

Confidential Executive Summary
Ken Johnson Internal Investigation
For the Craig City Council, Mayor and City Manager
Prepared by Chief Walter K. Vanatta

Note: I have tried here to keep this summary short, and still cover the important information. However, this is a very complicated case that doesn't simply lend itself to a time line of events. I have included narratives of what Commander DeLong's reports (the primary investigator of the complaint) and what he was told by people. As well as when they were interviewed so you can have a better understanding of why we made the decisions we made and took the actions we took.

On 2-25-09 Commander DeLong was talking to Garrett Wiggins the commander of the task force. They were talking in the evidence prep room. Below is a summary of the conversation. Ken Johnson has had an ongoing relationship with Tausha Merwin since last summer. When Ken was living with Mark Galvan, Ken would bring Tausha to the Galvan residence. Ken went to every one of Tausha's drug court appearance. After Tausha finished drug court, Ken has not attended drug court. In the past couple of months when Garratt would come to Craig PD if he did not see Ken there he would drive by Merwin's residence. On numerous occasions when he drove by he would see Ken's vehicle parked out in front of her residence in the middle of the day (1pm to 4pm.). It appeared to Garrett that Ken was not trying to hide, because he parked out front and there were a lot of individuals that were living there that were involved in the drug culture. Mark Galvan is aware of the relationship according to Wiggins.

Commander DeLong advised Chief Vanatta of the information that he received from Wiggins and that he was going to start an investigation on this information.

03-03-09 Commander DeLong received a written statement from Wiggins. His report and the statement in part is:

During the summer months of 2008, Wiggins heard a rumor that Ken Johnson was possibly involved in a relationship with Tausha Merwin. Merwin was arrested in January of 2008 on drug charges that ACET investigated. TFO Mark Galvan was the investigating officer. When Wiggins asked Johnson about the rumor Johnson told Wiggins the relationship between Johnson and Merwin started in 2007 prior to Merwin's most recent arrest. Wiggins talked to Johnson about the adverse effects this relationship could have with Johnson's career. Johnson told him that he was careful and he would not let his relationship with Merwin interfere with his job. Wiggins never spoke to Johnson about this issue again. Wiggins did not see any evidence of this relationship until January 2009.

Beginning in January 2009, Wiggins noticed that Johnson would rarely report to the ACET office. Johnson would seldom call Wiggins to advise him of what cases Johnson was working on. Wiggins would call Johnson and ask Johnson what he was working on. It seemed to Wiggins that Johnson was working on cases that were not related to ACET.

One of Johnson's duties was to pick up the mail at the post office in Craig and take to the ACET office twice a week. During the month of January Johnson reported to the ACET office only 3

times and rarely brought the mail. Wiggins began getting the mail and he saw Johnson's ACET vehicle parked near Merwin's residence at 410 Tucker St. #2 during normal working hours. Once he saw Johnson's vehicle parked there every time he came to Craig, he began to look for Johnson's vehicle. Wiggins traveled to Craig five times in a two week period and he saw Johnson's vehicle parked on Tucker St. during normal working hours four or five times. On 2-2-09 at approximately 4:00 pm, Galvan sent Johnson a text message informing Johnson of a possible drug deal and Johnson was needed. Wiggins drove near Merwin's residence and thought that he saw Johnson's ACET vehicle parked near Merwin's house. Wiggins contacted Galvan and Galvan told Wiggins that he (Galvan) thought he saw Johnson's vehicle parked there. Johnson never did contact Wiggins or Galvan reference this drug deal.

Wiggins went on to document work related issues with Johnson in this memo. Wiggins was flying out of the Hayden airport on 12-19-08 and Johnson was working extra at the airport. He passed on information that he had received for the Routt County Sheriff's Office and asked Johnson to follow up on it. When Wiggins returned he asked if Johnson had follow up on the information and Johnson told Wiggins that he did not remember the conversation. Wiggins described an incident that on 12-01-08 Johnson received information to start another investigation. According to Johnson's report no follow up was done until 01-29-09. On 2-5-09 Johnson showed the witnesses a photo line-up and due to the time lapse (65 days) the suspect was not identified. Wiggins also gave details on a case that follow up was not done in a timely manner.

Commander DeLong received another memo from Wiggins dated 3-4-09. *This memo in parts states that Wiggins checked the ACET case file on Merwin. Merwin was charged with distribution of schedule II substance. Wiggins is aware that the Moffat County Drug Court has a rule that in that individuals charged with distribution are not eligible for the drug court option. Wiggins was not present during this undercover investigation and could not remember the details. Wiggins was curious as to how Merwin became eligible for drug court. Wiggins opened the folder containing all the subfolders that include, Reports, Scans, Recordings, and Photos. Wiggins saw that at all the evidence to include the recordings of the undercover operation, the photos of the evidence and the processing of the evidence and the scans of the buy money had been deleted. Wiggins asked TFO Galvan, who was in the office, if he had deleted the recordings, photos and scans files from the case folder. TFO Galvan said he did not delete the files. Galvan said when he generated the CDs to turn them into the DA's office that they were there. He said he had no reason to review the case since Merwin had been admitted to drug court and that he had not looked at the case since he filed it. Galvan said everything should be in the file. Wiggins showed him that the information in the folders had been deleted. Galvan did not say anything but he had an expression of anger on his face as he turned and walked away. Wiggins checked the computer system and observed where the files had been modified on 2-13-08, at around 1316 hours. Wiggins checked the ACET DA Transmittal book and saw where case number AC08-1312 had been filed at the DA's office on 2-12-08, the day before the folders were deleted. Wiggins also noticed where the offense report in the reports folder had been modified 4-8-08 at approximately 0800 hours. Wiggins checked with Western Security and confirmed that TFO Johnson opened the office the morning of 4-8-08, at 0752 hours, and Office Manager Joan Kendall closed the office at 1144 hours. No one else entered or left the building after Kendall set the alarm and left. Wiggins also checked several reports prior to and after*

AC08-0312 and did not find other reports missing folders, subfolders or any data within these folders.

