



Lewis County Prosecuting Attorney's Office

345 W. Main Street, 2nd Floor
Chehalis, WA 98532
Phone: (360) 740-1240
Fax: (360) 740-1497
TDD: (360) 740-1480

May 6, 2021

To Whom It May Concern:

On or about April 21, 2021 this office was made aware of a potential issue involving Detective Andrew Scrivner of the Lewis County Sheriff's Office. This office was provided letters from the Lewis County Superior Court. On April 29, 2021, this office received findings made against Detective Scrivner for the conduct outlined above through a document entitled "Settlement Agreement" between Detective Scrivner and the Lewis County Sheriff's Office.

The document deems "proven" allegations including policy violations for "conduct," "ethics," "performance," "affirmatively promoting a positive public image," and "trustworthy, ethical and professional conduct." Both the findings of the Court and the Lewis County Sheriff's Office were based upon Detective Scrivner's contact with jurors who had just rendered verdicts in a criminal matter and providing those jurors with inaccurate information regarding the accused. The file, contents, findings, and stipulation are such that they could be interpreted as providing a basis to impeach Detective Scrivner in any case in which he may be involved.

This notice is a courtesy only and is not any type of official determination by this office as to the relevance or admissibility of any of the attached information. Any attempt to use this information in any fashion at a hearing or trial may be the subject of pre-trial litigation in the appropriate jurisdiction.

Both state and federal cases have created obligations for the state in which potential impeachment exists. See, e.g. *In re Stenson*, 276 P.3d 286 (2012); *Amado v. Gonzalez*, 758 F.3d 1119 (2014). It is clear the higher courts have taken a "better safe than sorry" approach to disclosure of potential impeachment evidence. This office must follow this approach to protect the integrity of the criminal justice system and to fulfil the obligation placed on this office by the above-referenced decisions and their progeny.

If you have any questions or concerns, do not hesitate to contact me directly at (360) 740-2638.

Sincerely yours,

JONATHAN L. MEYER
Prosecuting Attorney

JLM:bsb

It is the Mission of the Lewis County Prosecutor's Office to zealously seek justice in all criminal matters, consistently promote public confidence in the legal system, and diligently represent county government while adhering to the highest ethical and moral standards.

GUILD INVESTIGATION CHECKLIST

Employee Name:	Detective Andrew G. Scrivner
Type of Investigation:	<input type="checkbox"/> Formal Complaint <input checked="" type="checkbox"/> Supervisory Complaint
Date:	April 20, 2021

Disciplinary Process	Date	Time Spent
Complaint received from Chief Deputy Kevin Engelbertson	04/21/21	8 hours
Notice to Detective Scrivner of Internal Investigation	04/26/21	15 min
Internal Supervisory Investigation begins by Detective Sergeant Gabe Frase	SETTLEMENT AGREEMENT	
Internal Supervisory Investigation submitted by _____ to _____ for review.	SIGNED 4-26-21	
Internal Supervisory Investigation returned to _____ for: <input type="checkbox"/> Follow-Up -OR- <input type="checkbox"/> Internal Supervisory Investigation Completed		
72-Hour Notice to _____ of Pre-Disciplinary Hearing by _____		
Pre-Disciplinary Hearing with _____ and Guild representative		
Letter of Recommendation completed by _____ and submitted to _____		
Letter of Recommendation completed by _____ and submitted to _____		
Final resolution completed by _____		
Post Discipline Meeting by _____ with employee and delivery of final resolution. Advise employee of the following: <input type="checkbox"/> I have carefully considered the facts and circumstances of this case and sustain the policy violations cited and will hold you accountable for your performance. <input type="checkbox"/> Go over the DPA, provide employee their Documented Warning, Timed Letter, etc. <input type="checkbox"/> Consequences for failing to improve performance. <input type="checkbox"/> Ask employee if they have any questions.		
Final resolution e-mailed to Guild President	04-29-21	

**Note to Guild: Dates are agreed to be accurate unless disputed with Undersheriff.*

Revised 06-11-15

TOTAL TIME:	
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Additional Notes:

***Due Dates:**

Pre-Disciplinary Hearing: (within 14 days of completion of supervisory investigation)

Final Resolution:

Step I Grievance: (within 14 days of completion of final resolution)

Step II Grievance: (within 14 days of Step I Grievance)

Step III Grievance: (within 14 days of Step II Grievance)

Arbitration: (within 14 days of Step III Grievance)

Disciplinary Routing:

Bureau Chief, Captain/Lieutenant, Supervisor Conducting Investigation, Guild
President, Employee's Supervisor, Employee

SETTLEMENT AGREEMENT

Between the
Lewis County Sheriff's Office
and
Detective Andrew G. Scrivner

The parties to this Settlement Agreement are the Lewis County Sheriff's Office (LCSO), and Field Operations Bureau Detective Andrew G. Scrivner (Andrew Scrivner). Representatives of the LCSO had conversations with LCSO Deputies Guild, regarding Detective Scrivner's internal investigation resulting from inappropriate contact with jury members in Lewis County Superior Court on or about April 20, 2021. As a result, the parties enter into this Settlement Agreement (Agreement) under the following terms and conditions:

LCSO AND DETECTIVE SCRIVNER AGREE THAT:

1. The findings in the related internal investigation will be:

LCSO Policy Manual –

PROVEN

Oath, Motto, Mission, Code of Ethics, and Core Values;

PROVEN

320.5.9 – Conduct

320.5.2 – Ethics

320.5.8 – Performance

320.7 – Affirmatively Promoting a Positive Public Image

320.14 – Trustworthy, Ethical and Professional Conduct

Lewis County Civil Service Rules –


PROVEN

Rule 9, Section 1, Subsections a and b.

2. The parties agree to this settlement and as such, the discipline imposed will be a six-month letter of reprimand to be imposed at the signing of this agreement.
3. The terms of this Agreement are based on the facts determined during the fact-finding portion of the investigation in this case, and all other related information up to the date of settlement.
4. The LCSO has a duty to disclose:

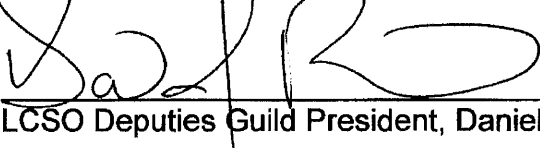
A. Scrivner Settlement Agreement

- a. If requested, the findings and case file for this internal investigation may be disclosed to the Prosecutor's Office, and hold the LCSO harmless from any claims or damages that may relate to such release.
 - b. This Agreement may be released with or without authorization if required by lawful subpoena, by the rules of civil discovery, by judicial order, by applicable laws governing union requests for information or disclosure of public documents, or as necessary during the course of litigation.
5. This Agreement constitutes the full and final settlement relating to this internal investigation and releases, acquits, and forever discharges the LCSO from any and all grievances, unfair labor practice complaints, wage claims, common law tort claims, statutory claims, any claims based on state and/or federal laws prohibiting unfair practices and discrimination in employment, and all claims arising under the Washington State Law Against Discrimination (WSLAD), the Americans with Disabilities Act (ADA), the Family Medical Leave Act (FMLA), and the Fair Labor Standards Act (FLSA), that may arise out of or relate to this internal investigation and subsequent Agreement.
6. The LCSO Deputies Guild waives its right to process a grievance and/or request a Disciplinary Review Board, and/or file an unfair labor practice complaint or other appeal arising out of this internal investigation and subsequent Agreement.
7. Neither this Agreement, nor the parties' mutual obligations under this Agreement, constitutes an admission by any party as to the validity of any claim or defense of any other party.
8. Each party has read this entire Agreement, has had a full and fair opportunity to discuss its contents and meaning with a representative of their choosing, and that the terms and conditions are understood and voluntarily accepted.
9. In moving forward, you are expected to follow all agency directives, policies, practices, and to perform all of your duties in the most competent and professional manner possible. Failure to do so on your part to meet these expectations could result in further discipline, up to and including removal from your position.
10. The terms of this Agreement do not establish a precedent or past practice.
11. This Agreement becomes effective upon date of all final signatures (or as effective dates are listed previously in the Agreement), and will remain in the internal investigative file and serve as a reminder of the circumstances of this incident.



