

Unequivocal Investigations, LLC
12650 W 64th Ave., Unit E, Suite 510
Arvada, CO 80004

February 08, 2010

Mr. Jim Ferree
City Manager
City of Craig, Colorado
300 West 4th
Craig, Colorado 81625

Dear Mr. Ferree,

I have completed my review of the Craig Police Department Internal Investigation of former Police Officer Ken G. Johnson. Mr. Johnson was a member of the Craig Police Department for approximately nine (9) years. Prior to his separation, he was assigned to the Regional All Crimes Enforcement Team (ACET) serving the Steamboat Springs Police Department, the Craig Police Department, the Moffat County Sheriff's Department, the Heyden Police Department, and the Jackson County Sheriff's Department. Ken G. Johnson resigned on September 08, 2009.

You requested that I review the information surrounding the Craig Police Department Internal Investigation and assist you in determining if the inquiry was adequate and sufficient, given the facts that Mr. Johnson was eventually arrested and charged with multiple felonies.

On September 27, 2009, Officer Ken G. Johnson of the City of Craig, Colorado Police Department was charged by the Moffat County District Attorney with three (3) felony counts, arrest warrant # 2009CR197. The arrest warrant was signed for execution on September 28, 2009, charging Ken G. Johnson with committing the following crimes:

Count One – Attempt to Influence a Public Servant – C.R.S. 18-8-306 a class 4 felony;
Count Two – Accessory to Crime – C.R.S. 18-8-105 a class 5 felony;
Count Three – Embezzlement of Public Property – Embezzlement of Public Property – C.R.S. 18-8-407 a class 5 felony;

I have examined the records and reports consisting of several hundred pages from the Moffat County District Attorney's Office, the ACET Commander and the City of Craig Police Department Internal Affairs Investigation. Source notations from the three (3) different areas of inquiry are noted as much of the information is quoted verbatim. The affidavit for an arrest warrant for Ken G. Johnson reflects the information established and attested to by Chief Investigator Joseph M. DeAngelo, excerpts and condensed paraphrasing noted.

Of critical importance in the review, it is necessary to recognize the time line and order to shared information, when information became known and when suspicions were acted upon. Also, one must separate what is heavily weighted circumstantial evidence and what is provable. With that in mind, I encourage you to review my report.

Moffat County District Attorney Criminal Investigation Arrest Warrant and Affidavit:
Ken G. Johnson was assigned to the All Crimes Enforcement Team (ACET) for approximately two (2) years beginning in April 2007, in both a part time and full time capacity.

Investigation Issue: Work Related Performance Issues for Ken Johnson:
Moffat County District Attorney's Office Investigation and Arrest Affidavit:
Beginning in January 2009, Commander Garrett Wiggins observed Investigator Johnson's undercover vehicle parked in front of the home of Ms. Tasuha Merwin at 410 Tucker Street, on multiple occasions. Furthermore, he (Johnson) was not coming into the ACET office.

The end of February 2009, Commander Wiggins reported suspicions and concerns regarding the personal relationship of Ken Johnson and Ms. Merwin to Captain Jerry DeLong of the Craig Police Department. Captain DeLong asked Commander Wiggins to report his complaint information in writing so that he could initiate an Internal Investigation.

Subsequent to Commander Wiggins informing Captain DeLong of his concerns about Ken Johnson, Commander Wiggins reviewed the ACET case files on Ms. T. Merwin and determined that the case files were both altered and deleted from the ACET server. Although the evidence cited in the reports of Commander Wiggins clearly point in the direction of Ken Johnson as the person who was responsible for manipulation of the confidential files, as of the issuance of the Arrest Affidavit and Warrant, that determination had not been confirmed by experts who are conducting the forensic examination and analysis of the data and computer.

Phone records were also examined by Commander Wiggins. They reflected calls and text messages between K. Johnson and T. Merwin numbering in the thousands, according to the record search of Commander Wiggins. Investigator Mark Galvin had previously informed Commander Wiggins that Investigator Johnson had admitted to a sexual relationship with Tausha Merwin.

On 03/04/09, Commander Garrett Wiggins initiated a formal written complaint with the Craig Police Department concerning the job performance related issues and actions of Ken Johnson.