It is difficult if not impossible to determine who deleted these files because everyone working for ACET has access to these files. *Even though these files are protected as read only, anyone with some computer knowledge can unprotect and make changes without Wiggin's knowledge. Wiggins did not delete these files and TFO Galvan said he did not delete these files either. Wiggins has not spoken to Joan Kendall about this incident but he does not believe she would have had a reason to modify the files either. TFO Johnson was the only person working for ACET at the time these files were deleted that had an alternative interest in this case as he admitted to having a relationship with Merwin. (This file had already been sent to the DA's office and the items that were changed did not affect the substantive part of the report. This system has now been changed so that the task force officers use the CPD/MCSO records system that is secure and cannot be altered.)*

On 3-4-09 Commander DeLong notified Ken Johnson in person and in writing, and pursuant to policy, that he was beginning an internal investigation into his conduct with Ms. Merwin, and scheduled an interview with him for 3/5/09. Johnson responded by saying that we wanted to piss him off so he would leave, which he repeated more than once during the conversation. I told him that I had obtained information and I was going to complete the investigation. He stated that this was "ridiculous and a joke" during our conversation. I made it clear to him that the written notification was not a joke and I was not joking about the complaint. He just stared at me for between 10 and 15 seconds not saying anything. He wanted to know if this was because of what was going on between him and Wiggins. I told him that I had received information, that information was verified this morning and that is why I am doing the investigation. He also stated that we could make the investigation turn out the way we wanted it to turn out. I told him the investigation would be based on facts that I obtained and that is how I would write the report. He asked if he should bring his attorney to the interview.

On 3/4/09 Commander DeLong interviewed Investigator Jen Kenney (a coworker and shares office space with Johnson):

03-04-09 at about 1:12 pm, I met with Investigator Jen Kenney in reference to this investigation. I asked her to tell me what she knew about the relationship between Tausha Merwin and Investigator Johnson. She told me the following in summary;

She knew that Johnson and Merwin were friends and Johnson was helping Merwin get through drug court. Her and Johnson transported Merwin from the Moffat County Jail to the preliminary hearing that Merwin testified in. They left the court and got her a meal at McDonalds. While eating Merwin made comments that she should have friends like this referring to Johnson and her.

She knows Merwin was investigated by ACET. Merwin sold drugs and a case was put together and she was arrested. She remembers that Johnson and her went looking for her for the arrest warrant at KOA after the Barry case (09-19-07).

Johnson was not involved in drug court prior to Merwin getting accepted. Johnson told her that he was friends with Anna Lighthizer and Tausha Merwin, who both were involved in drug court. According to what Johnson told her, during Merwin's graduation, Merwin told the drug court that Johnson was one of her best friends. Johnson also addressed the drug court on Merwin's behalf.

She has never seen anything inappropriate between Johnson and Merwin. She does not think that Johnson has been with Merwin. I asked her if she meant sex when she said "with" and she said yes. Johnson has never said anything to her about him having sex with Merwin. Kenney had to stop this interview at this time, because she had a previous interview scheduled.

On 03-05-09 at a little after 7:00 am, I met with Investigator Kenney to make sure everything was covered. During this conversation, Kenney brought up that Johnson is taking xanax and other medications. She thinks he started taking these medications during the summer of 2008. She has heard Johnson joking about getting free samples of a prescription for erectile dysfunction (E.D.) medications. She remembers Johnson joking about it in the last couple of weeks. She stated that Officer Carolyn Wade was present when Johnson was joking about it. Kenney also stated that she did not think that Johnson would have inappropriate contact with Merwin. She has also heard rumors that Johnson had affairs with several different females including her.

On 03-04-09 at approximately 8:39 am, Commander DeLong met with Task Force Officer Mark Galvan at the Public Safety Center reference. Galvan told him the following in summary: He started the conversation with that he and Johnson are friends, which he repeated several times during this interview, and he did not think that he should answer questions about Johnson's personal life. He did want to answer questions about how far the relationship went with Johnson and Merwin. He has never seen any physical contact between Ken and Merwin. He never did ask Johnson about the relationship so he did not know for a sure. We talked about Merwin's criminal history and her dispositions on the ACET case. He filed the charges against Merwin, from his investigation, the first part of January 2008. He thought Merwin started drug court at the end of January 2008 or the first of February 2008. Once the charges were filed, there was no further investigation on the case. He and Ken talked about Drug court People and Ken told him about helping Tausha Merwin with her issues and drug court while they were at a Drug Court Conference the latter part of April of 2008. Ken was hanging out helping Merwin. He did not ask any questions about the relationship, because that was Johnson's personal life. He has never seen any physical contact between Merwin and Johnson. He thought the relationship started when Merwin was accepted in to drug court. He did not have any knowledge that the relationship started any sooner. Johnson moved into the basement of his house sometime the first part of June 2008 and Johnson stayed there until July 2008. He thought Ken stayed at his house for approximately a month. He knew that Johnson was having marital problems and that is why Johnson was staying at his house. During this time, he knows that Merwin spent the night at his house with Johnson on two occasions. Merwin was still living with her parents. He does not know if she was over there more often because he was on vacation during this time. He did not feel this was right, so he talked to Task Force Commander Garrett Wiggins about this issue. He then talked to Johnson and told him that he did not want to have Merwin at his house. After talking with Johnson he did not see Merwin at his residence again. After Merwin stopped coming over sometimes Johnson

would leave the house in the evening. He did not ask Johnson where he was going. Johnson never made comments about having sex with Merwin. He never asked because he did not want to know. When they were at training they would be joking about my sex question. They also joked about a lot of different things while he and Johnson were together. Galvan would not elaborate any more on this subject. He agreed with me that he was holding back information. Johnson did say something things that led him to believe that Johnson was in a relationship with Merwin. He saw Johnson give her rides from Drug Court and to work. He was riding with Johnson one night after drug court and Johnson took Merwin home (Alpine Apartments on Tucker St.) from drug court in the ACET vehicle. On one other occasion he saw Johnson drop Merwin off at work (Samuelson Hardware) while Johnson was driving the ACET vehicle. Johnson told him that he dropped off Merwin at work by using an ACET vehicle. The reason why he saw Johnson drop Merwin off was that before going to work Johnson and he worked out at the gym which is located near Samuelson's.

