA Plaintiff
vs.
John W Yen Defendant
SID: _____
If no SID, use DOB: _____

No. 15-1-02629-2
 Pre-Trial Post Conviction
 Replacement Order (paragraph 10)
Domestic Violence No-Contact Order
(clj=NOCON, Superior cts =ORNC)
Clerk's action required: Para 9.

No-Contact Order

1. Protected Person's Identifiers:

#1b
Name (First, Middle, Last)
#1b F W
DOB Gender Race

If a minor, use initials instead of name, and complete a Law Enforcement Information Sheet (LEIS).

2. Defendant:

- A. do not cause, attempt, or threaten to cause bodily injury to, assault, sexually assault, harass, stalk, or keep under surveillance the protected person.
- B. do not contact the protected person, directly, indirectly, in person or through others, by phone, mail, or electronic means, except for mailing or service of process of court documents through a third party, or contact by the defendant's lawyers.
- C. do not knowingly enter, remain, or come within 261/2,000 feet if no distance entered) of the protected person's residence, school, workplace, other: #1d
- D. other: _____

3. Firearms and Weapons, Defendant:

- do not obtain or possess a firearm, other dangerous weapon or concealed pistol license. (Pre-Trial, RCW 9.41.800. See findings in paragraph 7, below.)
- do not obtain, own, possess or control a firearm. (Post Conviction or Pre-Trial, RCW 9.41.040.)
- shall **immediately surrender** all firearms and other dangerous weapons within the defendant's possession or control and any concealed pistol license to the following law enforcement agency: _____ (Pre-Trial Order, RCW 9.41.800.)

4. **This no-contact order expires on:** 7/15/2019

Warning: Violation of the provisions of this order with actual notice of its terms is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless

13/12

endangerment that is a violation of this order is a felony. **You can be arrested even if the person protected by this order invites or allows you to violate the order's prohibitions.** You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application. (Additional warnings are listed below.)

Findings of Fact

- 5. Based upon the record both written and oral, the court finds that the defendant has been charged with, arrested for, or convicted of a domestic violence offense, and the court issues this Domestic Violence No-Contact Order under chapter 10.99 RCW to prevent possible recurrence of violence.
- 6. The court further finds that the defendant's relationship to a person protected by this order is an Intimate partner (former/current spouse; parent of common child; or former/current cohabitants as intimate partners) or Other family member as defined by Ch. 10.99 RCW: _____.
- 7. (Pretrial Order) For crimes not defined as a serious offense, the court makes the following mandatory findings pursuant to RCW 9.41.800: The defendant used, displayed, or threatened to use a firearm or other dangerous weapon in a felony. The defendant is ineligible to possess a firearm due to a prior conviction pursuant to RCW 9.41.040; or Possession of a firearm or other dangerous weapon by the defendant presents a serious and imminent threat to public health or safety, or to the health or safety of any individual.

Additional Warnings to Defendant: This order does not modify or terminate any order entered in any other case. The defendant is still required to comply with other orders.

Willful violation of this order is punishable under RCW 26.50.110. State and federal firearm restrictions apply. 18 U.S.C. § 922(g)(8)(9); RCW 9.41.040.

Pursuant to 18 U.S.C. § 2265, a court in any of the 50 states, the District of Columbia, Puerto Rico, any United States territory, and any tribal land within the United States shall accord full faith and credit to the order.

Additional Orders

- 8. Civil standby: The appropriate law enforcement agency shall, at a reasonable time and for a reasonable duration, assist the defendant in obtaining personal belongings located at: _____
- 9. The clerk of the court shall forward a copy of this order on or before the next judicial day to: Spokane County Sheriff's Office Police Department where the case is filed, which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.
- 10. This order replaces all prior no-contact orders protecting the same person issued under this cause number.

Dated: 7/15/15 in open court with the defendant present.

I acknowledge receipt of a copy of this order:

[Signature]
Defendant

[Signature]
Judge/ Pro Tem/Court Commissioner

The protected person shall be provided with a certified copy of this order.

I am a certified or registered interpreter or found by the court to be qualified to interpret in the _____ language, which the defendant understands. I translated this order for the defendant from English into that language.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter: _____ print name: _____

White - Court Yellow - Prosecutor Pink - Victim Goldenrod - Defendant

FILED

JUL 15 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON	)	CASE NO: 2015-01-02629-2
	)	PA #:
Plaintiff,	)	RPT #: 150241039
	)	CHARGES:
V.	)	Count 1: 9A.52.020(1)(A)DV - BURGLARY-
	)	1D(ARMED)DV
YEN, JOHN W)	<input type="checkbox"/> AMENDED
A M #5b	)	RELEASE CONDITIONS PENDING TRIAL
	)	(CrR 3.2) (ADULT) (ORECRP)
Defendant.)	<input type="checkbox"/> DEFENDANT TO BE BOOKED ON FTC
	)	WARRANT

PROBABLE CAUSE:

- Probable cause has previously been determined.
- The court finds probable cause exists to believe the accused committed the offense(s) charged. CrR 3.2.1(e)(2).
- The court does not find probable cause exists for the offense(s) charged, but does find probable cause exists to believe the accused committed the offense of _____. CrR 3.2.1(e)(2).
- The court does not find probable cause to believe the accused committed any offense and the accused is ordered released without conditions. CrR 3.2.
- Probable cause statement not received from law enforcement and the accused is ordered released without conditions. CrR 3.2.
- Other: _____

CUSTODY:

- 1. Defendant shall be in the custody of Spokane County Jail.
 - Housing at Geiger is authorized if eligible and approved.
 - Work Crew/Work Release authorized if eligible and approved.
- 2. Defendant shall be released on his/her own recognizance.
- 3. Defendant shall post a surety or cash bond in the sum of _____ . Reserved Argued
- 4. No Bond shall be accepted. Reserved Argued

If released: Defendant shall remain #7c Phone number: #7c

Further, defendant shall:

- Appear at all court dates;
- Regularly contact her/his attorney;
- Remain in Spokane County and/or _____ ;
- No use or possession of non-prescribed controlled substances, legend drugs, or drug paraphernalia;

RELEASE CONDITIONS PENDING TRIAL
(CrR 3.2)

ORIGINAL

SPOKANE COUNTY PROSECUTING ATTORNEY
COUNTY CITY PUBLIC SAFETY BUILDING
SPOKANE, WA 99260 (509) 477-3662

- The current offense and a prior qualified offense involve alcohol
 - Defendant MUST install Ignition Interlock Device on ALL vehicles operated by him/her AND PROOF of installation must be filed within 5 days of the date of release
 - with the Superior Court
 - Defendant must comply with a 24/7 Sobriety Program Monitoring – if/when available
- Commit no criminal law violations; No contact with minors under the age of 18;
- No operating a motor vehicle without a valid driver's license and proof of insurance;
- Obey any and all court orders in effect and, if under supervision, obey all conditions of supervision;
- Other: _____

THE COURT FINDS THAT THERE EXISTS a substantial danger that the defendant will commit a serious crime or that the defendant's physical condition is such to jeopardize his/her safety or that of others or that he/she will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice and, therefore:

- 1. Defendant shall not approach or communicate with (named victim) #1a
 - or any others residing at the same residence
 - or any immediate member of his/her family
 - or any witness of the State, as listed in the police reports or witness lists
- 2. Defendant shall not go to the following (area) (premises) #1d
 - the _____ block of _____ in Spokane County
 - or any known location of any individual listed in number 1 of this order (e.g. school, work, residence, etc.)
- 3. Defendant shall not
 - a. possess any dangerous weapons. b. engage in the activity of _____
 - c. engage in the activity of sexual contact with minors under the age of 18
 - d. use, possess or consume (intoxicating liquor) and/or (use or in possession of marijuana and/or products containing Tetrahydrocannabinol (THC)) and/or (the following drugs _____)
 - e. possess any pornographic material
- 4. Defendant shall report regularly and remain under the supervision of NEWTA or other Court approved facility. Defendant shall report within 24 hours of the entry of this order or release from custody.
 - Reserved
 - Other: _____
- 5. Defendant shall be detained until his/her physical condition permits his/her release.
- 6. Defendant is referred for assessment by Geiger/NEWTA.
- 7. Other: _____

DONE IN OPEN COURT this 15th day of July, 2015, in the presence of the defendant.