Investigation Issue: Ken G. Johnson / Personal Relationship with Tausha Merwin:

Moffat County District Attorney's Office Investigation and Arrest Affidavit:

Ken G. Johnson became involved in a sexual relationship with Ms. Tausha Merwin during the course of his official duties as a police officer for the City of Craig. This occurred during the litigation of a kidnapping/robbery case, wherein Ms. Mervin was the victim and prior to Ms. Merwin being offered a deferred judgment relative to an arrest in January 2008 for Drug Distribution. On 06/11/08, Investigator Ken Johnson forwarded an email to District Attorney B. Roesink advocating for a lenient sentence for T. Merwin, which would provide for reinstatement in the Drug Court. In his email Ken Johnson related that he had known Ms. Merwin since 2000.

Ms. Tausha Merwin was assigned to Drug Court from a previous offense when she was arrested in January of 2008 for another drug related offense. She was subsequently allowed to remain in the Drug Court Program. According to Annette Norton, Chief Probation Officer of the 14th Judicial District, Ms. Merwin was not prohibited from any relationship with then Investigator K. Johnson as a stipulation and condition of her probation. She was also unaware of the association or would have made issue of the impropriety, according to her statement.

In June 2008, Ken Johnson separated from his wife and moved into the home of ACET Investigator Mark Galvan. In July 2008 Ken Johnson moved out of the home of Mark Galvan. He stayed there approximately three (3) weeks according to statements in the case investigation and in August 2008, Ms. Merwin rented her own apartment in Craig, Colorado at 410 Tucker Street.

In the summer of 2008, Investigator Mark Galvan reported to Commander G. Wiggins that Ken Johnson was living in his basement and that Ms. Merwin was spending nights with him at the home of Investigator M. Galvan.

During a conversation after learning of this information, Investigator K. Johnson admitted to an "intimate relationship" with Ms. Merwin to Commander Garrett Wiggins. Investigator Ken Johnson was advised by Commander Wiggins to reconsider his relationship with Ms. Merwin or consider resigning from ACET.

Concerning the relationship between K. Johnson and T. Merwin, the Arrest Affidavit reflects that case information revealed that Investigator Galvan reported that when he was with K. Johnson, “Johnson was constantly text messaging with Merwin.” The Affidavit states that “Galvan considered him out of control” and that Merwin spoke “knowledgably about ACET’s surveillance equipment, manpower and procedures,” with Johnson admitting that “he told Merwin about a confidential interview they conducted with Amy Sanchez in December 2008.” It was noted also that on “One occasion, Mark Galvan and Commander Wiggins needed Johnson’s help for a drug deal.” K. Johnson did not reply to their call and text message requesting assistance. The date reflected in the report of Commander Wiggins is 02/02/09.

The Arrest Affidavit relates that with the exception of Mr. Johnson confiding in Commander Garrett Wiggins and Investigator Mark Galvan about his sexual relationship with Ms. Merwin (to which Mr. Johnson later formally denied doing the same during a Craig Police internal affairs investigation) – Johnson denied a sexual relationship with Ms. Merwin. (Page 5)

Investigation Issue: Cellular Telephone and Text Message Records

Moffat County District Attorney’s Office Investigation and Arrest Affidavit:

Footnote # 7 – page 13 of the Arrest Affidavit reflects that the text messages referenced in the report of Commander Wiggins were not content transcribed and that “It was only later in this criminal investigation that we obtained Ms. Merwin’s cell phone account UBET and gleaned the actual contents of the text messages sent and received by Mr. Johnson to/from Ms. Merwin.”

The records were later obtained by District Attorney Investigator Matt Harmon after probable cause was established resulting in a court order on August 19, 2009, to obtain the records from the service provider. According to the Arrest Affidavit, those records reflected a total of approximately 15,000 text messages between Mr. Johnson and Ms. Merwin over a period of time encompassing 08/01/2008 and 08/19/2009. The text messages “illuminated what appeared to be numerous criminal acts the two committed together and/or independently.”