Since the beginning of the year 2009 he has seen the ACET vehicle that Johnson drives parked on Tucker St. several times. He saw Johnson's ACET vehicle parked there one night at about 7:30 pm. They (he and Wiggins) were trying to set up a deal. He said it was lunch time, which he described as 1:00 to 1:30 pm, when he saw the vehicle there. The time that he saw the vehicle there could have been later as 3:00 or 4:00 pm. He did not keep a timer or planner. Johnson did not try hiding his vehicle it was just on the street. He said he saw the Johnson's vehicle there between five and ten times. He finally settled on the number 10 was the times he saw Johnson's vehicle parked near Merwin's house He said that he was with Garrett Wiggins a couple of times and they both saw the vehicle parked on Tucker St. He said it could have been later in the afternoon when he saw Johnson's vehicle parked on Tucker St. He remembered one time that he tried to contact Johnson via a text message around 4:00 or 4:30pm because there was a drug deal "going". He did not get a response, so he tried texting again around 6:30 pm and He tried calling Johnson but he did not get a response.

During the interview Galvan said his work schedule was Monday to Thursday. He would come in between 8:30 and 9:00 and put in his ten hours. Ken would come in earlier sometime around 7:30 am.

Galvan said numerous times that he did not want to discuss Ken's personal life. It is my opinion that Galvan was very hesitant about talking about Ken's personal life and he knew more about what was going on with the relationship than he was willing to tell me. Near the end of the interview he said was he not going to sit here and lie to me or cover anything up. He stated at the end of the interview that he knew something like this was going to happen.

On 3-5-09 Commander DeLong interviewed Ken Johnson (I don't recall if his attorney was with him for this interview):

On 03-05-09 at approximately 8:01 am, I met with Investigator Ken Johnson in my office at the Public Safety Center. Johnson told me the following in summary:
He has known Tasha Merwin since 2001, from contacts with her while he was working the street. He believes that he arrested her in 01-07. He assisted with the investigation on an attempted murder case in which she was a victim. He was also involved in the task force investigation against her. The task force purchased a small amount of drugs from her. He helped Merwin get

into drug court. She did a get a job which was one of the requirements of drug court. Merwin graduated from court and she was the 2nd person to graduate from drug court. Merwin is still involved in drug court.

He went on to tell me that he had known her a long time and he was going to make her his special project. Since he decided to help her, he has been an active part of her life. He had a huge part in changing her life to keep her away from her former friends and drug use. They are the best of friends. They have a friendship just like he would have with anyone else.

He knew one of the requirements for probation was home visits. He knew that Probation was real busy so he told them that he would do the home visits and talk to these people. He was aware that Anna Lighthizer and Merwin might have had one home visit at the beginning of last year.

He usually worked Monday thru Thursday. He never had a set time to be at work. While he has been working the task force he did not have set hours. Wiggins said part of the work day could be working out. He worked out at Hollistics with Mark Galvan. He has not worked out since his vehicle accident 11-08.

He denied having any type of physical or sexual relationship with Merwin. I read him the 2nd paragraph of the first page in part from the letter Wiggins had written about this investigation. He said the conversation between him and Wiggins never had occurred. The words in the letter were never spoken to him. If Wiggins ever said those words to him he had ear phones on with the volume on so loud that you could hear it two states away. He thinks Wiggins is upset with him.

He hung around with Merwin, but he never did go to dinner or the mall with her. Merwin is just a friend of his. Both he and Jen Kenney helped Merwin through the Barry trial. He was involved in the arrest of Merwin after the Barry trial. He just helped someone out and he did not do anything inappropriate. He did not do anything wrong.

He told me that he has had medical issues with erectile dysfunction since 2005 when he saw Dr. Iverson for the problem. About two weeks ago he obtained a prescription for this medical issue. When talking about this issue Johnson became very emotional and I could see tears in his eyes.

He said he is on a lot medications and he has zero drive in this area. He obtained samples of medicine for this issue and about two weeks ago he got his first prescription for this issue.

Merwin came over to Galvan's place a couple of time while he was staying there. Galvan talked to him about Merwin coming over. Galvan gave Merwin a couch. Merwin never spent the night. Merwin never slept with him. Galvan was wrong about Merwin spending the night. He seldom went upstairs because he did not want to bother them, (Galvan and his wife Danielle). He thought it was approximately 6-15-08 when he moved into the basement of Galvan's house and returned to his home three weeks later. He could not remember the exact dates.

He used the ACET vehicle to take Merwin for her UA's, grocery store, work and to and from drug court. Merwin did not have a license.

I explained to him one of the possible violations of our policy was dealing with the association with people that have committed serious crimes. I explained to him that I could not state the policy verbatim. I told him that part of the policy states that he must notify his supervisor and the prosecuting attorney of the association. I told him that I was saying he let Wiggins know, but did not notify the attorney.

