

SHERIFF

KING COUNTY

KING COUNTY SHERIFF'S OFFICE
516 Third Avenue, W-116
Seattle, WA 98104

John Urquhart
Sheriff

July 21, 2015

Joel Anderson
[REDACTED]
[REDACTED]

RE: Loudermill Results IIU 2015-034

Dear Deputy Anderson:

On June 29, 2015 a *Loudermill* hearing was held in the King County Courthouse regarding the internal investigation referenced above. In addition to you and your representative Mr. Steve Eggert, also present were Chief Deputy Jim Pugel, Major Jerrell Wills, HR Senior Manager Lance King, Legal Advisor Diane Taylor, and IIU Det. Sgt. Frances Carlson. The hearing began at 1:28 PM.

As I mentioned during the hearing, a *Loudermill* is conducted only at the request of the employee. The purpose is to give you an opportunity to explain your side of the story, present factors you think I should know and present any relevant mitigating information.

I told you that my role is to review the investigation and listen to the arguments or presentation of new information from you and your representative. Then I decide if the investigation and recommendations met the essential tenets of just cause and therefore should be sustained. If sustained, I then decide on the discipline. I have the option of concurring with the recommended discipline, or I can decrease the discipline.

You told me you understood the purpose of a *Loudermill* in the discipline process as well as my role and had no questions.

The allegations in question are as follows:

Allegation #1: GOM 3.00.015(2)(k) Rules of Conduct: Conduct Unbecoming

NOTE: The recommendation from Major Wills and Chief Deputy Pugel was that this allegation should be non-sustained. I will concur with their recommendation and I will not further address this allegation.

Allegation #2: GOM 3.00.015(2)(n) Rules of Conduct: Sleeping on duty

Allegation #3: GOM 3.00.020(1)(d) Performance Standards: Acts in violation of Sheriff's Office directives, rules, policies or procedures set out in this manual, the training bulletins, or elsewhere.

The investigation was reviewed by Major Wills, and his recommendation was that Allegation #2 and Allegation #3 be sustained. His findings memo of April 22, 2015 is incorporated herein by reference.

The investigation and findings were then reviewed by Chief Deputy Pugel, and the investigation was discussed with attorneys from the Prosecutor's Office. Chief Deputy Pugel concurred with Major Wills' findings and he recommended termination as the appropriate discipline.

Prior to the Loudermill hearing I reviewed the investigation as well. I found it to be thorough and complete, and there was just cause for the sustained findings and recommended discipline. The investigation and outcome notice to you was completed within the 180 day requirement of the CBA.

Briefly, the allegations are that on January 16, 2015 you were caught sleeping on duty by Sergeant Barden. In addition, it was alleged that on December 23, 2014 you left your assigned district, Vashon Island, before the end of your shift and without supervisory approval. This left your partner without backup on a dangerous call.

Guild President Steve Eggert spoke first. He said the facts of this case were simple, and he admitted that you were found sleeping on duty, as well as leaving your assignment early. He then raised Weingarten/Police Office Bill of Rights issues based on the comments of Sergeant Barden made to you after he caught you sleeping. He also said you were suffering from "sleep insomnia" and had a meeting scheduled with Helen Ivory in Disability Services, but the meeting was canceled and not rescheduled.

You then spoke and did not deny sleeping on duty or leaving Vashon early on the dates in question. However, you offered mitigating information for me to consider. You spoke at length about the difficulties you have had with sleeping and said the reason was primarily due to the health issues of your wife and new child, born in December 2014, as well as difficulties with her prior pregnancy in 2013, which ended with a miscarriage.

However, you also talked about your overtime hours, and said that not only do you work overtime at the Sheriff's Office, but also "worked construction." When asked by Major Wills why you worked so much overtime you said it was to "stockpile money for the future."

The Loudermill hearing was concluded at 2:38 PM, and I told you I would reach a decision later.

In regards to the Weingarten issue raised by Mr. Eggert, I reviewed your IIU interview wherein you state that Sergeant Barden said you would only get a corrective counseling memo from Captain Boe for sleeping on duty and the incident would be treated as "non-disciplinary in nature."

Sergeant Barden does remember discussing the situation and your family life. He says in his IIU interview that he discussed the possible ramifications of the incident, the process that would come, and the steps that would be taken, to include the *possibility* of a corrective counseling memo as one of those steps. However, he specifically says, "I don't ever recall telling him there would not be any form of discipline."

Sergeant Barden also says he was aware of your previous history of sleeping on duty, so I am not persuaded that he would have told you not to expect any discipline, especially given that this is such a serious allegation and Sergeant Barden has an extensive history as a police officer. He would know this.

You also alluded to the fact that you spoke to Sergeant Barden without Guild representation. Clearly you would have had a reasonable expectation that any *interrogation* could result in discipline, given your history of discipline for sleeping on the job. There is no information to indicate you requested Guild representation. In addition, I do not believe that Sergeant Barden conducted an interrogation of you. Rather he carefully avoided discussion of the facts surrounding the sleeping event. But even without considering the information you provided Sergeant Barden, there is sufficient evidence to sustain the findings against you. There are significant independent sources of information supporting the findings, including but not limited to your co-workers, supervisors and records which document your sleeping and working excessive overtime and off-duty jobs.