The Arrest Affidavit also reflects that it was at this place in time when Chief Investigator Joseph M. DeAngelo “began working with Investigator Harmon on this investigation.” Sufficient information to establish probable cause that a crime was committed and the cellular telephone records and text messages were obtained, was a full month after Investigators from the Moffat County District Attorney’s Office initiated a Criminal Investigation into the conduct and actions of Ken G. Johnson and several months after the initial review of the records by Commander Garrett Wiggins of ACET. This was also after multiple interviews with witnesses including a second interview by the District Attorney’s Investigators with Mark Galvan on August 12, 2009, and what had now become a third inquiry into the activities of Ken Johnson. This was in fact the fourth interview of Investigator Mark Galvan, in addition to the documented prior conversations with Commander Garrett Wiggins concerning the possible relationship of Ken Johnson and Tausha Merwin.

Furthermore, a note from Chief of Police Walt Vanatta to Investigator Leary on November 18, 2009, states that the content of text messages was not available from Verizon Wireless at the time of the initial Police Department Internal Investigation. This information is confirmed throughout the case investigation.

Investigation Issue: Suspicions of Criminal / Wrongful Conduct by Ken Johnson:

Moffat County District Attorney’s Office Investigation and Arrest Affidavit:

Chief Investigator Joseph M. DeAngelo states in the Arrest Affidavit that the criminal investigation that led ultimately to the filing of felony criminal charges against Ken Johnson was precipitated by Defense Motions filed with the Court by the Public Defender’s Office on July 06, 2009, subsequent to the Craig Police Department Internal Affairs Case findings. The criminal investigation was initiated in “late July 2009.” It was only after the District Attorney’s Office was informed that it was believed that Ken Johnson had been untruthful in his statements to the Craig Police Department Internal Investigations Inquiry that the District Attorney’s Office initiated a Criminal Investigation into the actions of Ken Johnson. The following information was learned in the course of the investigation by the District Attorney’s Office.

On 07/04/09, Investigator M. Galvan informed Commander G. Wiggins via text message that an ACET member was accused of leaking information. The report of Investigator Galvan indicates that he received the original text message on 07/02/09. He later informed Commander Wiggins that Investigator Johnson had shared information with him that he had an extensive sexual relationship with Ms. Merwin and furthermore, that he had discussions with her regarding ACET operations. (Page 13)

The report of investigator Mark Galvan reveals the details of the information learned by a confidential informant surrounding the information leak. The Arrest Affidavit later confirms that Investigator Galvan learned at an earlier date of the suspected / reported leak of information, but did not believe the reporting person, believing the party was getting “cold feet” and not wanting to carry through with the drug transaction. (Page 13, Attachment A – Application and Affidavit for a Search Warrant 09/02/09.) The Affidavit states that Investigator Galvan related that the concerns were reported to Commander Wiggins. This information was of course learned a number of months after the report on performance deficiencies to the Craig Police Department by Commander Wiggins.

Additionally, in a second interview with Ms. Merwin on September 02, 2009, Chief Investigator Joseph M. DeAngelo and Investigator Harmon learned from Ms. Mervin that she “had a sexual relationship with Mr. Johnson, was provided confidential narcotics intelligence information from Mr. Johnson, was provided money by Mr. Johnson, was influenced by Mr. Johnson to provide a materially false statement to Commander DeLong, and had obtained an ACET computer for her personal use.” (Excerpt noted.) The ACET computer with confidential information was recovered in a search of the home of Ms. Merwin. A city stamp revealed that the computer was the property of Steamboat Springs. A text message from Ken Johnson to Ms. Mervin confirmed that it was an ACET computer.

The text messages between Mr. Ken Johnson and Ms. T. Merwin also confirmed that Mr. Johnson provided confidential information to Ms. Merwin concerning the identity of confidential informants, as well as information on sensitive investigations conducted by the City of Craig Police Department. The text messages confirmed that Ms. Merwin shared some of the information with her criminal associates. These messages also confirmed that Ken Johnson informed Ms. Merwin of pending arrests and law enforcement operations.

Investigation Review Issue:

Moffat County District Attorney’s Office Investigation and Arrest Affidavit:

In footnote # 8 on page 15 of the Arrest Affidavit, it is reflected that “The primary reason the investigation was inconclusive was due to the fact Mr. Johnson and Ms. Merwin, working in unison, provided materially false statements to internal affairs investigators along with the fact Mr. Johnson mislead Ms. Jona Ely, a Nurse Practitioner (Mr. Johnson’s medical care provider) and subsequently requested she provide materially false information to internal affairs investigators.