He explained there is an attorney present during drug court meetings and they were aware that Merwin was a in a professional relationship with him. He did not think he was doing anything wrong and he "fucked up" and violated a policy. We both looked at the policy. He stated that

he messed that up. He did not know that sentence about notifying prosecutor was in the policy, so he messed up. He thought since the prosecution requested him to make sure that she was there for trial prep and go over Merwin's transcript from the preliminary hearing with her, that they knew. DA Investigator Joe DeAngelo asked him four or five times to contact Merwin. They wanted her watched at the request of them. He said if "he fucked up" and apologized for it. Almost every morning before he goes to work, he stops at her house to have coffee with her. He went to her house for lunch last week at 2:00 p.m., after drug court on Tuesday, he then came back to the P.D. and worked until approximately 5:00 pm. Between 1-1-09 until 3-1-09 he has been to Merwin's residence multiply times for lunch. He figured that he was over at her house in the afternoon during his work day six over seven times. He spends from 30 minutes to one hour there. He could not give me a honest time how long he spent there. He would go to her apartment during the day to let her dog out if Merwin was out of town. He stated that he has not done anything wrong. He has not had a sexual relationship with Merwin. He denied that Merwin spent the night with him during the time he was staying at Mark Galvan's residence. He did say that Merwin came over to Galvan's residence and they watched movies. He did not sleep with her. He also denied having a conversation with Wiggins in reference to his relationship with Merwin. He did admit to using the task force vehicle to take Merwin to drug court, the grocery store and to work. He was not aware of the policy of informing the prosecuting attorney of his relationships. He thinks because of his involvement in drug court the prosecutor should have known he had a relationship with Merwin. During the interview, I let Johnson read the first page of the document that Wiggins authored and that was dated 3-2-09. He denied ever have a conversation with Wiggins reference his relationship with Merwin. This conversation was contained in the 2nd paragraph of the first page and dealt with Johnson admitting to Wiggins about his relationship with Merwin. According to the document the relationship between Ken and Merwin started in 2007.

During this interview, Johnson talked about his relationship with Wiggins and the work at ACET numerous times.

He agreed to take a polygraph to help clear up this investigation. He gave me Merwin's phone number.

Near the end of the interview, he again stated he did not think he did anything wrong. This interview was concluded and was recorded.

On 3-5-09 at 10:48 am, Captain DeLong met with Carolyn Wade in reference to this complaint. She told me the following in summary:
Wade said the night (02-25-09) that Dale Waite was interviewed on a criminal case. Johnson made the comment that he was going to throw away his prescription for Lavitra. He (Johnson) never wanted a hard on again. She does not know any more about his medical issues other than the other day he was kicked by a horse.

On 3-6-09 Commander DeLong interviewed Kathie Johnson. *She told him she has suspicions of Ken having a relationship, but nothing factual. If she knew if Ken was having an affair she would not tell me. She does not know if Ken has been telling her the truth about Tausha Merwin.*

On **approximately 3-10-09** Ken Johnson was reassigned back to normal investigations and was replaced on the task for with another officer.

On 3-24-09 Ken Johnson took a polygraph test which was administered by the Mesa County Sheriff's Office. (This had originally been scheduled earlier but was cancelled due to a schedule conflict the polygraph operator had.) Preliminary report was that the operator felt Johnson tried to manipulate the testing process. We didn't receive the actual report until around the middle of April. The report reflected a belief on the part of the operator that Johnson was manipulating his physical reactions and he could not get a definitive result. As a result of that he felt he was being deceptive.

On 3-26-09 Commander DeLong interviewed Mark Galvan again and obtained a lengthy statement in which Galvan told him that he believed Ken and Tausha were having an affair. There were a lot of personal things that Ken told him as a friend and he was not going to share. (Things have come to light with the investigation and he was told by his administration to divulge everything. [This was the result of Chief Vanatta talking with the Sheriff and asking him to emphasize with Galvan the importance of being honest about things regardless of the friendship.](#))

In June, Ken was having problems with Kathie, so he allowed Ken to move in to his house. Merwin came over more than twice. He was real uncomfortable with Merwin being at his house. He talked to his wife, Danielle, about it. When Ken started bringing Merwin over Danielle was okay with it at first and then Danielle got mad because Kathie was still involved with Ken. They Ken and Merwin would come upstairs to make ice tea in jugs that that they brought with them. He noticed female products downstairs in the bathroom and Merwin's clothing. He noticed her clothing at the house, because Ken would do his laundry there and sometimes he would take Ken's clothing out of the washer and put in the dryer or take the clothing out of the dryer and take them downstairs. While doing this he noticed Merwin's MJK shirts (when asked later he said the shirts were from Samuelson's) and Merwin's underwear. He was getting frustrated with Merwin staying there. In the mornings he could see the smoke from her smoking by the garage. Ken would then take her to work because Merwin would have to be there early in the morning. Ken would come back after dropping Merwin off and then they would leave to go to work.

One morning he saw Merwin smoking at the end of his driveway which made him mad. It was obvious that she had just got up because she was still in her pajamas and her hair was messed up. He thought how it would look, if someone drove by and saw Merwin at his house even though Merwin was doing good and getting clean because he just completed a drug investigation six months ago on Merwin.

He talked to Garrett about it and Garrett told him that he had some suspicions. He told Ken, and he thought his wife might have told Ken that he was uncomfortable with Merwin at the house. Ken stopped binging Merwin over. He and Danielle went on vacation while Ken was staying at their house. Danielle came back before he did. Ken did not know that Danielle was coming back before he was. Danielle brought back his mom and sister to the house. They met Ken, Merwin and her family in their kitchen cooking breakfast. They told Danielle that they would clean up and leave. Danielle told them to go ahead and finish. This incident happened after Ken was told not to bring Merwin over to his house. He thought Merwin had been coming over for about two weeks before he told Ken that he did not Merwin to come over there anymore.

Merwin stopped coming over and Ken started going over all the time to her house. Ken would come back really late at night.

Ken went back with Kathie sometime in July. Ken and Kathie were working on things together which made him happy. He would tell Ken that Ken needed to leave Merwin because Ken had Kathie back.

Merwin got her own apartment. Ken started calling it his apartment. He would ask Ken if he was going home or to his apartment. He would always see Ken go to the apartment after work. Ken had a key to the apartment. He saw Ken at the apartment several times before work. He had been to Merwin's apartment once, because he gave her a couch. He saw a picture of Ken on the wall. He did not think that Ken spent the night there because Ken was still trying to keep things good with Kathie. Ken was always doing things to help Merwin.

Ken told him that he gave Merwin money and his understanding that part of drug court was to become dependent (independent). He told Ken that if he continued to give her money, she would not become independent. Ken told him that Merwin pays her bills and Ken makes Merwin take the money.