JUDGE GREGORY DAVID SYPOLT

J U D G E

NOTICE TO DEFENDANT: Your attorney is required to advise the Court if you do not maintain regular contact with your lawyer. If you do not maintain regular contact with your lawyer, the Court




RELEASE CONDITIONS PENDING TRIAL
(CrR 3.2)

may issue a bench warrant for your apprehension and incarceration in the Spokane County Jail. Failure to abide by any court ordered release condition is considered a violation and will be reported to the Court. A violation could result in a modification of release conditions, revocation of release, or the issuance of a bench warrant.

IF NO CHARGES ARE FILED BY 07/17/2015 AT 10:53 PM, THE DEFENDANT SHALL BE RELEASED ON THIS CAUSE AND BOND SHALL BE EXONERATED.

Presented by:

Approved:

		
JOHN E LOVE Deputy Prosecuting Attorney WSBA # 26748	KEEGAN LYNCH Attorney for Defendant WSBA# 48168	YEN, JOHN W

FILED

JUL 15 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

(Copy Receipt)

(Clerk's Date Stamp)

SUPERIOR COURT OF WASHINGTON, COUNTY OF SPOKANE

State of Washington, Plaintiff,
vs

Case No: 2015-01-02629-2
P.A. #:

YEN, JOHN W [REDACTED] #5b
Defendant

**SCHEDULING ORDER SETTING (ORST)
TRIAL AND OTHER HEARINGS (ORSTD)**


1. The above-entitled action is assigned to **Chief Criminal Judge**.
2. Defendant is **Out of Custody**
3. The following court dates are set in this case:
 - a. **ARRAIGNMENT ON 7/27/2015 AT 10:30AM**

DEFENDANT IS REQUIRED TO APPEAR AT ALL APPOINTMENTS OR A WARRANT FOR ARREST MAY BE ISSUED.


4. Arraignment Date: _____ New Commencement Date [CrR 3.3(c)]: _____

DATED this 15th day of July, 2015

Approved:



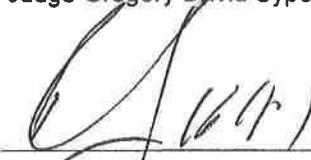
Defendant's Signature
(required for CrR 3.3(f)(1) continuances)



Judge Gregory David Sypolt

Presented By:


JOHN E. LOVE WSBA 26748
Deputy Prosecuting Attorney



Attorney for Defendant

ORIGINAL

FILED

JUL 17 2015

SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON)

Plaintiff,)

v.)

JOHN W. YEN)

DOB: #5b SEX: M; RACE: A;)

HGT: 5'06"; WGT: 150; EYES: BRO;)

HAIR: BRO; SID: #3k)

Defendant.)

INFORMATION
(INFO)

No. 15-1-02629-2


JEFFREY S. BARKDULL
Special Deputy Prosecuting Attorney

PA#
RPT# 150241039
RCW 9A.52.020(1)(A)DV

Comes now the Special Deputy Prosecuting Attorney in and for Spokane County, Washington, and charges the defendant with the following crime:

COUNT I: BURGLARY IN THE FIRST DEGREE DV, committed as follows: that the defendant, JOHN W. YEN, in the State of Washington, County of Spokane, on or about July 14, 2015, with intent to commit a crime against a person or property therein, did enter or remain unlawfully in the building of #1a located at #1d, Spokane, Washington, and, in entering or while in the building or in immediate flight therefrom, the defendant was armed with a deadly weapon; and furthermore, the defendant did commit the above crime against a family or household member; contrary to Revised Code of Washington 10.99.020;

Contrary to Revised Code of Washington 9A.52.020(1)(a), the maximum penalty for which is life imprisonment and/or a fine of \$50,000, pursuant to RCW 9A.52.020(2) and RCW 9A.20.021(1)(a), plus restitution and assessments.


JEFFREY S. BARKDULL
Special Deputy Prosecuting Attorney
WSBA #18690

DEFENDANT INFORMATION: JOHN [REDACTED] #7c YEN
Address: [REDACTED] #7c
Height: 5'06" Weight: 150
Eyes: Brown DOL #: [REDACTED] #4b
SID #: [REDACTED] #3k DOC #:

Hair: Brown
State: WA
FBI NO.

FILED

JUL 17 2015

SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON,

Plaintiff,

NO. 15-1-02629-2

vs.

NOTICE OF APPEARANCE

JOHN W. YEN

Defendant.

NOTICE TO THE SPOKANE COUNTY PROSECUTING ATTORNEY'S OFFICE

COMES NOW the undersigned attorney, ROBERT R. COSSEY, with the Law Office of Robert R. Cossey, for the above named defendant on the charges under this cause number. Robert R. Cossey is hereby notifying the Court that he is representing the defendant in this cause and requests all pleadings and legal process to be filed with him as the attorney of record.

DATED this 16 day of July, 2015.



ROBERT COSSEY
WSBA #16481
Attorney for Defendant

NOTICE OF APPEARANCE

ROBERT COSSEY
902 N. Monroe
Spokane WA 99201
(509)327-5563

FILED

JUL 27 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Copy received this 27th
day of July, 2015
[Signature]
Attorney for Defendant

SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE

STATE OF WASHINGTON)

Plaintiff,)

v.)

JOHN W. YEN)

DOB: #5b SEX: M; RACE: A;)
HGT: 5'06"; WGT: 150; EYES: BRO;)
HAIR: BRO; SID: #3k)

Defendant(s).)

No. 15-1-02629-2

OMNIBUS APPLICATION BY PLAINTIFF
(OMAPA)

NOTICE TO: JOHN W. YEN, defendant, and to ROBERT COSSEY, your Attorney

DATED this _____ day of _____, 2015.


