

Criminal Report/Statement

Date: 9-10-2011                      Dept.                      Report No.

Charge/Incident: Intimidation of a Witness RCW 9A.72.110

Complainant/victim:                      Jay Mehring DOB. 3-5-68  
Ph 208-661-2585

Location of Incident:                      City of Spokane Washington

Victim #2:                                      Dr. Deanette Palmer 509-838-8022  
Ph 509-839-23333

Suspect:

- (1) SPD Chief Anne Kirkpatrick DOB  
1100 West Mallon Spokane WA 99260
- (2) Unknown member(s) of the City of Spokane's City  
Attorney's Office, Possible suspect, Rocky Treppiedi

MIR:

- (1) Susan C. Nelson Ph 509-455-8711
- (2) Ellen M. O'hara Ph 509-625-6225
- (3) Rocky Treppiedi Ph

## RCW 9A.72.110

### Intimidating a witness.

\*\*\* CHANGE IN 2011 \*\*\* (SEE [1182.SL](#)) \*\*\*

(1) A person is guilty of intimidating a witness if a person, by use of a threat against a **current or prospective witness**, attempts to:

- (a) **Influence the testimony of that person;**
- (b) Induce that person to elude legal process summoning him or her to testify;
- (c) Induce that person to absent himself or herself from such proceedings; or

(d) Induce that person not to report the information relevant to a criminal investigation or the abuse or neglect of a minor child, not to have the crime or the abuse or neglect of a minor child prosecuted, or not to give truthful or complete information relevant to a criminal investigation or the abuse or neglect of a minor child.

(2) A person also is guilty of intimidating a witness if the person directs a threat to a former witness because of the witness's role in an official proceeding.

(3) As used in this section:

(a) "Threat" means:

(i) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(ii) Threat as defined in \*RCW [9A.04.110](#)(25).

(b) "Current or prospective witness" means:

(i) A person endorsed as a witness in an official proceeding;

(ii) A person whom the actor believes may be called as a witness in any official proceeding; or

(iii) A person whom the actor has reason to believe may have information relevant to a criminal investigation or the abuse or neglect of a minor child.

(c) "Former witness" means:

(i) A person who testified in an official proceeding;

(ii) A person who was endorsed as a witness in an official proceeding;

(iii) A person whom the actor knew or believed may have been called as a witness if a hearing or trial had been held; or

(iv) A person whom the actor knew or believed may have provided information related to a criminal investigation or an investigation into the abuse or neglect of a minor child.

(4) Intimidating a witness is a class B felony.

[1997 c 29 § 1; 1994 c 271 § 204; 1985 c 327 § 2; 1982 1st ex.s. c 47 § 18; 1975 1st ex.s. c 260 § [9A.72.110](#).]

## Notes:

**\*Reviser's note:** RCW [9A.04.110](#) was amended by 2005 c 458 § 3, changing subsection (25) to subsection (26); and was subsequently amended by 2007 c 79 § 3, changing subsection (26) to subsection (27).

**Finding -- 1994 c 271:** See note following RCW [9A.72.090](#). (27)

"Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

- (b) To cause physical damage to the property of a person other than the actor; or
- (c) To subject the person threatened or any other person to physical confinement or restraint; or
- (d) To accuse any person of a crime or cause criminal charges to be instituted against any person;  
or
- (e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or
- (f) To reveal any information sought to be concealed by the person threatened; or
- (g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- (h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or
- (i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
- (j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships;

**Purpose -- Severability -- 1994 c 271:** See notes following RCW [9A.28.020](#).

**Severability -- 1982 1st ex.s. c 47:** See note following RCW [9.41.190](#).

Ph. D. Deanette Palmer had worked as the Spokane Police Departments psychologist for approximately 22 years. She had held contract's with the Spokane Police Department both as a full time contract employee and as a Critical Incident responder.

On 10-13-2008, Dr. Deanette Palmer testified in Spokane Superior Court Cause 07-1-011281-9, State of Washington v. Detective Jay Mehring. She was called as a witness by the Defense and gave testimony under oath on behalf of Mehring. As a result of the trial, Mehring was acquitted of all charges. Detective Mehring underwent an Internal Affairs investigation regarding the same criminal allegations and was eventually cleared and reinstated.