He would ask Ken if he "beat guts" with Merwin which is the verbiage of his of having sex. He knew the way Ken was talking he knew what happened even if Ken did not tell him. That was the way a lot of things that was said. He was minimizing it the times Merwin was over at the house when I first asked him asked the question of how many times that Merwin spent the night.

He felt everything Ken has done in this relationship was wrong. Ken said that he was not having sex with Merwin during the Barry trial because of E.D. He knew that Ken was texting or calling her every minute. Ken told him once the trial was over it would okay to be in the relationship, Ken said he was not doing anything wrong. Ken was not having sex with her at that point and time. He would go over to Merwin's house to go over the victim statements with Merwin. Ken told him while Kathie was out of town Ken would take Merwin out to Ken's house to go over victim statements for the court case.

The recorder stopped at this time. I asked Galvan if he thought Ken was just trying to tell "boy" stories meaning just making this relationship up. Galvan said no. Galvan also said Ken told him about they (Merwin and him) had a scare about Merwin being pregnant. Ken stated that Merwin was checked out and Merwin was not. Ken stated something to the affect that he did not need any kids. He replied something like Ken would not be able to hide the relationship if she was pregnant.

On 3-26-09 during the afternoon, I received a phone call from Galvan. He told me that he forgot to tell me that his wife (Danielle) saw Ken Johnson and Tausha Merwin in bed together. Galvan said during the time that Ken was staying at his residence, Danielle came home late. He thought it was between 2:00 and 2:30 am. She went downstairs to where Ken was staying and saw Ken and Tausha in bed together. She woke them up and she saw that Merwin was wearing a white tank top and men's white boxer shorts.

On March 30th Commander DeLong and Chief Vanatta met with Ms. Jona Ely in reference to a letter she sent to the Chief dated March 26, 2009 in regards to Mr. Johnson. The letter in part stated:

"To Whom it May Concern:

I have been treating Ken Johnson for Erectile Dysfunction since April 2008. I have provided him with samples of multiple medications without much success regarding the treatment of his

ED. I did prescribe him Levitra in February 2009 which he states has also been ineffective. Prior to my evaluation of Ken for the above medical condition, he was under the care of Dr. Rosanne Iverson for his condition since 2005.

Ken is also on other medications for comorbid conditions which can also contribute to erectile dysfunction.

Ken has informed me that he is under investigation for sexual misconduct. The facts regarding his medical condition make it impossible for Ken to have a sexual relationship with anyone.....

Sincerely, Jona Ely, MSN, PNP-C" (some emphasis added)

During the interview Ms. Ely said, in summary: Ken has had this problem since 2005. She has been trying for a year to save their marriage. This problem has been a problem in their marriage. Ken's problem is so serious that she is thinking about sending Ken to a specialist. Ken told her that he had seen Dr. Iverson since 2005 reference Ken's medial problem. She said that it is a physical impossibility for him to have sex with his wife or anyone else.

On 4-2-09 Commander DeLong interviewed Tausha Merwin. His report states:
On 4-02-09 at 1:07pm I met with Tausha Merwin at the Public Safety Center in reference to this complaint. I talked to Merwin in my office and this conversation was recorded. Merwin told me the following in summary:

She knew Ken for a long time. The first time she met Ken is one of the times she was arrested for drug possession. She got to know Ken more when she was the victim of a crime (Barry case) that Ken was assisting on. Ken was out of town when this investigation started and she does not think that Ken even wrote a report on it. She is unsure if Ken even testified during the trial. She had contact with both Jen and Ken during the preliminary hearing on this case. She did not have any contact with Ken during the trial. While she was living with her parents Ken came over and they went over the questions that she was going to be asked during the trial. Through this case she built trust with Ken and Jen but she did not hang out with them.

Ken gave her rides to the store, to and from Drug Court and for her U. A.s which were at CAPS. Ken took her in Ken's Ford Explorer. Ken was one of the most proactive members of Drug Court. Ken has talked to her parents and the parents of Anna Lighthizer about issues they were having with drug court. Ken helped her a lot during drug court. Ken told her to call him if she was thinking about getting high or any other problems she might be having. They talked a lot over the phone.

She described the friendship between Mark Galvan and Ken as more than a working friendship. She described Galvan's and Ken's friendship as "pretty good buddies". Galvan has used Ken's truck in the past as well has her parents used Ken's truck.

When Ken was staying with Galvan she went over to Galvan's basement where Ken was living to watch movies with Ken a couple of times. She never spent the night and would leave before 11:30 pm. When she smoked at Galvan's house she would go outside and stand by the garage

and smoke. She went over to see Ken one morning at approximately 8:00 am. While she was there she was walking back and forth from the street to the garage smoking her cigarette. Galvan came out of the house and saw her. Galvan was taking trash to the trash can. She was dressed in regular clothing or house clothing which could have been sweats and shirt or sweater. This is the only morning that she had coffee with Ken at Galvan's house. She purchased a ice tea pitcher and a house plant for Ken. Ken was concerned about bothering the Galvan's to get something to drink and that is why she purchased the pitcher for him.

Ken only stayed at Galvan's residence for about two weeks. Ken told her that he did not like staying at Galvan's house. She thought it was around the 4th of July when she went over to Galvan's house in the morning to see Ken. When she arrived she saw that Galvan's wife, Danielle, and other individuals with Danielle so she left with her mother. Her and her family were not in Galvan's house making breakfast when Danielle returned with Galvan's family members.

She did say that she had dinner with the Galvan's with Ken. During this time she never kissed Ken or called him anything but Ken. She did not ever call Ken "babe". She denied ever being at Galvan's house with Ken between 2:00 am and 2:30 am. She said that she has never worn a pair of white men's boxer underwear.

She moved into her apartment in April of 2008 and Galvan helped her move furniture around in the house along with giving furniture.