Plaintiff makes the applications or motions checked below:

- [✓] 1. Defendant to state the general nature of his/her defense.
Granted Denied _____
- [✓] 2. Defendant to state whether or not s/he will rely on an alibi and, if so, to furnish a list of his/her alibi witnesses and their addresses.
Granted Denied _____
- [✓] 3. Defendant to state whether or not s/he will rely on a defense of insanity at the time of the offense, or of diminished mental capacity.
(a) If so, defendant to supply the name(s) of his/her witness(es) on the issue, both lay and professional

- (b) If so, defendant to permit the prosecution to inspect and copy all medical reports under his/her control or the control of his attorney.
- (c) Defendant will also state whether or not s/he will submit to a psychiatric examination by a doctor selected by the prosecution.
Granted Denied
- [✓] 4. Defendant to furnish results of scientific tests, experiments or comparisons and the names of person who conducted the tests.
Granted Denied
- [] 5. Defendant to appear in a lineup.
Granted Denied
- [] 6. Defendant to speak for voice identification by witnesses.
Granted Denied
- [] 7. Defendant to be fingerprinted.
Granted Denied
- [] 8. Defendant to pose for photographs (not involving reenactment).
Granted Denied
- [] 9. Defendant to try on articles of clothing.
Granted Denied
- [] 10. Defendant to permit taking of specimens of material under fingernails.
Granted Denied
- [] 11. Defendant to permit taking samples of blood, hair and other materials of his/her body which involve no unreasonable intrusion thereof.
Granted Denied
- [] 12. Defendant to provide samples of his/her handwriting.
Granted Denied
- [] 13. Defendant to submit to a physical external inspection of his/her body.
Granted Denied
- [✓] 14. Defendant to state whether there is any claim of incompetency to stand trial.
Granted Denied
- [✓] 15. For discovery of the names and addresses of defendant's witnesses their written or recorded statements and the substance of any oral statements.
Granted Denied

- [✓] 16. To inspect physical or documentary evidence in defendant's possession.
Granted Denied
- [] 17. To take the deposition of witness: _____

Granted Denied
- [] 18. To secure the appearance of a witness at trial or hearing.
Granted Denied
- [✓] 19. Defendant to state whether his/her prior convictions will be stipulated or need be proved.
Granted Denied
- [✓] 20. Defendant to state whether s/he will stipulate to the continuous chain of custody of evidence from acquisition to trial.
Granted Denied
- [✓] 21. For the above to be supplied at least 30 days before pre-trial.
Granted Denied
- [] 22. Notice is given pursuant to RCW 9A.44.120 of an intent to seek admission of the child victim's statements, made to others, describing any act of sexual contact performed with or on the child by another, as contained in police report # _____ or as made available through the course of discovery.
Granted Denied



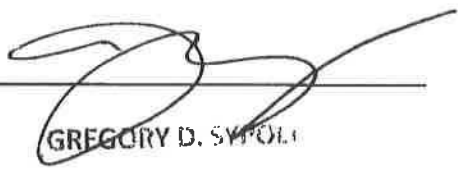
 JEFFREY S. BARKDULL, WSBA #18690
 Special Deputy Prosecuting Attorney

ORDER

The following numbered motions are GRANTED: 1, 2, 3, 4, 14, 15,
16, 19, 20, 21

The following numbered motions are DENIED:

DATED this ____ day of JUL 27 2015, 2015.

JUDGE 

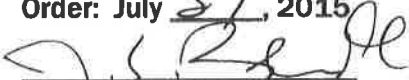
 GREGORY D. SYFOL

FILED

JUL 27 2015

**Timothy W. Fitzgerald
SPOKANE COUNTY CLERK**

I stipulate to entry of this
Order: July 27, 2015


Attorney for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON,

Plaintiff,

vs.

JOHN W. YEN,

Defendant.

NO. 15-1-02629-2

**OMNIBUS APPLICATION BY
DEFENDANT**

NOTICE TO PLAINTIFF, Spokane County Deputy Prosecuting Attorney

DATED this _____ day of July, 2015.

DEFENDANT MAKES THE APPLICATIONS OR MOTIONS CHECKED BELOW:

- 1. To dismiss for fallure of the Information to state an offense.**
- 2. To sever defendant's case and for separate trial.**
- 3. To sever counts and for separate trials.**
- 4. To make more definlte and certain.**
- 5. For discovery of all oral, written or recorded statements made by defendant to Investigatng officers or to third parties and in the possession of the plaintiff.**
- 6. For discovery of all names and addresses of Plaintiff's witnesses and their statements.**
- 7. To inspect physical or documentary evidence in plaintiff's possession.**

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- 1 ___ 8. To suppress physical evidence in plaintiff's possession because of an illegal search or illegal arrest.
- 2 X 9. For a 3.5 hearing.
- 3 ___ 10. To suppress evidence of the identification of the defendant.
- 4 ___ 11. To take deposition of witnesses.
- 5 ___ 12. To secure the appearance of a witness at trial or hearing.
- 6 ___ 13. To inquire into the conditions of pretrial release.
- 7 ___ 14. For permission per CrR 4.7 (h) (3) to provide copies of police reports to the defendant.

TO REQUIRE THE PROSECUTION TO DISCLOSE AT LEAST 7 DAY PRIOR TO THE FIRST SCHEDULING HEARING:

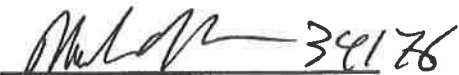
TO STATE:

- 8 X 15. (a) If there was an informer involved;
 (b) Whether he/she will be called as a witness at trial;
 (c) To state the name and address of the informer or claim the privilege; and
 (d) To provide this information 10 days prior to pretrial date.
- 9
- 10 X 16. To disclose evidence in its possession, favorable to defendant on the issue of guilt.
- 11 X 17. To disclose whether it will rely on prior acts or convictions of a similar nature for proof of knowledge or intent.
- 12 X 18. To disclose whether any expert witness will be called, and if so, supply—
 (a) Name of witness, qualifications and subject of ; testimony; and
 (b) Reports.
- 13 X 19. To supply any reports of physical or mental examination, experiments, comparisons, or other reports of experts in its control.
- 14
- 15 X 20. To permit inspection and copying of any books, papers, documents, photographs, videos or tangible objects,
 (a) Obtained from or which belonged to the defendant, or
 (b) Which will be used at the hearing or trial.
- 16 X 21. To search for and supply all information concerning the criminal history of the Defendant and any information including CAD-RMS, WACIS documents concerning prior convictions of persons whom the Prosecution intends to call as witnesses at the hearing or trial. (Law Enforcement excluded).
- 18
- 19 X 22. To disclose any electronic surveillance of the defendant or his premises, and

to provide defendant with any record thereof.

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- 23. To inform the defendant of any known information indicating entrapment of the defendant.
- 24. To inform the defendant if it will use prior convictions for impeachment and if so, what convictions.
- 25. To furnish the defendant a copy of the defendant's local and State Tiepin and FBI rap sheet if available.
- 26. To state in writing, pursuant to RCW 9.94A, the prosecution's understanding of defendant's "criminal history" and resultant standard sentence range.
- 27. To provide a "Bill of Particulars."
- 28. To provide discovery of any and all victim impact statements received by the State.
- 29. To provide copies of all reports and documents pertaining to forfeiture of property relating to this case.
- 30. To supply the above no later than _____.
- 31. To provide copies or allow in camera inspection of any "blue sheet" reports or other confidential police reports which are not ordinarily provided to defense counsel.

For  39176
ROBERT COSSEY
WSBA #16481
Attorney for Defendant

STIPULATED ORDER

The following numbered motions are GRANTED: 5, 6, 7, 9, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26

The following numbered motions are RESERVED: All others

The following numbered motions are DENIED: None

DATED this 27th day of July, 2015.