Later in the Arrest Affidavit, it is confirmed by Investigators for the District Attorney's Office that Mr. Johnson directed Ms. Merwin in what to say to investigators to make certain their stories were consistent. The evidence shows they practiced lying to perfect and carry out their scheme of deceit. The text messages even confirmed that Ken Johnson may have assisted Ms. Merwin in constructing a letter to Chief Vanatta dated 03/25/09, wherein she denied having a sexual relationship with Ken Johnson. Ms. Merwin ultimately denied this, but did confirm to investigators that Ken Johnson knew the letter contained materially false information. In an interview with District Attorney's Office Investigators on September 4, 2009, Ken Johnson confirmed that he knew the details contained in the letter were false and admitted that he did not so inform Investigators from the Craig Police Department Internal Affairs Section.

Chief Investigator Joseph M. DeAngelo further concluded that the internal investigation into the activities of Mr. Johnson was inconclusive, because Mr. Johnson informed many persons as well as investigators from the Craig Police Department Internal Affairs Section, that he suffered from Erectile Dysfunction and that he could therefore not participate in a sexual relationship with Ms. Mervin.

Later in the Arrest Affidavit, it is confirmed by Investigators for the District Attorney's Office that Chief Vanatta was first and foremost persuaded by the statements of Ms. Jona Ely, in his conclusion concerning the alleged sexual relationship between Ken Johnson and Ms. Merwin, after she confirmed the state of Erectile Dysfunction claimed by Mr. Johnson in support of their statements.

The Arrest Affidavit reflects that Captain Jerry DeLong interviewed Investigator Galvan and that Investigator Galvan was "hesitant to discuss Johnson's relationship with Mervin," advising Captain DeLong that he should ask Ken Johnson about the relationship. It further reflects that Johnson spoke with Captain DeLong following a polygraph examination about the deleted Merwin ACET files and that Johnson advised him that "the polygraph was inconclusive."

In the Arrest Affidavit section, titled "Galvan's Opinion of Criminal Activity," it is noted that Investigator Galvan expressed belief that Ken "Johnson was the only person with the motive to manipulate her case," referring to the deleted ACET case files on Ms. Merwin. It is also stated that "TFO Galvan did not believe that Johnson intentionally provided Ms. Merwin with confidential information, but he believed that Johnson let confidential information slip out during pillow talk."

The following subject of review outlines the information presented and learned during the Internal Investigation the Craig Police Department.

**Internal Investigation by the Craig Police Department:
Commander Garrett Wiggins / Investigation and Complaint:**

Commander Garrett Wiggins first spoke with Captain Jerry DeLong on February 25, 2009, to discuss a series of negative performance issues involving Detective Ken Johnson. At that time, Captain DeLong requested that Commander Wiggins provide him with written documentation outlining his concerns, so that Captain DeLong could initiate an Internal Investigation into any instances that would constitute a violation of acceptable conduct if proven true.

On 03/02/09, Commander Garrett Wiggins of ACET provided Commander DeLong a written report concerning the work related performance issues involving Ken Johnson. The report confirms the information previously provided that Captain DeLong requested in written documentation regarding the dereliction of duty by Detective Johnson during his assignment to ACET. Commander Wiggins requested the transfer of Detective Johnson and that a replacement Investigator be assigned to take his place.

The letter outlines when Commander Wiggins first learned of a possible relationship involving Detective Johnson and Tasha Merwin, relating that Detective Johnson admitted to involvement with her since 2007. He further related that he admonished Detective Johnson that he should not act in a manner that would or could jeopardize his career.

Additionally, performance related issues were addressed concerning the very limited work effort devoted to the ACET assignment by Detective Johnson. Commander Wiggins expressed that Detective Johnson had informed him that he was busy with criminal investigation case assignments for the Craig Police Department.

The letter also confirms that Detective Johnson had only come into the ACET Office 3 times in January 2009, and that he had failed to pick up the ACET mail as he was expected to do twice a week. Commander Wiggins also related that when he was in Craig, he took the time to drive by the home of Tasha Merwin and observed the undercover vehicle of Detective Johnson there on multiple occasions, numbering 4 or 5 times and during normal working hours. Later in the memo, Commander Wiggins states that Detective Johnson only came into the office 3 or 4 times in a two and one-half month period, and that he had not initiated a case investigation since November 13, 2008. Commander Wiggins also outlined a number of instances wherein Detective Johnson failed to conduct complete or competent investigations.