Since the beginning of the year Ken has been at her house a couple of times around 8:00 am to have coffee with her on her days off. Which she later changed to four or five times that Ken had coffee with her. She has left town twice and asked Ken to take care of her dog. She left a key outside underneath a cigarette can. Ken does not have a key to her apartment. Ken has come over to her house in the afternoon maybe twice and she was at home both times. Later in the interview she said that she had only given a key to Ken to let her dog out. When Ken came over later in the day he would not spent long periods of time there. Ken would help her bring in groceries and they would talk. Ken has never been at her house during work hours.

When she moved into her apartment her apartment was not cleaned so she had a house cleaning day. Ken was there to help her clean the apartment along with her dad and her son. Ken was doing some of her laundry at Galvan's house. Ken would only wash her work clothing. She stated that one of her pair of underwear might have accidentally been in a load of laundry. She stated a girl does not give her private stuff to have a friend do laundry. She did not have reasons why any of her personal items which included eyeliner where Ken was staying. There was no reason for her eyeliner to be there.

Once Ken told her that Galvan was uncomfortable with her staying at Galvan's residence she did not go back over there so Ken came over to her house. He would leave at approximately 8:00 pm. He came over a couple of times a week.

When Ken returned from a work trip(records at the Craig PD showed the dates of this training to be March 31st to April 2nd 2008) to New Orleans, he gave her a hat with skulls on it and a T

shirt with Voodoo written on it. Ken has never purchased undergarments for her. She borrowed \$60.00 dollars from Ken.

Ken talked to her about them (Mark and Garrett) joking around with him about Ken's friendship with her. One time Garrett was joking with Ken about Ken getting the windows tinted on Ken's vehicle and Garrett said that her (meaning Merwin) vehicle had tinted windows. Ken told her that he just blew off them joking about their friendship.

I asked her why there would be photos of her and her family on a Craig PD camera that was assigned to Ken. She told me that Ken might have taken the pictures. The only camera they have is borrowed from a friend of the family. She cannot remember Galvan and Ken coming over to house and getting the camera at night.

She thinks that the investigation is "backlash" from Ken's position at ACET. Ken feels that he is getting pushed and pulled from the PD and ACET. He has been working sex assaults at the PD and not doing much at ACET.

She denied having a "scare" of her being pregnant. She said this is the best one she has heard about this.

The only medical issues that Ken told her about have been problems with the shakes and his back pain.

Phone Records: During all this time frame the department received and examined all of Johnson's department cell phone records. Verizon keeps records of text sent to, and received from different phone numbers, but do not keep the actual text message. It was evident that Johnson and Merwin were frequently texting but we did not know the content of those messages. At this point in time there was no indication of a criminal violation so the department was restricted from getting phone records for Ms. Merwin.

Final Ken Johnson Interview: After we received the written polygraph report and all the interviews were completed Commander DeLong and Chief Vanatta interviewed Ken Johnson, who had his attorney Larry Combs present with him. During this interview, based on the over 50 years of interview experience, we saw no signs of deception on Johnson's part.

On 5/5/09, based on the fact that there were conflicting statements and written documents concerning whether or not Johnson was having, or could even have, a "sexual" relationship we did not feel we could "prove" he was lying. As a result he was suspended for 1 week (4 days) without pay for violating the department policies. The suspension order reads:

*To: Investigator Ken Johnson
From: Commander Jerry DeLong
Date: May 5, 2009
Ref: Letter of Suspension without pay*

SUMMARY

I investigated a Personnel Complaint against Investigator Johnson. The investigation focused on the relationship between Investigator Johnson and Tausha Merwin. The investigation revealed several policy violations that included misuse of city owned vehicles, the misuse of City of Craig equipment and Code of Conduct.

Investigator Johnson knew Ms. Merwin from prior contacts while Investigator Johnson was working in patrol. Ms. Merwin was a victim in a serious crime and Investigator Johnson was the officer that took the original report. During the prosecution of the case, Investigator Johnson was in contact with Ms. Merwin. He assisted the DA.'s Office along with Investigator Kenney transporting Ms. Merwin to court. He also assisted Ms. Merwin with her testimony for this case. Investigator Johnson was also involved in a drug transaction where Ms. Merwin sold schedule II narcotics to an informant. Ms. Merwin was later arrested for the sale of the narcotics. Ms. Merwin was accepted in to the Moffat County Drug Court and Investigator Johnson began to work with Ms. Merwin along with two other drug court participants. During the time Ms. Merwin was a participant in drug court, she would come over to Investigator Johnson's residence at the time and watch movies.

Once Ms. Merwin got her own place to live Investigator Johnson would stop by her residence frequently in the mornings and have coffee with Ms. Merwin. Investigator Johnson would occasionally go over to Ms. Merwin's residence in the afternoon to let Ms. Merwin's dog out.

Ms. Merwin did not have a driver's license, so Investigator Johnson would give her rides to and from drug court. Investigator Johnson also gave Ms. Merwin rides to her place of employment and to the grocery store in his work vehicle. Investigator Johnson's city issued camera was not in his possession at a time that it was needed. The camera had to be retrieved from Ms. Merwin's residence. The camera had images of Ms. Merwin's mother's deck at her residence. Ms. Merwin has several arrests and convictions on her criminal history. She is currently on a three year deferred sentence for her latest arrest.

Commander Leonard was contacted by ACET Commander Garrett Wiggins. Wiggins advised Commander Leonard that Investigator Johnson's ACET Vehicle was found to be damaged when it was turned in at the end of its lease. Wiggins said that Task Force Officer Galvan told him that Investigator Johnson had told him Investigator Johnson ran off the side of the road during one incident and had backed into a pole with the vehicle during another incident. Investigator Johnson told Galvan that Investigator Johnson reported the damage. Investigator Johnson did not advise Commander Wiggins of the damage and Investigator Johnson did not advise Commander DeLong of the damage.

Findings

On March 18, 2008 you received a letter of reprimand from me for operating a motor vehicle in a careless manner.

Based on the above information your actions are clear violations of General Order 3.02 Code of Conduct, III GENERAL CONDUCT, D, Abuse of Position, No person other than members of the department or persons involved in police action or service shall be permitted to ride in departmental vehicles except by supervisory consent.