JUDGE
GREGORY D. SMITH

FILED

JUL 27 2015

**Timothy W. Fitzgerald
SPOKANE COUNTY CLERK**

(Copy Receipt)

(Clerk's Date Stamp)

SUPERIOR COURT OF WASHINGTON, COUNTY OF SPOKANE

State of Washington, Plaintiff,
vs

Case No: 2015-01-02629-2
P.A. #:

YEN, JOHN W #5b

Defendant

**SCHEDULING ORDER SETTING (ORST)
TRIAL AND OTHER HEARINGS (ORSTD)**

1. The above-entitled action is assigned to .
2. Defendant is **Out of Custody**
3. The following court dates are set in this case:
 - a. **LAST DATE TO HEAR SUPPRESSIONS OR DISMISSAL MOTIONS ON 10/1/2015**
 - b. **PRETRIAL CONFERENCE ON 10/2/2015 AT 11:30AM**
 - c. **LAST DATE FOR HEARING MOTIONS TO CHANGE TRIAL DATE ON 10/8/2015**
 - d. **CRIMINAL TRIAL ON 10/19/2015 AT 9:30AM**

DEFENDANT IS REQUIRED TO APPEAR AT ALL APPOINTMENTS OR A WARRANT FOR ARREST MAY BE ISSUED.


4. Arraignment Date: _____ New Commencement Date [CrR 3.3(c)]: _____

DATED this 27th day of July, 2015

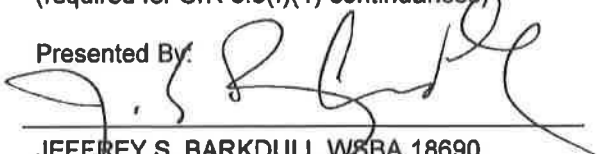
Approved:



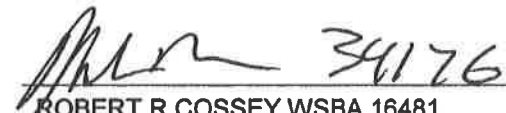
 Defendant's Signature
 (required for CrR 3.3(f)(1) continuances)



 Judge Gregory David Sybolt

Presented By:


 JEFFREY S. BARKDULL WSBA 18690
 Deputy Prosecuting Attorney



 ROBERT R COSSEY WSBA 16481
 For Attorney for Defendant

ORIGINAL

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FILED

AUG 10 2015

SPOKANE COUNTY CLERK

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON,
Plaintiff,

vs.

JOHN YEN,
Defendant.

NO. 15-1-02629-2

**AGREED ORDER AMENDING
RELEASE CONDITIONS**

I. BASIS

The Defendant, JOHN YEN, through his counsel, Robert Cossey, and the State of Washington through its counsel, JEFFREY BARKDULL, request that this court enter an order amending the defendant's release conditions to allow him to travel within Washington and Idaho. The original release conditions state he shall remain in Spokane County only. Further, the Defendant may have to appear and testify in a trial in Spokane County Superior Court as part of his employment with the Spokane Police Department. The Defendant agrees to provide proof of said court dates to his attorney and these will be provided to the Prosecuting Attorney so there is a clear record.

II. FINDING

After reviewing the case record to date, and with the parties' agreement, it is found

AGREED ORDER TO AMEND RELEASE CONDITIONS

*Law Office of Rob Cossey
Attorneys at Law
902 N. Monroe
Spokane WA 99201
(509)327-5563*

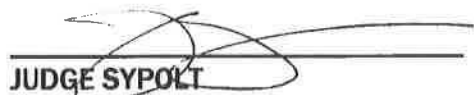
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that good cause exists to grant the motion.

III. ORDER


IT IS HEREBY ORDERED THAT the defendant's release conditions shall be amended so that he may travel freely within the States of Washington and Idaho. Further, the Defendant shall be allowed to be in the Spokane County Superior Court Building for the purpose of trial testimony as part of his work with the Spokane County Police Department. The Defendant shall provide proof of said court appearance(s) to the prosecuting attorney in advance of said testimony dates. All other release conditions are to stay in full force and effect.


DATED this 6th day of August, 2015.


JUDGE SYPOLT

Presented By:

Agreed by:


ROBERT R. COSSEY
WSBA #16481
Attorney for Defendant

8/5/15 Electronic approval

JEFFREY BARKDULL
WSBA #18690
Deputy Prosecuting Attorney

AGREED ORDER TO AMEND RELEASE CONDITIONS

Law Office of Rob Cossey
Attorneys at Law
902 N. Monroe
Spokane WA 99201
(509)327-5563

FILED

SEP 15 2015

SPOKANE COUNTY CLERK

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE**

STATE OF WASHINGTON,

NO. 15-1-02629-2

Plaintiff,

**AGREED ORDER AMENDING
DOMESTIC VIOLENCE NO
CONTACT ORDER**

vs.

JOHN YEN,

Defendant.

I. BASIS

The Defendant, JOHN YEN, through his counsel, Robert Cossey, and the State of Washington through its counsel, JEFFREY BARKDULL, request that this court enter an order amending the Domestic Violence No Contact Order. The order currently states that the Defendant is not to be within 2 blocks of the alleged victim #1a. We are asking the Court to amend these restraints and allow the defendant to attend a Municipal Court Trial on September 17, 2015 in the Spokane City Municipal Court.

The Defendant has been subpoenaed and must appear and testify in a trial in Spokane City Municipal Court as part of his employment with the Spokane Police Department. The Defendant agrees to provide proof of said court dates to his attorney and these will be provided to the Prosecuting Attorney so there is a clear record.

II. FINDING

After reviewing the case record to date, and with the parties' agreement, it is found that good cause exists to grant the motion.

AGREED ORDER TO AMEND RELEASE CONDITIONS

*Law Office of Rob Cossey
Attorneys at Law
902 N. Monroe
Spokane WA 99201
(509)327-5563*

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III. ORDER

IT IS HEREBY ORDERED THAT the Defendant shall be allowed to be in the Spokane Municipal Court Building for the purpose of trial testimony as part of his work with the Spokane County Police Department. The Defendant shall provide proof of said court appearance(s) to the prosecuting attorney in advance of said testimony dates. All other release conditions are to stay in full force and effect.


DATED this 5 day of September, 2015.



JUDGE SYPOLT

MICHAEL P. PRICE

Presented By:



ROBERT R. COSSEY
WSBA #16481
Attorney for Defendant

Agreed by:

9/14/15 Electronic approval

JEFFREY BARKDULL
WSBA #18690
Deputy Prosecuting Attorney

AGREED ORDER TO AMEND RELEASE CONDITIONS

Law Office of Rob Cossey
Attorneys at Law
902 N. Monroe
Spokane WA 99201
(509)327-5563

FILED

OCT 01 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

(Copy Receipt)

(Clerk's Date Stamp)

SUPERIOR COURT OF WASHINGTON, COUNTY OF SPOKANE

STATE OF WASHINGTON, Plaintiff,
vs.

Case No.: 15-01-02629-2
P.A.# _____

John Yen
Defendant

**SCHEDULING ORDER SETTING
TRIAL AND OTHER HEARINGS** (ORST)
(ORSTD)

- The above-entitled action is assigned to Judge Sypolt
- Defendant is in custody, D.O.B. _____ Geiger out of custody
- The following court dates are set in this case:
 - a. Continued arraignment date: _____ at _____ a.m./p.m.
 - b. Continued first appearance date: _____ at _____ a.m./p.m.
 - c. ECR arraignment ECR hrg. date: _____ at _____ a.m./p.m.
 - d. Pretrial Conference date: _____ at _____ a.m./p.m.
 - e. Trial date: _____ at 9:30 a.m. (TA)
Continued from trial date of: _____
 - f. Plea/Sentencing Date: OCT 8, 15 at 8:30 a.m./p.m.
 - g. Violation/Fugitive/Review Hrg. DOSA/FOSA/SSOSA _____ at _____ a.m./p.m.
 - h. Sentencing Only: PSI Ordered. _____ at _____ a.m./p.m.
 - i. Restitution / Other Hrg.: _____ at _____ a.m./p.m.
 - j. Stay Calendar: _____ at 8:30 a.m.