On 12-15-2009, Mehring filed a civil rights lawsuit against Spokane Police Chief Anne Kirkpatrick and the City of Spokane for matters related to his arrest and termination. Mehring's suit contained civil claims of Constitutional due process violations, gross negligence, outrage, intentional infliction of

emotional distress, tortious interference with business relations, hostile work environment, and retaliation.

On the morning of 9-9-20<sup>10</sup> Detective Mehring was on duty in his normal attire with badge and gun. He then attended a deposition of Chief Kirkpatrick regarding the above mentioned lawsuit. Shortly into the deposition, City Attorney Ellen O'Hara stopped the deposition and demanded to know if Detective Mehring was armed. When Mehring's attorney Bob Dunn advised that Mehring was carrying his duty weapon, Chief Kirkpatrick and O'Hara left the deposition and placed Mehring on paid administrative leave status eventually mandating that he undergo a series mental health testing/Fitness for duty exams.

Dr. Palmer had conducted counseling family counseling session with the Mehring's for many years. One of Merhing's civil attorney's, Susan Nelson eventually inquired with Dr. Palmer as to her professional opinion of Detective Merhing's psychological state and fitness for duty as she had been in regular contact with him since he had returned to work and for years prior.

On October 27<sup>th</sup> 2010, Dr. Palmer wrote a letter stating her professional opinion that Detective Mehring was not only fit for duty, but was "actually a better detective now". Dr. Palmer's opinion has been cited in many of the legal pleadings filed on behalf of Detective Mehring, filed under seal with the Court, and turned over to the City Attorney's Office per discovery requirements.

Prior to the City Attorney's Office receiving Dr. Plamer's letter, Dr. Palmer had been in the process of renewing her contract for Critical Incident Response with the City of Spokane and had been in contact with City officials. Mr. Treppiedi advised Dr. Palmer he was working on finalizing the language of the contract.

Sometime around the City Attorney's Office receiving the Palmer letter in discovery, all contact with Treppiedi ceased. Mr. Treppiedi stopped responding to Dr. Palmer's inquiries. He simply "stone walled" her by not responding. Dr. Palmer's contact with the City of Spokane expired in April of 2011 and SPD has been without a psychologist under contract for the first time in over 22 years.

During late Spring/ early summer of 2011, Dr. Palmer engaged in email correspondence with Chief Kirkpatrick regarding the matter. Chief Kirkpatrick informed Dr. Palmer that the City

Attorneys' office had advised they were considering not renewing Dr. Palmer's contract because of her involvement in current civil litigation.

On 8-29-2011, City Attorney Ellen O'Hara conducted a second deposition of Dr. Palmer regarding the Mehring lawsuit. The deposition occurred in Dr. Palmer's Attorney's office located at 618 West Riverside, Spokane WA. The deposition was under oath. At the conclusion of City Attorney O'Hara's questioning, Mehring's attorney Susan Nelson asked the following questions and others not quoted here. See Dr. Palmer transcript pages 183 to 186.

Q = question Nelson  
A = answer Palmer

Q. During the original portion of your deposition, you testified that you have a working relationship with the City of Spokane, correct?

A. Correct

Q. Could you describe that relationship, please?

A. Well, up until April of this year, for the past 22 years I have been the Police Department psychologist. Until six years ago, I held a full-time contract with them; they had a full-time psychological services contract. That was lost in the City's big round of budget cuts. Since that period of time, I've held a Critical Incident Services Contract with them.

Q. What happened in April of this year?

A. The contract has been in flux. There's been some questions, because of this case, about whether or not it's going to be renewed.

Q. And what were those questions? Do you have an understanding as to why they were questioning whether or not it was going to be renewed?

A. All I'm aware of is that, because of my involvement in Mr. Mehring's case, there is question about whether or not it will be renewed as per the City Attorney's office.

Q. And was that question put in writing anywhere?

A. There was an e-mail from the Chief indicating that.

Q. Did you receive any other communications from any city employees regarding your contract with the City?

A. I had brief communications with Rocky Treppiedi early on indicating that he was working on a form of the contract that he thought would be acceptable, and then those communications ceased.