General Order 3.02 Code of Conduct, III GENERAL CONDUCT, P, No employee shall engage in any personal conduct or act while off duty which, if brought to the attention of the public, could result in justified unfavorable criticism of that employee or the Department. No employee shall be involved personally in disturbances or police incidents to his discredit.

General Order 3.02 Code of Conduct, Section V, D, that specifies Officers, who injure a person or animal, or damage public or private property, shall immediately report the circumstances to a supervisor.

City Personal Manual; Section 16.1 Restricted Activities; E) Use of City Equipment and Facilities 3rd Paragraph in part states; The use of City property for private purposes is hereby prohibited. Therefore, all city facilities and all city equipment are to be used only for city related business.

Based on the above information your actions are a clear a violation of General Order 3.02 and another violation of a Category II Offense as defined by General Order 3.03, Employee Discipline. On the first occurrence, Category II Offenses normally result in issuance of a written reprimand. A subsequent Category II Infraction within two years may result in a suspension for up to two calendar weeks, demotion, denial of merit pay increase, dismissal or any combination thereof.

You have had two (2) Category II Offenses within two years as defined in General Order 3.03, Employee Discipline. On the first occurrence, Category II Offenses normally result in issuance of a written reprimand. A subsequent Category II Infraction within two years may result in a suspension for up to two calendar weeks, demotion, denial of merit pay increase, dismissal or any combination thereof.

As a result of the misuse of department equipment and failure to notify a supervisor when damaging city equipment as defined by policy and your two other policy violations within the last two (2) years. I am suspending you without pay for two (2) days for violation of General Orders 3.02 Code of Conduct, III GENERAL CONDUCT, D, Abuse of Position, General Order 3.02 Code of Conduct, Section V, D and General Order 3.02 Code of Conduct, III GENERAL CONDUCT, P, and two (2) days for the two (2) Category II violations within two (2) years. As a result of your accident on 12-14-08 that you reported to the State Patrol, but did not advise a supervisor of the accident that caused minor damage to the ACET vehicle. You will also start over as of today (May 5, 2009) with your safe driving miles.

You are also notified to use better judgment in the future when dealing with any individuals that could bring discredit to you or the department. When dealing with these individuals you will not go over to their residence or have them at your residence for any personal reasons. These types of meetings will be held in a public place unless it is for work related activities. If similar violations of department policies and procedures should occur you will face harsher disciplinary actions that could include further suspension without pay or termination.

After the 5/5/09 suspension Johnson was counseled by Commander Leonard, his new division commander, and given specific guidelines on his association with Ms. Merwin. He was assigned to assist other officers with investigations and was also assigned cases to follow up.

On 5/18/09 the Public Defender's (Sheryl Uhlmann) office filed a motion to disclose all the internal police records for Ken Johnson. This request was based on information they received from a As standard practice we opposed this motion. Their assertion was that "Detective Johnson was "disciplined for being untruthful during the investigation". Which was not accurate? **IF THE DEPARTMENT HAD DEFINITIVE PROOF THAT HE LIED DURING AN INTERNAL INVESTIGATION HE WOULD HAVE BEEN FIRED.** They filed another motion July for another case. In fact, the whole investigation was turned over to the court which reviewed the file and ruled that there was nothing in the file that would affect her client.

On 7/13/09 Chief Vanatta received a memo from Task Force Commander Wiggins concerning new information that they had received from some confidential sources that reflected that Investigator Johnson had given critical, confidential information to Tausha Merwin that she had passed on to known drug dealers. Commander Leonard investigated this allegation and found evidence supporting it. During most of this time Johnson was on vacation and out of the state. However, a decision was made to isolate him from any critical information and case assignments until we could complete an investigation.

At that time we were also aware that the DA's office was doing an investigation to attempt to determine where the leak to the Public Defender's office had come from. Based on the information they quoted it was believed it came from either current, or past law enforcement personnel. The department was cooperating with that investigation. *(That source was identified as a past police department employee that left under not the best of circumstances. This person told the DA's office that they had to tell the public defender because no one would listen to them. However, this person did not contact our office or the DA's office with this information. There is also a connection between this person and Johnson)*

On 8/13/09 Johnson went to the chief's office and asked about concerns he was having with his job status because he had noticed he was being treated differently. At that time I told him his credibility and judgment were in serious question and his career as a police officer was in all likelihood over. (At that point I had to focus the discussion on his credibility related to the precious investigation and he still could not be told of the new allegations.)[The reason he could not be told about the new allegations directly related to not revealing who the sources were for fear he would tell Tausha who would then know who the informants were. This would destroy the undercover work the Task Force was doing.]

On 8/14/09, at the Chief's direction Commander Leonard re-interviewed Ms. Jona Ely regarding her previous written and verbal medical opinion. She told him that all she would say is that she had since talked with Kathie Johnson and compared notes and that she now believed that Ken was not being truthful about this relationship with Tausha Merwin. She still believes that Ken does have issues with ED.

On 8/18/09, Johnson told me that he had applied for a transfer to another department within the city. Also, due to the nature of an ongoing investigation I, along with Commander Leonard met with Wiggins about how to proceed. The concern was if we took immediate action with Johnson it would jeopardize a large drug investigation that was currently under way. As a result, our investigation as put on hold until the Task Force investigation could be completed. (This case resulted in the seizure of over a pound of meth and a ½ pound of cocaine, as well as uncovering a large meth source coming out of Salt Lake City).

On 8/28/09 Johnson submitted his resignation effective 9/8/09, with his last work day being 9/3/09.

On 9/2/09 at about 6:30 pm I received a call from Investigator Joe DeAngelo from the District Attorney's office. He told me that as part of their criminal investigation their office had gained access to all of Tausha Merwin's text messages. Unlike Verizon, UBET keeps the actual text messages for one year. After reviewing several of the messages it was very clear that Johnson had lied to everyone about his relationship. They had confronted Ms. Merwin and initially she again denied any sexual relationship with Johnson until they started reading some of the messages. At that time she admitted to the relationship. During that interview she had also told them that Johnson had given them a computer that had belonged to the task force. (That was the first information anyone had that a theft had occurred.) DeAngelo told me that they were going to execute a search warrant at Johnson's house and asked for someone from our office to accompany them. I contacted Commander Leonard who went with them to Johnson's house. At the house Commander Leonard immediately suspended Johnson and confiscated all his department credentials.