The investigative supplementary report of Commander DeLong confirms that on March 04, 2009, Commander DeLong did open an Internal Investigation into the misconduct of Detective Johnson.

On March 04, 2009, a second letter from Commander Wiggins outlined additional issues of suspected misconduct by Detective Johnson. The letter reflects that an ACET criminal case, AC08-0312 involving Tausha Merwin had been tampered with and that someone had accessed the computer files and altered the official records and reports of ACET. The case was also missing recordings of the undercover operation, the photos of the evidence, the processing of the evidence and the scans of the buy money had been deleted, according to the information contained in an email to Captain DeLong on 03/03/09. Commander Wiggins discovered the breach of security and wrongful conduct during a review of the case file involving Tausha Merwin. While he did not directly accuse Detective Johnson as being responsible, the information provided reveals that the evidence strongly pointed to Detective Johnson as the person responsible for the altered reports.

On April 29, 2009, Commander Wiggins provided a third letter of complaint regarding the conduct of Ken Johnson. It was learned after another Officer was assigned to take the place of Detective Johnson with the ACET, that Detective Johnson had been involved in two (2) different automobile accidents involving his assigned undercover vehicle and that he had not reported the accident/damage as required. An estimate of the cost to repair the undercover vehicle assigned to Detective Johnson was in the amount of \$2,074.75.

An investigation into the accident by the Craig Police Department determined that one accident involving the vehicle was reported to the Colorado State Patrol on 12/14/08, but was not reported to his superiors.

Commander Jerry DeLong / Mark Galvan Interview:

The Craig Police Department Internal Investigation Complaint Summary indicates that former Detective Johnson was assigned to the ACET Task Force for two (2) years. The report summarizes the information contained in the reports of Commander Wiggins and also reflects that Commander Wiggins advised Captain DeLong that he should speak with ACET Investigator Mark Galvan to gain further insight into the possible relationship between Ken Johnson and Tausha Merwin. The report reflects that Commander Wiggins informed Captain DeLong that Ken Johnson and Mark Galvan were “real good friends.”

The report further reflects that when Captain DeLong spoke with Mark Galvan the first time, he was informed that Investigator Galvan “was not going to talk about Johnson’s personal life, because he did not think that it was any of his business.” Investigator Galvan also stated that he had never witnessed any personal contact between Ken Johnson and Tausha Merwin. Specifically, Mark Galvan informed Captain DeLong that he had “never asked Ken Johnson about his relationship with Merwin.”

According to the report, Mark Galvan informed Captain DeLong that when Ken Johnson was staying in his basement in June and July of 2008, “he saw that Merwin spent the night on one or two occasions.” Investigator Galvan also informed Captain DeLong that he was uncomfortable with Ms. Merwin being at his home because he had initiated a criminal case against her and that he had so informed Ken Johnson. He also stated that after he informed Ken Johnson of his concerns, he did not see Ms. Merwin at his home again. Mark Galvan also informed Captain DeLong that he had observed the undercover vehicle of Ken Johnson at the home of Ms. Merwin during duty hours “approximately 10 times.” Mark Galvan told Captain DeLong that he had also observed Ken Johnson giving rides to Ms. Merwin in his undercover vehicle “from Drug Court and to work.”

In his synopsis of the interview with Mark Galvan, Commander DeLong noted that “Galvan said numerous times that he did not want to discuss Ken (Johnson’s) personal life.” Commander DeLong further stated, “It is my opinion that Galvan was very hesitant about talking about Ken’s personal life and that he knew more about what was going on about the relationship than he was willing to tell me. Near the end of the interview, he said he was 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.”

According to the summary of the investigation, after his initial interview of Ken Johnson, Captain DeLong followed up and interviewed Mark Galvan a second time. During this conversation, Investigator Galvan informed Captain DeLong that he had told Detective Johnson of his first conversation with Captain DeLong and that he believed Ken Johnson was mad at him. According to the report, Mark Galvan further advised Captain DeLong that Ken Johnson “was taking Viagra or Levitra for Erectile Dysfunction (ED).” He still refused however, to discuss what information he knew or suspected about a relationship between Ken Johnson and Tausha Merwin.