Indicate if motion to lift stay Indicate if transport needed to lift stay

DEFENDANT IS REQUIRED TO APPEAR FOR ALL SCHEDULED HEARINGS OR A WARRANT FOR ARREST MAY BE ISSUED.

- Arraignment Date: _____ New Commencement Date [CrR 3.3(c)]: _____
Reason for new commencement date: (e.g. waiver) _____
- If this is a requested continuance of trial, give reason: case is resolved.
- Continuance is granted denied Number of prior Continuances 0
- Excluded period per CrR 3.3(e) - reason given (e.g. counsel or defendant in other trial): _____

DATED this _____ day of OCT 01 2015 20 15.

Approved:

[Signature]
Defendant's signature
[required for CrR 3.3(f)(1) continuances]

[Signature]
JUDGE
JUDGED BY D. SYPOLY

Presented by:
[Signature]
Deputy Prosecuting Attorney Bar # 34263
Jeff Barkdull

[Signature]
Attorney for Defendant Bar # 16401

FILED
OCT 08 2015
Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE

STATE OF WASHINGTON,

Plaintiff,

No. 15-1-02629-2

vs.

MOTION & ORDER TO AMEND
INFORMATION

JOHN W. YEN,

Defendant.

I. MOTION

COMES NOW the Special Deputy Prosecuting Attorney for Spokane County and moves this court to amend the Information in this case. This motion is based on the agreement of the parties pursuant to a plea agreement, the record and file to date and CrR 2.1(d) which permits "any information ... to be amended at any time before verdict or finding if substantial rights of the defendant are not prejudiced."

DATED this 2 day of October, 2015



JEFFREY S. BARKDULL
WSBA #18690
Special Deputy Prosecuting Attorney

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II. FINDINGS

GOOD CAUSE exists to grant the following order based on CrR 2.1(d), a finding of probable cause to support the amended information, and that there is no prejudice to the defendant as this amendment is based on agreement of the parties pursuant to a plea agreement.

III. ORDER


IT IS HEREBY ORDERED that the Information be amended.

Dated: 10-8-15



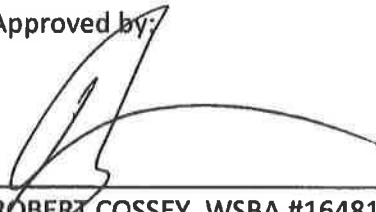
JUDGE
SALVATORE F. COZZA

Presented by:



JEFFREY S. BARKDULL, WSBA #18690
Special Deputy Prosecuting Attorney
Spokane County

Approved by:



ROBERT COSSEY, WSBA #16481
Attorney for Defendant

FILED

OCT 08 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON

Plaintiff,

v.

JOHN W. YEN

DOB: #5b SEX: M; RACE: A;

HGT: 5'06"; WGT: 150; EYES: BRO;

HAIR: BRO; SID: #3k

Defendant.

) AMENDED
) INFORMATION
) (INFO)
) No. 15-1-02629-2

) JEFFREY S. BARKDULL
) Special Deputy Prosecuting Attorney

) PA#
) RPT# 150241039
) RCW 9A.52.080

Comes now the Special Deputy Prosecuting Attorney in and for Spokane County, Washington, and charges the defendant with the following crime:

COUNT I: SECOND DEGREE CRIMINAL TRESPASS committed as follows: that the defendant, JOHN W. YEN, in the County of Spokane, State of Washington, on or about July 14, 2015, did knowingly enter or remain unlawfully in or upon the premises of another owned by #1a located in Spokane, WA.

Contrary to RCW 9A.52.080, the maximum penalty for which is confinement in the Lincoln County Jail for a term of ninety (90) days and/or a fine of \$1,000.00, or both, pursuant to RCW 9A.52.080 and RCW 9A.20.021(2) plus restitution, assessments and court costs.

DATED: 10/7/15


JEFFREY S. BARKDULL
Special Deputy Prosecuting Attorney
WSBA #18690

DEFENDANT INFORMATION: JOHN [REDACTED] #7c YEN
Address: [REDACTED] #7c
Height: 5'06" Weight: 150
Eyes: Brown DOL #: [REDACTED] #4b
SID #: [REDACTED] #3k DOC #:

Hair: Brown
State: WA
FBI NO.

FILED
OCT 08 2015
Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR SPOKANE COUNTY	
<u>STATE OF WASHINGTON</u>	Plaintiff,
vs.	
<u>JOHN YEN</u>	Defendant.

NO. 15-01-02629-2

Statement of Defendant on Plea of Guilty

1. My true name is John Yen.
2. My age is 25 years of age.
3. I went through the College level.
4. ***I Have Been Informed and Fully Understand that:***
 - (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
 - (b) I am charged with:

Count	Crime	RCW or Ordinance (with subsection)
1.	Trespass in the Second Degree	RCW 9A.52.080
2.		
3.		
4.		

In count(s) _____, the defendant committed the offense against another family or household member as defined in RCW 10.99.020.

The elements are: See Amended Information

as set out in the charging document.

as follows: _____

5. ***I Understand That I Have the Following Important Rights, and I Give Them All Up by Pleading Guilty:***

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. ***In Considering the Consequences of My Guilty Plea, I Understand That:***

- (a) The crime with which I am charged carries a maximum sentence of 90 days in jail and a \$1,000 fine.
- (b) The prosecuting authority will make the following recommendation to the judge:

No Jail, fine of \$500 and standard Costs. No probation.
- (c) The judge does not have to follow anyone's recommendation as to sentence. The judge can give me any sentence up to the maximum authorized by law no matter what the prosecuting authority or anyone else recommends.
- (d) The judge may place me on probation for up to five (5) years if I am sentenced for a domestic violence offense or under RCW 46.61.5055, or up to two (2) years for all other offenses and impose conditions of probation. If the court orders me to appear at a hearing regarding my compliance with probation and I fail to attend the hearing, the term of probation will be tolled until I appear before the court on the record.
- (e) The judge may require me to pay costs, fees and assessments authorized by law. The judge may also order me to make restitution to any victims who lost money or property as a result of crimes I committed. The maximum amount of restitution is double the amount of the loss of all victims or double the amount of my gain.
- (f) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law may be grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

Notification Relating to Specific Crimes: If any of the Following Paragraphs Apply, the Box Should Be Checked and the Paragraph Initialed by the Defendant.

- (g) The crime of _____ has a mandatory minimum sentence of _____ days in jail and \$ _____ fine plus costs and assessments. The law does not allow any reduction of this sentence.