On 9/3/09 Johnson was officially suspended and given the following document:

*To: Ken Johnson, Officer
From: Walter K. Vanatta, Chief of Police
Date: September 3, 2009
Subject: Suspension from Duty*

Effective last night (9-2-09) at approximately 9:00 pm Commander Leonard suspended you from duty. This suspension is a direct result of an investigation being conducted by the 14th Judicial District Attorney's Office into your actions concerning the theft of equipment from the City of Steamboat Springs, as well as lying to officers of this department, including me, during an internal investigation conducted by this department during February and March of this year.

During the internal investigation you denied, on multiple occasions, that you were having a intimate/sexual relationship with Tausha Merwin. Cell phone text messages recovered from by the DA's office clearly prove that was a lie.

General Order 3.02 says:

As members of a police agency, our officers and employees are granted a special trust not afforded to other public employees. In accordance with the mission and values of this agency,

the conduct of all members of our organization must reflect integrity, respect, community service, common sense, problem solving, and the fair and equal treatment of all citizens.

General Order 3.03 classifies disciplinary actions to include Category III offenses:

- d. Falsification of any reports such as, but not limited to, receipts, vouchers, official reports, time records, leave records or knowingly making any false official statement(s).*
- e. Theft or unauthorized removal of department records or public/employee property.*
- q. Engaging in dishonest, immoral, offensive or disorderly conduct that undermines the effectiveness of the department's activities or employee performance, whether on or off the job.*
- s. Disclosure of confidential information to any person except those who are entitled to such information.*

Category III offenses include acts of such severity as to merit suspension or dismissal at a single occurrence. Category III offenses may be punished by a written reprimand, a suspension for up to two (2) calendar weeks, denial of merit pay increase, dismissal, demotion or any combination thereof.

General Order 3.03 also describes two types of terminations:

Disciplinary terminations occur when the member's act is serious enough or persistent enough in nature that future retention would impose an undue burden on the Craig Police Department, create a heavy liability issue, or would effectively destroy the member's credibility with peers, supervisors or members of the community.

Immediate disciplinary terminations can result from such things as: insubordination, threatening a supervisor, fighting and assaults, provoking a fight or assault, forbidden harassment, endangering another, drug or alcohol abuse, theft and false reporting or witnessing. In these cases, management attempts to establish, through substantial evidence, that the member had culpability, in other words, that the member acted purposefully, knowingly, recklessly or negligently.

Summary:

The investigation shows that, without consent you gave Tausha Merwin a computer that belonged to the City of Steamboat Springs, along with data disk that contained confidential drug task force surveillance tapes. Further, during a search warrant executed at your home a computer was seized that belongs to the Craig Police Department that may contain evidence of your actions.

Even more disappointing to me is the definitive evidence that you deliberately lied to everyone in this department concerning your relationship with Ms. Merwin, and apparently manipulated several others to lie for you. Your actions have destroyed your credibility to perform as a police officer.

You have already submitted a resignation effective September 8, 2009. I will honor that resignation. However, I must tell you that if it were not for the fact that you had already submitted your resignation, I would immediately terminate your employment with the Craig Police Department. Your actions have been totally inconsistent with our values and unacceptable.

Summary:

This investigation was initiated on the issue of policy violations. There were no allegations of criminal behavior. As a result access to information on 3rd parties is restricted, i.e. phone records. Had Johnson admitted to having a sexual relationship he would have been disciplined for violating policy, and potentially terminated due to the relationship being with a convicted felon. The issue then became was he being truthful. There was conflicting information in that regard and no definitive proof that would withstand legal challenge if he was terminated for not being truthful. As a result he was disciplined for what could be established.

However, his actions had put his creditability at question and he was told that his career was over, as a result he resigned. Once proof of his lying was established he was immediately suspended for his last day of work.

During and after all of these investigations I talked with almost everyone that talked with, or questioned Johnson concerning these matters. This includes Deputy District Attorney's, a District Judge, medical professionals and officers that have known him for years. With very few exceptions EVERYONE, including me, believed him. Even after 40 years in this business I was fooled by someone who is obviously very good at not telling the truth. I will be far more cautious about giving people the benefit of the doubt in the future.

In hind sight, which is almost always 20/20, I possibly had enough policy violations to warrant termination. I probably should have terminated his employment, and then just prepared for any unlawful termination law suits that might have followed.

Resulting Actions:

As a result of this incident the department has already taken steps to secure the records management system that is used by the task force, and has taken on a critical review of our internal procedures. We will also be discussing supervision issues at our Executive Board meeting next week (10/21/09).

Discussion has occurred concerning when we should request outside agencies to assist with internal investigations. There are pro's and con's to this process that include the real risk of jeopardizing intra-departmental relationships. In all cases where we know on the front end that there are the potential for serious criminal violations we ask outside agencies to complete the investigation.

New protocols are being established as they relate to officers working with Drug Court clients. Because these clients are all already on probation, officers may be violating the department policies by trying to help them.

As is the case with any investigation, the results may not be totally clear and we may know or think things that we can't prove. In the cases where we have officers that do bad things, use poor judgment, etc. we will take whatever corrective action is required based on the violations that can be sustained with facts and proof.

Our core values focus on providing police services with integrity. As a whole, the Craig Police Department employees are dedicated, compassionate people whose goal is to improve the quality of life in our community. However, like any other field, some people make mistakes and use poor judgment. It is unfortunate that the actions of one person reflect on the department as a whole, but our society seems to like to do that. All the members of this agency find what has occurred embarrassing and are extremely disappointed in the actions of someone they worked with and knew as a friend.

We will continue to work diligently to correct any circumstances that allowed this to occur.