During this conversation, Mark Galvan informed Captain DeLong that he had observed personal photographs of Ms. Merwin and her family on a Department-owned camera.

The interview on 03/26/09 also reflects that Mark Galvan stated that he knew things about Ken Johnson because of their friendship that he was not going to speak to. He did admit to being concerned about a relationship between Ken Johnson and Ms. Merwin and that he had talked to Johnson about concerns about his career, noting that Ken Johnson informed him that he would be leaving Craig after Ms. Merwin got off probation. He also admitted that Ms. Merwin had been to his home to visit Ken Johnson more than the two (2) times stated in his first interview.

Mark Galvan also now informed Commander DeLong that the relationship between Ken Johnson and Ms. Merwin was a sexual relationship and that he had conversations with Ken Johnson about this. Mark Galvan further related that in conversations he heard Ken Johnson say to Ms. Merwin that he loved her. Following the interview, he contacted Commander DeLong and informed him that he had forgotten to tell him that his wife had observed Ken Johnson and Ms. Merwin in a bed together.

Commander Jerry DeLong / Ken Johnson Interview:

In his interview with Captain DeLong, Ken Johnson stated that he has known Ms. Merwin since 2001. He also related that with his involvement in Drug Court, he was going to make Merwin his special project. He stated he has been an active part of her life and that he had a major part in changing her life to keep her away from her former friends and drug use.

Ken Johnson informed Captain DeLong that he has had medical issues with E. D. since 2005, and that he was treated by a medical doctor for the problem.

Ken Johnson stated that over an approximate two (2) month period he had been to Ms. Merwin's apartment 6 or 7 times for lunch or to let the dog out and that he is usually there for about 30 minutes to one hour.

Ken Johnson stated that he has not done anything wrong and that he has not had a sexual relationship with Ms. Merwin. Ken Johnson denied that Ms. Merwin spent the night with him at Mark Galvan's home, stating that they watched movies together. He stated that he did not sleep with her and denied the conversation with Commander Wiggins about a sexual relationship with Ms. Merwin. Detective Johnson admitted to using his assigned undercover vehicle to take Ms. Merwin to drug court, the grocery store and to work and to not informing the prosecutor concerning his relationship with Ms. Merwin.

Ken Johnson agreed to take a polygraph examination. Two polygraph examinations were administered by Investigator Jim Hebenstreit of the Mesa County Sheriff's Department. The questions dealt with in the examination had addressed whether or not Ken Johnson had ever tampered with the ACET case information involving Ms. Tausha Merwin and whether or not Ken Johnson had ever had a sexual relationship with Ms. Tausha Merwin.

Investigator Jim Hebenstreit recorded the polygraph examination as inconclusive, sharing his professional opinion that Ken Johnson had attempted to control his breathing to alter the results of the test. In his conclusion, he wrote "In my opinion, this polygraph resulted in a finding of "Deception Indicated." He then informed Ken Johnson that he had failed the polygraph.

Commander Jerry DeLong / Tausha Merwin Interview:

On April 2, 2009, Captain DeLong interviewed Ms. Tausha Merwin. In her statement, she denied spending the night with Ken Johnson at the home of Mark Galvan. She further denied knowledge of why any personal items of hers would be at the home. Ms. Merwin explained that she would be there late at night and sometimes arrive early in the morning. She related that Ken Johnson and Mark Galvan were "pretty good buddies."

Ms. Merwin stated that Ken Johnson had never been to her house during working hours, but had been to her home to let her dog out or to have coffee.

In her letter of 03/25/2009, Ms. Merwin related the following exact quote: "First of all, I am outraged about the questioning of a sexual relationship between ken and I." After she recounted her history of drug abuse she noted that Ken Johnson gave her hope and treated her with respect.

Ms. Merwin added the following exact quote, "This whole thing sickens me to the point that I actually feel ill. I have never had sexual contact with Ken, nor has he EVER acted inappropriately to me. I'm Not completely sure what you are looking for, but as for the question of whether he spent on duty time with me or at my house, my answer to you is no! I have a full time job and I'm not even home during the day, and I can't believe you would think Ken is the kind of person who would be "wondering off" during working hours, His job is very important to him and I have always seen him hold it in the highest respect."