(h) ~~The crime of prostitution, indecent exposure, permitting prostitution and patronizing a prostitute has a mandatory assessment of \$_____. The court may reduce up to two-thirds of this assessment if the court finds that I am not able to pay the assessment. RCW 9A.88.120.~~

(i) ~~If this crime involves patronizing a prostitute, a condition of my sentence will be that I not be subsequently arrested for patronizing a prostitute or commercial sexual abuse of a minor. The court will impose crime-related geographical restrictions on me, unless the court finds they are not feasible. If this is my first offense, the court will order me to attend a program designed to educate me about the negative costs of prostitution.~~

(j) ~~If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.~~

(k) ~~This plea of guilty will result in suspension or revocation of my driving license or privilege by the Department of Licensing for a minimum period of _____, or longer based upon my record of conviction. This period may not include suspension or revocation based on other matters.~~

(l) ~~I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court of record that ordered the prohibition on possession of a firearm or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.~~

(m) ~~If this crime involves a violation of Title 77 RCW, the Department of Fish and Wildlife may, and in some cases shall, suspend or revoke my privileges under Fish and Wildlife licensing.~~

(n) ~~If this crime involves a drug offense, my eligibility for state and federal education benefits will be affected. 20 U.S.C. § 1091(r).~~

(o) ~~This plea of guilty is considered a conviction under RCW 46.25.010 and I will be disqualified from driving a commercial motor vehicle. RCW 46.25.090. I am required to notify the Department of Licensing and my employer of this guilty plea within 30 days after the judge signs this document. RCW 46.25.030.~~

(p) ~~If this case involves driving while under the influence of alcohol and/or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs, I have been informed and understand that I will be subject to:~~

~~_____ the penalties described in the "DUI" Attachment or the "Washington State Misdemeanor DUI Sentencing Attachment."~~

~~_____ OR~~

~~these penalties: Mandatory minimum sentence:~~

~~• _____ days in jail.~~

~~• _____ days of electronic home monitoring.~~

~~• \$ _____ monetary penalty.~~

- If 24/7 sobriety program is available, if I have 2 or 3 prior offenses, a 6-month period of 24/7 sobriety program monitoring; or 6 months of ignition interlock device requirement; or both.
- Comply with the rules and requirements of the Department of Licensing regarding the installation and use of a functioning ignition interlock device on all motor vehicles that I operate.
- The Department of Licensing will suspend or revoke my driving privilege for the period of time stated in paragraph 6(k).

If I have prior offense(s):

- the judge may order me to submit to an expanded alcohol assessment and comply with treatment deemed appropriate by that assessment.
- instead of mandatory electronic home monitoring, the judge may order me to serve additional jail time. If 24/7 sobriety program is available, if I have 1 prior offense, instead of additional jail time, the judge may order a 6-month period of 24/7 sobriety program monitoring; or 6 months ignition interlock requirement; or both.

Instead of the minimum jail term, the judge may order me to serve _____ days in electronic home monitoring.

If the judge orders me to refrain from consuming any alcohol, the judge may order me to submit to alcohol monitoring. I shall be required to pay for the monitoring unless the judge specifies that the cost will be paid with funds from another source.

The judge may waive electronic home monitoring or order me to obtain an alcohol monitoring device with wireless reporting technology, if that device is reasonably available, if I do not have a dwelling, telephone service, or any other necessity to operate electronic home monitoring. The judge may waive electronic home monitoring if I live out of state, or if the judge determines I would violate the terms of electronic home monitoring. If the judge waives electronic home monitoring, he or she will impose an alternative sentence which may include use of an ignition interlock device, additional jail time, work crew, work camp, or, beginning January 1, 2014, 24/7 sobriety program monitoring.

I understand that the 24/7 sobriety program is a 24-hour and 7-days-a-week sobriety program which requires tests of my blood, breath, urine or other bodily substances to find out if I have alcohol, marijuana, or any controlled substance in my body. I will be required to pay the fees and costs for the program.

- (q) If this case involves reckless driving and the original charge was driving while under the influence of alcohol and/or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs and I have one or more prior offenses, as defined in RCW 46.61.5055(14), within 7 years; or if the original charge was vehicular homicide (RCW 46.61.520) or vehicular assault (RCW 46.61.522) committed while under the influence of intoxicating liquor or any drug, I have been informed and understand that I will be subject to the penalties for Reckless Driving described in the "DUI" Attachment or the "Washington State Misdemeanor DUI Sentencing Attachment."
- (r) If this case involves negligent driving in the first degree, and I have one or more prior offenses, as defined in RCW 46.61.5055(14), within 7 years, I have been

~~informed and understand that I will be subject to the penalties for Negligent Driving—1st Degree described in the "DUI" Attachment or the "Washington State Misdemeanor DUI Sentencing Attachment."~~

- ~~[] (s) If this crime involves sexual misconduct with a minor in the second degree, communication with a minor for immoral purposes, or attempt, solicitation or conspiracy to commit a sex offense, or a kidnapping offense involving a minor, as defined in RCW 9A.44.128, I will be required to register with the county sheriff as described in the "Offender Registration" Attachment.~~
- ~~[] (t) Pursuant to RCW 43.43.754, if this crime is an offense which requires sex or kidnapping offender registration, or is one of the following offenses: assault in the fourth degree with sexual motivation, communication with a minor for immoral purposes, custodial sexual misconduct in the second degree, failure to register, harassment, patronizing a prostitute, sexual misconduct with a minor in the second degree, stalking, or violation of a sexual assault protection order granted under chapter 7.90 RCW, I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense.~~
- ~~[] (u) **Travel Restrictions:** I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if I am placed on probation for one (1) year or more and this crime involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires the offender to register as a sex offender in the sending state. I understand that I will be required to pay an application fee with my travel or transfer request.~~

7. I plead guilty to the crime(s) of Criminal Trespass in the Second Degree as charged in the complaint(s) or citation(s) and notice. I have received a copy of that complaint or citation and notice. [] The complaint or citation and notice was orally amended and I waive filing of a written amended complaint or citation and notice.
8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
11. **Statement of Facts:** The judge has asked me to state in my own words what I did that makes me guilty of the crime(s). This is my statement (state the specific facts that support each element of the crime(s)):

~~[] I committed this crime against a family or household member as defined in RCW 10.99.020.~~

[X] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

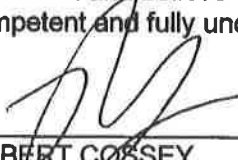
12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Date: 10/08/15


JOHN YEN

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.


JEFF BARKDULL
Prosecuting Authority
WSBA 18690


ROBERT COSSEY
Attorney for Defendant
WSBA #16481

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check the appropriate box):

- [] (a) The defendant had previously read; or
- [X] (b) The defendant's lawyer had previously read to him or her; or

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 10-8-15


Judge

SALVATORE F. COZZA

FILED

OCT 08 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON)

Plaintiff,)

v.)

John Yen)

Defendant(s).)

No. 15-1-02629-2

RPT # 150241039
RCW #

RECALL OF NO CONTACT ORDER AND
RESCINDING ORDER TO SURRENDER
WEAPONS

IT IS HEREBY ORDERED that the Pre-trial No Contact Order issued in this cause be and is hereby recalled, and that any Order to Surrender Weapons is hereby rescinded.