Therefore, I don't believe there was a Weingarten violation. In addition, given that there was no "interrogation," I do not believe there was a violation of Article 19 of the Police Officer Bill of Rights.

During the *Loudermill* you did not dispute either the fact that you were sleeping on duty as alleged, or that you left Vashon before the end of your shift. As such, I concur with both Major Wills and Chief Deputy Pugel and sustain Allegation #2 and Allegation #3.

As you mentioned at the Loudermill, I do first look at changing behavior when I make discipline decisions. However, there is some conduct where even if behavior could be changed the conduct is so egregious that severe discipline, even termination, is the only answer. I believe we are very close to the line in your case. Therefore, I will look at the mitigating factors you brought up, as well as contributing factors to the conduct.

You did not just "drift off" to sleep because you were tired on January 16th. You drove into a park, closed the gate behind you, and purposely slept. It's called "nesting." You woke up when Sergeant Barden caught you. Furthermore, according to your patrol partner Deputy Nishimura, this was not an isolated occurrence. He has found you sleeping on duty while working Vashon on four separate occasions, and provided a written statement to IIU.

Secondly, this is not the first time you've been caught and disciplined for sleeping on duty. You were observed sleeping in your police car three times in 2005, and given 5 days off without pay in 2007 for the same offense.

However, the recent transgressions are exceedingly egregious, if for no other reason than you are the on-duty backup on Vashon. You left your patrol partner hanging out without the benefit of someone whom, quite literally, could save his life, or that of a citizen. Both Deputy Nishimura and Deputy Hancock have talked to you about their concerns that you were not backing them up. I find this beyond the pale.

The mitigating factors you presented consisted of what I'm sure is very real—a new daughter that has disabilities and the need to help your wife, among other family health issues. Needless to say I am very sympathetic to your situation.

When you met with Sergeant Barden the night of the incident, he offered assistance from EAP, PAT or Making Life Easier. He wrote that you declined all offers.

You also told me you are “not that guy anymore” referring to the incidents in 2005/2007. You disagreed with the assessment from Major Wills that you are “working a lot of overtime.”

I disagree, and the record shows otherwise. In 2014 you were the fourth highest overtime earner in number of hours worked in the entire Sheriff's Office. In 2013 you were the seventh. In fact, despite your wife's difficult pregnancy in 2014, your overtime hours went from 800 to over 1100 in that year when compared to 2013.

January 2015 you were number one in the entire department for overtime hours worked that month. (This is the month after your daughter was born.) Had your overtime not been restricted, at that rate you would have been number one in February, March, and May as well.

In other words, I don't believe you are tired and sleeping on duty because of your home life, but because of your choice to work so much overtime.

Not working even as you are being paid, whether it's sleeping or staying at home while on the clock, is the equivalent of stealing. Putting the lives of your patrol partners at risk, not to mention not sharing the workload, even on Vashon, calls into question your moral values and your ability to be a good partner and effective police officer.

Despite the obvious (and admitted) manual violation, you have also violated the preamble to our *General Orders Manual*, which states the following:

- Be Honest.
- Be Respectful. Be respectful in your service to the public, and also in service to your coworkers.
- Earn your pay. Be in your assigned area on time, and when you advise radio you are there, be there. This is about public transparency and being there for your partners
- Be Accountable. Be accountable to yourself, to those you work with, to those you lead, and to those you serve.

I find you have violated each of the above.

Finally, I find you have violated the *Law Enforcement Code for Ethics*, specifically:

"Honest in thought and deed in both my personal and official life. I will be exemplary in obeying the laws of the land and the regulations of my department."

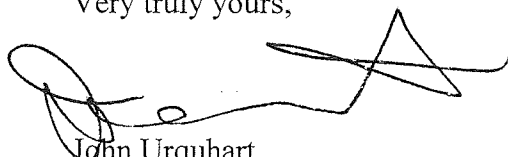
As Sheriff, I must have trust and confidence in your honesty. You have irretrievably damaged the trust and confidence that are necessary for you to be an effective member of this office. I do not make this statement lightly or without due consideration of your years of service. However, I find your conduct devoid of any material mitigating considerations and therefore, as mentioned, I have sustained two of the three allegations under IIU 2105-034.

I believe that the appropriate disciplinary response is to terminate your employment, effective August 1, 2015.

I do not take any discipline decision lightly, and I take no satisfaction in this action taken against you.

Thank you for your past service to the citizens of King County.

Very truly yours,

A handwritten signature in black ink, appearing to read 'John Urquhart', with a stylized, looping flourish extending to the right.

John Urquhart
SHERIFF

cc: Chief Deputy Jim Pugel
Major Jerrell Wills
Captain Jesse Anderson
HR Senior Manager Lance King
Legal Advisor Diane Taylor
Sergeant Frances Carlson
IIU File 2015-034
Sheriff's File