Throughout her statements, Ms. Tausha Merwin completely denied that she and Ken Johnson ever engaged in a sexual relationship.

Commander Jerry DeLong / Jona Ely, MSN Interview:

Jona Ely is a Nurse Practitioner. She provided an interview with Commander DeLong and Chief Walt Vanatta on March 30, 2009. In her interview, she stated that Ken Johnson has been treated for Erectile Dysfunction since 2005, by Rosanne Iverson a Medical Doctor; this according to what Ken Johnson has informed her. Furthermore she has treated him for this condition since April 2008. In her interview, Ms. Ely stated, "Ken's medical condition makes it impossible for Ken to have a sexual relationship with anyone."

Ms. Ely supported her statement with a letter to Chief Vanatta dated 03/26/09. In her statement she related, "Ken has informed me that he is under investigation for sexual misconduct" and that it is "impossible for Ken to have a sexual relationship with anyone." She also related, "I feel that it is incredibly humiliating and demoralizing for a police officer to be accused of these accusations without any evidence to support them. I also feel that it is no one's concern regarding Ken's medical conditions, but Ken feels that a proper investigation will not be done regarding this matter without his medical condition as evidence."

Ken Johnson / Suspension and Separation from the Craig Police Department:

In a letter from Commander Jerry DeLong to Investigator Ken Johnson dated 05/05/09, the findings were outlined along with a recommendation for a suspension for violations of Departmental prescribed conduct.

The Suspension notice from Commander DeLong reflects that Ken Johnson was suspended 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.

The personnel records of the Craig Police Department confirm that Ken Johnson reflects a Suspension of two (2) days for May 11, 2009 and May 12, 2009, and two (2) additional days for May 25, 2009 and May 26, 2009. This inquiry and suspension was completed a full two (2) months before the initiation of the Criminal Investigation into Ken Johnson's conduct by the Moffat County District Attorney's Office.

The September 03, 2009, letter of Suspension from Chief Vanatta to Ken Johnson reflects that he would be dismissed had he not already tendered his resignation.

Summary and Conclusions:

In my review, I first examined the information from the District Attorney's Office to understand what information was learned and what evidence supported the criminal charges and arrest of Ken Johnson. It is important to fully recognize the progression, of how information was different or the same that led to the determination that criminal charges were appropriate. As referenced earlier, the District Attorney acted upon a complaint from Defense Attorneys who questioned the veracity of Ken Johnson.

What is strikingly obvious in the review of the District Attorney's Office Investigation, is that the witnesses from the ACET Task Force became aware of the seriousness of the potential for wrongful and possible criminal conduct on the part of Ken Johnson only when the District Attorney's Office initiated their inquiry. The information provided by Investigator Mark Galvan about the relationship between Ken Johnson and Tausha Merwin was now substantial. He was not as forthcoming in the prior interviews with Commander DeLong of the Craig Police Department, citing his friendship with Ken Johnson and his reluctance to speculate about a possible personal relationship. It is further evidenced, that Commander Garrett Wiggins did not recognize or act on the possible wrongful conduct of Ken Johnson until serious performance related issues surfaced in the months from November 2008 to February 2009. After learning of the altered or missing records pertaining to the files of Tasuha Merwin and the suspected leak of information concerning the task force, a new perspective of the possible involvement of Ken Johnson in the area drug culture was recognized.

It was two (2) months after the investigation was commenced by the District Attorney when sufficient information was learned to gain approval for a warrant for telephone records and telephone text messages from Ken Johnson. Also, it was only after the records were obtained that the suspected criminal conduct was confirmed. Prior to the records being acquired, everyone was unaware of the theft of the task force computer by Ken Johnson.

Furthermore, any evidence of criminal wrongdoing and altering official records of Ms. Merwin was being pursued by the ACET Commander and the Mesa County Sheriff's Office at the onset of the investigation by the District Attorney. As of this writing, competent forensic examiners have not been able to confirm the suspicions that Ken Johnson may have been responsible.

The extraordinary and competent investigation by the Moffat County District Attorney Investigators required multiple witness interviews from the ACET personnel and Tausha Merwin, as well as the examination of thousands of telephone records.