Information concerning the No Contact Order:

#1a

NAME OF VICTIM

D. O. B.

ORDER TO SURRENDER WEAPONS DATED 10/8/15

DATED this 8 day of Oct, 2015

JUDGE SALVATORE F. COZZA

Presented by:

WSBA# 18690

16441

FILED
OCT 08 2015
Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR SPOKANE COUNTY

STATE OF WASHINGTON,	)	No. 15-1-02629-2
)	
	)	NOTICE OF RIGHTS ON APPEAL AND
	)	RIGHTS PURSUANT
vs.	)	TO RCW 10.73
JOHN W. YEN	)	(NTRA)
)	
)	

I have been advised:

1. That I have the right to appeal my conviction;
2. That I have the right to appeal my sentence if the sentence imposed is outside the standard range or under certain other circumstances;
3. That unless a notice of appeal is filed within thirty days after the entry of the judgment or order appealed from, the right to appeal is irrevocably waived;
4. That the Superior Court clerk will, if requested, supply a notice of appeal form and file it upon completion by me;
5. That I have the right, if I cannot afford it, to have counsel appointed and to have portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal;
6. That, pursuant to RCW 10.73.090, I have the right to collaterally attack my conviction within one year after the judgment becomes final;
7. That the time limits for collateral attack do not apply if there is newly discovered evidence if discovered with reasonable diligence, or if the statute is unconstitutional, or if the conviction was barred by the double jeopardy clauses, or if the evidence at trial was insufficient, or if there was a significant change in the law material to the conviction which applies retroactively, or if the sentence was outside the court's jurisdiction, pursuant to RCW 10.73.100.

10/08/15
Date


Defendant

I am fluent in the _____ language. I have translated this document for the defendant into that language. I certify, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Date and Place

Interpreter

NOTICE OF RIGHTS ON APPEAL AND RIGHTS PURSUANT TO RCW 10.73 - Rev. 10/11

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON

NO. 15-1-02629-2

FILED

OCT 08 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Plaintiff,

vs.

ORDER ON CLERK'S LEGAL
FINANCIAL OBLIGATIONS

JOHN W. YEN

Defendant.

YOU ARE HEREBY ORDERED THAT:

1. You MUST report to the Spokane County Clerk, 1116 W. Broadway, Room 300, **immediately** after sentencing or within **forty-eight (48) hours** of your release from confinement, if you are currently in custody.

2. You are obligated to report to the Clerk's office, as directed by the Clerk, and to provide a current address, to keep the Clerk advised of a current address at all times, to provide current financial information to the Clerk and to pay your legal financial obligations as directed.

**THIS IS A COURT ORDER THEREFORE YOUR FAILURE TO
COMPLY WITH THIS ORDER MAY RESULT IN A BENCH WARRANT
FOR YOUR ARREST AND OTHER SANCTIONS**

CURRENT ADDRESS

CITY, STATE, ZIP

#7c

PHONE

#7c

NAME, ADDRESS, AND PHONE OF NEAREST RELATIVE

#7c

#7c

I ACKNOWLEDGE BY MY SIGNATURE BELOW THAT I HAVE RECEIVED A COPY OF THIS ORDER.

Dated: October 8 , 2015



JUDGE SALVATORE F. COZZA
SALVATORE F. COZZA

DEFENDANT

COURT COSTS 200.-
 VICTIM ASSESS 250.-
 RESTITUTION _____
 FINE _____
 ATTY FEES _____
 SHERIFF COSTS _____
 METH _____
 DNA FEE _____
 CRIME LAB _____
 OTHER COST _____
 CRIMINAL FILING FEE _____

\$450

FILED

OCT 08 2015

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

**Superior Court of Washington
for Spokane County**

No. 15-1-02629-2

State of Washington

Plaintiff,

vs.

JOHN W. YEN

Defendant.

Judgment and Sentence

Felony

Gross Misdemeanor

Misdemeanor

The defendant pled guilty, or pled not guilty and the verdict of the jury was guilty, or the finding of the court was guilty of:

Count	Crime	RCW or Ordinance (with subsection)
1.	SECOND DEGREE CRIMINAL TRESPASS	9A.52.080
2.		

In count(s) _____, the defendant committed the offense against another family or household member as defined in RCW 10.99.020.

Therefore, the defendant is adjudged guilty and sentenced as follows:

Sentence is ~~3~~ 90 suspended (susp./deferred (def.)) for _____ months/years on the following conditions:

Count 1) 90 days of jail, susp./def. 30 days; and a fine of \$ _____ with \$ _____ susp./def.

Count 2) _____ days of jail, susp./def. _____ days; and a fine of \$ _____ with \$ _____ susp./def.

Serve a total of _____ days in jail with credit for _____ days served, and

serve a total of _____ days of electronic home monitoring with credit for _____ days served.

Other alternative means of confinement _____.

Defendant shall receive credit for time served if that confinement was solely in regard to the offense for which the offender is being sentenced.

Jail sentences are concurrent/consecutive with all other commitments _____

This crime is an offense which requires sex or kidnapping offender registration, or is one of the following offenses, assault in the fourth degree with sexual motivation, communication with a minor for immoral purposes, custodial sexual misconduct in the second degree, failure to register, harassment, patronizing a prostitute, sexual misconduct with a minor in the second degree, stalking, or violation of a sexual assault protection order granted under chapter 7.90 RCW. Therefore, the defendant shall have a biological sample collected for purposes of DNA identification analysis. RCW 43.43.754.

Defendant shall pay to the clerk of this court:

Total obligation to be paid in full by November 20, 2015

<input type="checkbox"/> fine	\$ _____	<input type="checkbox"/> BAC fee	\$ _____
X assessments	\$ <u>500.250</u>	<input type="checkbox"/> criminal traffic fee	\$ _____
X costs	\$ <u>200</u>	<input type="checkbox"/> probation/monitoring fee	\$ _____
<input type="checkbox"/> bench warrant fee	\$ _____	<input type="checkbox"/> booking fee	\$ _____
<input type="checkbox"/> jail recoupment fee	\$ _____	X public defender recoupment	\$ <u>TBD</u>

15907463-6
PIF by 11-10-15/ADG-C

DNA fee (RCW 43.43.7541) \$ _____ domestic violence assessment \$ _____
 other _____ \$ _____ criminal conviction fee \$ _____
 restitution to: _____ \$ _____

Total: \$ _____

The defendant waives any right to be present at any restitution hearing (sign initials): _____.

\$ _____ of this total is converted to _____ hours of community restitution (service) which must be completed by _____. **Proof of completion shall be provided to the court/probation department.**

The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

Additional Conditions of Sentence:

No criminal violations of law or alcohol related infractions.

Not drive a motor vehicle without a valid license and proof of insurance.

Probation for _____ months. Supervised probation for _____ months, with probation department and abide by all rules and regulations of probation department. Pay a \$ _____ pre-sentence fee and a \$ _____ monthly probation fee unless the fee is reduced by the probation department.

Supervised probation to end upon completion of Certified domestic violence treatment and/or _____

Begin the following within _____ days and complete within _____ days and file proof of timely enrollment. Certified Domestic Violence Program Anger Management Consumer Awareness (theft) Other _____

Obtain an alcohol/drug evaluation from a Washington State-approved agency a psycho-sexual evaluation from a state certified provider a mental health evaluation from a state licensed mental health provider, and file a copy of the evaluation within _____ days. Begin any recommended treatment or education within _____ days and file proof of timely enrollment and completion to Spokane County Prosecutor.

Begin the following within _____ days and complete within _____ months, and file proof of timely enrollment and completion to Spokane County Prosecutor: DUI Victim's Panel Alcohol/Drug Information School One Year Alcohol/Drug Treatment Two Year Alcohol/Drug Treatment Alcohol/Drug Treatment for the period of _____ Driver Improvement School.

Use no alcoholic beverages or non-prescribed controlled drugs.

Attend Alcoholics Anonymous Narcotics Anonymous Other self-help program (_____) meetings _____ times a week for _____ months or as recommended by treatment provider.