Q. And you've had no further communications with Rocky since then?

A. No.

Q. But you have had a written communication from Chief Kirkpatrick herself?

A. Yes.

Q. Did you keep a copy of that written communication?

A. I did.

Q. How would I go about obtaining a copy of that communication?

-objection's

Q. Do you believe that your participation in this lawsuit has adversely affected your contract with the City.

A. Definitely.

Q. Do you believe that you are being unfairly targeted due to your involvement in this litigation?

A. Yes.

Q. Has this caused you a degree of stress?

A. Extreme.

Q. If the situation is not rectified and your contract is not renewed, how will that affect your practice?

A. Significantly.

Q. Have you had any communications with Ms. O'Hara regarding your involvement in this lawsuit?

A. I have not.

Q. Other than Rocky, have you had any communications with any City Attorney employees regarding this lawsuit?

A. I have not.

Q. In your communication with Chief Kirkpatrick, did she mention Detective Mehring's name directly?

A. She did not.

Q. Did she refer to pending or current civil litigation?

A. She did.

Q. Are you involved in any other litigation that involves the City, other than this case?

A. I'm not.

Q. So is there any doubt in your mind whatsoever that that reference was referring to this civil litigation?

-Objections-

A. There is not.

Since learning of the threat, Dr. Palmer has only provided testimony as required of her by legal subpoena and process. Dr. Palmer has been intimidated and punished for voicing her own professional opinion of Detective Mehring which happened to be in contradiction to the agenda of the Chief and City Attorney's office.

The communication of that intimidation stemmed from Chief Kirkpatrick to Dr. Palmer via email. Dr. Palmer received the e-mail while she was within the City of Spokane. Chief Kirkpatrick accuses a member(s) of the City Attorney's Office as having communicated this to her.

A fair and impartial criminal investigation into whether or not Kirkpatrick fabricated this story needs to be conducted, including an official investigative interview of the Chief and related suspects in the City Attorney's Office.

By simply relaying the story to Dr. Palmer as it was allegedly communicated to the Chief, the Chief has committed a felony knowing that Dr. Palmer is both a former witness and future witness in an official proceeding. The Chief's only legal and ethical obligation would have been to officially report the witness retaliation and intimidation of the City Attorney, if not act on it as a Law Enforcement Officer herself.

If a City Attorney has retaliated against Dr. Palmer because of her role as a past and or future witness by withholding her contract, that Attorney has committed the crime of witness intimidation and or witness tampering as well as the tort of interfering with a contractual relation.

This communication did and was intended to intimidate Dr. Palmer. Dr. Palmer has been unwilling to give Mehring's attorneys a copy of the email out of fear of further retaliation. Dr. Palmer has only cooperated with Mehring's side of the litigation when required to do so by direct subpoena and under oath since the Chief and City attorney's retaliation against her. Dr. Palmer has hesitated on even reporting the crime out of fear of further retaliation and damage to her career and practice.

Chief Kirkpatrick is a law enforcement officer and an attorney. Chief Kirkpatrick is a named individual defendant in the Mehring lawsuit and has motive to persuade Dr. Palmer from further cooperation in the Mehring lawsuit as well as to punish her due to prior testimony. Chief Kirkpatrick knew or should have known that her communication to Dr. Palmer would have a chilling effect on her further involvement as a witness in the Mehring case and constituted a felony violation.

Chief Kirkpatrick has established a pattern of behavior of intimidating witnesses in the Mehring cases.

August of 2007, SPD Detective Elise Robertson became aware that she was going to potentially be subpoenaed as a witness in Mehring criminal trial by the Defense. Concerned because her testimony would be in contradiction to a SPD supervisor who was a key witness against Mehring, Detective Robertson requested a meeting with Chief Kirkpatrick to discuss the matter. Police

Guild President Ernie Wuthrich accompanied her to the Chief's Office. Upon learning of Detective Robertson's concerns, Chief Kirkpatrick did not reassure her or encourage her to testify truthfully. Chief Kirkpatrick sternly warned her that if her testimony was in conflict of another Officer, She would be subjected to an Internal Affairs investigation. Detective Robertson immediately took that information for what it was, a threat, and began to cry. This had a chilling effect on witness within the Police Department to Detective Mehring's side of the case. See Criminal Trial transcripts of Elise Robertson and Ernie Wuthrich. See Attorney Chris Bugbee's Motion to dismiss. File with the Spokane County Superior Court, May 15<sup>th</sup> 2008.

Jay Mehring