Information learned by the District Attorney's Investigators was not provided in detail to Commander Jerry DeLong. It was in fact Commander DeLong, who requested a letter from Commander Garrett Wiggins in order that he may initiate a formal Internal Investigation. The evidence in this case clearly reflects that Commander DeLong conducted multiple interviews with the involved parties and aggressively pursued information about the possible relationship of Ken Johnson and Tausha Merwin.

Commander DeLong identified and articulated his suspicions from the very first interview, concerning Investigator Galvan's decision to withhold his doubts about the relationship. At no time did anyone provide any information to Commander DeLong concerning potential criminal conduct by Ken Johnson except for the altered files of Ms. Merwin. These allegations were pursued criminally by Commander Wiggins and administratively by Commander DeLong without a successful resolution.

It is not my intent at this time to recount all of the information already contained in this report. It must be noted however, that what is evident throughout the case documents and witness statements is that the information learned and later known by the District Attorney's Office Investigators was not acknowledged by the same witnesses in the early investigation by the Craig Police Department. The information reflects that first suspicions of the relationship of Ken Johnson and Ms. Merwin clearly did not rise to a level of concern by Commander Wiggins of the ACET Task Force. It was not until several months later that unacceptable performance related issues by Ken Johnson compelled him to act and to request that Johnson be returned to his permanent position with the Craig Police Department. Furthermore, the evidence in this case clearly reflects that nearly every person interviewed in the Craig Police Internal Investigation was misinformed, duped, deliberately deceptive, lied or withheld information that would have allowed or could have caused the investigation to possibly proceed further. Even to the extent of compelling a polygraph examination, Commander DeLong attempted to have unresolved issues confirmed. The polygraph examination proved inconclusive and is not admissible as evidence in court.

In my opinion, neither Commander Jerry DeLong nor Chief Walt Vanatta ignored or covered up any information or knowledge of suspected wrongdoing by Ken Johnson. The evidence is in fact to the contrary. The medical evidence presented to them outlined years of medical treatment for Ken Johnson for an inability to perform sexually. Additionally, while much has been speculated on and later attested to concerning the relationship, the acknowledged sexual prowess of Ken Johnson is not proven and could be just braggadocios and a fraud as well. Also, Ken Johnson misrepresented his work ethic to everyone. While it is apparent that he spent some duty hours at the home of Ms. Merwin, it is not evident that the time was used for any illicit purpose or if Ken Johnson was just pathetically lazy and unresponsive to his responsibilities as a police officer.

The Craig Police Department Internal Investigations are governed by policies adopted under the auspices of the Colorado Association of Chiefs of Police (CACCP) Accreditation Standards. Included in the professional guidelines are “mandatory standards” dealing with protocols for Internal Investigations. These policies are incorporated into The Craig Police Department “General Order 3.01.” The information in this complaint shows that these guidelines were substantially adhered to in my view.

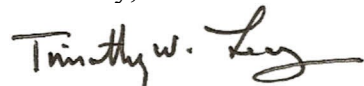
It is always understandable that whenever a Police Officer engages in criminal behavior or wrongful conduct, it is expected that someone should have recognized the transgressions. Some believe that the information may have been ignored or expressed as the sometimes popular perception – “covered up.” In complete candor, the Chief of Police has no legal authority to investigate his personnel for any and all perceived prospects of potential wrongful conduct, but must have specific allegations of unlawful behaviors or potential Department violations to make inquiry in any internal investigation. The evidence in this case unmistakably illustrates that the Police Investigation pursued the information available and known to them and then disciplined the officer for provable violations of acceptable conduct. Even derelict employees possess certain protections against unjust allegations.

The imposed penalty is the prerogative of the Chief of Police and City Manager and therefore, I will not address the degree of penalty. It is confirmed with certainty in the case writings that had the full extent of Ken Johnson’s conduct been known, he would definitely have been terminated.

I find absolutely no evidence to show that the Command Staff of the Craig Police Department engaged in any attempt to conceal or cover up any wrongful conduct of Ken Johnson, or that they in any way failed in their responsibility to fully investigate all information that was known to them at the time.

I would welcome you to contact me if you have any questions.

Sincerely,



Timothy W. Leary, Investigator

Unequivocal Investigations, LLC
12650 W 64th Ave., Unit E, Suite 510
Arvada, CO 80004
unequivocalinvestigations@comcast.net
(720) 951-2274