Do not go upon the property of and have no contact with _____

Other: _____

This crime involves a sex offense, or a kidnapping offense involving a minor, as defined in RCW 9A.44.130. The defendant is required to register with the county sheriff as described in the "Offender Registration" Attachment.

Return for a review hearing: _____. Bail or Bond is Exonerated Forfeited.

I have read the rights, conditions and warnings.

Dated: 10-8-15



Defendant's Signature

12/22/1989

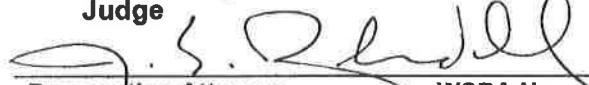
Date of Birth



Judge

SALVATORE F. COZZA

#7c
Defendant's Address and Telephone



Prosecuting Attorney
JEFFREY S. BARKDOL

WSBA No.
18690

16981

Defense Attorney

WSBA No.

Written Waiver of Counsel is filed.


FILED

NOV 10 2015

SPOKANE COUNTY CLERK

(Copy Receipt)

(Clerk's Date Stamp)

 <p>SUPERIOR COURT OF WASHINGTON, COUNTY OF SPOKANE</p>	
<p>STATE OF WASHINGTON</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>John Yen</p> <p style="text-align: center;">Defendant.</p>	<p>CASE NO. 15102629-2</p> <p>JUDGMENT NO. 15907463-6 <i>cf</i></p> <p>SATISFACTION OF JUDGMENT</p> <p>(STFJG)</p>

DG1310MI Case Financial History (CFHS) SPOKANE SUPERIOR S32

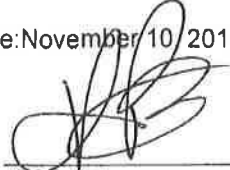
Case: 151026292 S1 Csh: Pty: DEF 1 StID: D #4b

Name: YEN, JOHN #7c NmCd: IN 459 25366

----- A C C O U N T I N G S U M M A R Y -----

<p>TOTAL TRUST</p> <p>Current Bail:</p> <p>Bail Payable:</p> <p>Undisbursed Fnds:</p> <p>Other Trust:</p> <p>Trust Balance:</p> <p>Other Rev Rec:</p> <p>Current Bond:</p> <p>Bond Payable:</p> <p>Disbur to Payees:</p> <p>Bail Forfeit Rec:</p> <p>Disp Code:</p> <p>Last Receipt Date: 10/08/2015</p> <p>Cln Sts: Time Pay: N</p> <p>Joint and Several Case: N</p> <p>Case Fund Investments: N</p> <p>Obligor AR Rec:</p>	<p>TOTAL AR</p> <p>AR ORDERED: Fine/Fee: 450.00</p> <p>Restitution:</p> <p>TOTAL AR ORDERED: 450.00</p> <p>ADJUSTMENTS: Fine/Fee:</p> <p>Restitution:</p> <p>AR ADJUSTMENTS:</p> <p>INTEREST: Int Accrued:</p> <p>Int Received:</p> <p>INTEREST BALANCE:</p> <p>RECEIVED: Fine/Fee: 450.00</p> <p>Restitution:</p> <p>TOTAL AR RECEIVED: 450.00</p> <p>BAIL/OTHER APPLIED:</p> <p>BALANCE: Fine/Fee:</p> <p>Restitution:</p> <p>TOTAL AR BALANCE:</p>
---	--

Date: November 10, 2015

By: 

Karen M Bowen, Deputy Clerk

Reiner, Michelle

From: Staben, David
Sent: Wednesday, February 17, 2016 8:59 AM
To: Reiner, Michelle
Subject: FW: Sanction Yen
Attachments: image001.png

From: "Lundgren, Justin" <jclundgren@spokanepolice.org>
Date: February 10, 2016 at 7:05:51 AM PST
To: "Braun, Steven S." <ssbraun@spokanepolice.org>
Subject: RE: Sanction Yen

Okay. Thanks. I'll send a quick notice to Griffin so he can notify Yen and let him know the formal finding letter will be out later.

Justin



Justin Lundgren | Major | Strategic Initiatives | Spokane Police Department
509.835.4527 | jclundgren@spokanepolice.org | spokanecity.org

From: Braun, Steven S.
Sent: Wednesday, February 10, 2016 6:53 AM
To: Lundgren, Justin <jclundgren@spokanepolice.org>
Subject: Re: Sanction Yen

I'm in in-service today but will get it and the email complaint handled tomorrow

Sent from my iPhone

On Feb 9, 2016, at 8:46 PM, "Lundgren, Justin" <jclundgren@spokanepolice.org> wrote:

Steve,

Please put this plan in action.

Justin

Sent from my iPhone

Begin forwarded message:

From: "Meidl, Craig" <cmeidl@spokanepolice.org>
Date: February 9, 2016 at 8:19:03 PM PST

To: "Lundgren, Justin" <jclundgren@spokanepolice.org>
Subject: Fwd: Sanction Yen

Justin

Can you please coordinate?

----- Forwarded message -----

From: "Dobrow, Rick" <rdobrow@spokanepolice.org>

Date: Feb 9, 2016 7:47 PM

Subject: Sanction Yen

To: "Meidl, Craig" <cmeidl@spokanepolice.org>

Cc:

5 day suspension . 2 days accrued time may be forfeited. 5x10.67

Please have IA prepare sanction letter and stamp w/signature .

Please advise Yen and Guild.

Thanks,

Rick

Patrick (Rick) Dobrow
Interim Chief of Police
Spokane Police Division
509-625-4063

Staben, David

From: Chris Phelps [chris@chrisphelpslaw.com]
Sent: Friday, October 09, 2015 11:49 AM
To: Staben, David
Cc: #1a
Subject: Yen Internal Investigation -- #1a

Sgt. Staben,

I am representing Ms. #1a in this matter.

Ms. #1a would like to have this issue behind her. She stands by the statements she made to the on scene investigating officers and, accordingly, asks that you rely on those statements for your investigation. Upon my advice she is declining any further interviews. I hope this is acceptable to you. If you have any further questions or concerns please feel free to contact me.

Best,

Christian Phelps

Law Offices of Christian Phelps P.S.
921 W. Broadway Ave. Ste 201
Spokane, WA. 99201
(509) 323-2420
(509) 323-2421 fax
Licensed in Washington, Oregon and Idaho

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Staben, David

From: Meyer, Richard
Sent: Friday, October 30, 2015 10:32 AM
To: Staben, David
Subject: Re: followup question

No
No profession of either individual.

Thanks Rich

On Oct 30, 2015, at 10:07 AM, Staben, David <dstaben@spokanepolice.org> wrote:

Rich,

I meant to ask you:

At the time you were talking to Larry Haskell during the Yen investigation did you tell him prior to his advisory decision that it was a police officer? I understand you left the names off, but did you say it was a police officer.

Sgt. David Staben
Internal Affairs
Spokane Police Dept.
(509)835-4547

Staben, David

From: Tami Odenrider [todenrider@co.lincoln.wa.us]
Sent: Wednesday, December 16, 2015 9:45 AM
To: Staben, David
Subject: State v. Yen, John Case No. 15-1-02629-2

Good Morning,

We do not have the originals of the Statement of Plea and the Judgment and Sentence. You can get copies from the Superior Clerks Office.

Please let me know if you need anything else.

Thanks Tami

Tami Odenrider
Administrative Assistant
Lincoln County Prosecutor's Office
(509)725-4040
(509)725-3478 fax
todenrider@co.lincoln.wa.us