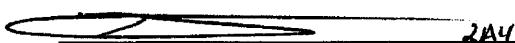
LCSO Detective Andrew G. Scrivner

04-26-2021
Date



LCSO Deputies Guild President, Daniel J. Riordan

04-26-2021
Date



LCSO Chief Deputy Kevin M. Engelbertson

4-26-2021
Date

DISCIPLINE PENALTY ASSESSMENT PROGRAM

LEWIS COUNTY SHERIFF'S OFFICE

Discipline Penalty Assessment Program

Employee's Name:
 Evaluator's Name:
 Date: 4/22/2021
 Incident Number:

ENFORCEMENT GUIDELINES

Documented Warning	
Timed Written Reprimand	X
Untimed Written Reprimand	
Suspension (1-2)	
Suspension (3-5)	
Suspension (6-10)	
Suspension (11-15)	

Do not use for Egregious Offenses. See SOC No.1 Guidelines

DIRECTIONS: Place an X in only one choice per section.

- S1 Death or serious injury to self or others**
- | | |
|-------------------------------------|---|
| Loss of work greater than two weeks | |
| Loss of work, one week or less | |
| Required first aid treatment | |
| No injuries or deaths | X |
-
- S2 Property damage greater than \$5000**
- | | |
|-------------------|---|
| Less than \$5,000 | |
| Less than \$250 | |
| None | X |
-
- S3 Serious damage to public image**
- | | |
|--|---|
| Awareness confined to a small group inside/outside of the agency | |
| Public awareness/interest not involved | X |
-
- S4 Civil action is highly probable or has been taken against the Office**
- | | |
|--|---|
| Civil action is a potential but unlikely | |
| Civil action is highly improbable | X |
-
- S5 A strong deterrent is needed to prevent similar offenses and/or civil liability**
- | | |
|---|---|
| Enforcement is used to avoid setting a precedence for non-enforcement | |
| | X |

INSTRUCTIONS FOR CLEARING THIS FORM FOR USE: Save a blank copy of this form BEFORE using it THEN complete, print, save the form under a different name, and close after use.

NOTE: If expired, contact VMA 1.800.331.8025 for renewal of license.

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 Contact 1.800.331.8025 if license is expired

DISCIPLINE PENALTY ASSESSMENT PROGRAM

LEWIS COUNTY SHERIFF'S OFFICE

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ENFORCEMENT GUIDELINES

Documented Warning		Suspension (6-10)
Timed Written Reprimand	X	Suspension (11-15)
Untimed Written Reprimand		
Suspension (1-2)		
Suspension (3-5)		

S6

Serious disruption of work relationships

No apparent lasting or long-term effect on work relationships

X

No apparent affect on work relationships

S7

Fails to accept responsibility and/or commit to improvement

Acknowledges wrong-doing and will commit to improving future performance

X

S8

Suspension within 2 years of the incident

Untimed Written Reprimand within 2 years of the incident

Timed Written Reprimand within 2 years of the incident

Documented Verbal Warning within 2 years of the incident

Has no record of discipline within 2 years of the incident

X

S9

Usually below standards or does just enough to get by

Average productive work effort

An all around top performer

X

DISCIPLINE PENALTY ASSESSMENT PROGRAM

LEWIS COUNTY SHERIFF'S OFFICE

Discipline Penalty Assessment Program

Employee's Name: _____

Evaluator's Name: _____

Date: 4/22/2021

Incident Number: _____

ENFORCEMENT GUIDELINES

Documented Warning		Suspension (6-10)
Timed Written Reprimand	X	Suspension (11-15)
Untimed Written Reprimand		
Suspension (1-2)		
Suspension (3-5)		

X		

S10 Has one of the highest levels of non-scheduled absenteeism

Has average non-scheduled absenteeism
The employee has one of the best attendance records

X		

S11 Work errors are regular and predictable (e.g., daily, weekly)

Frequent and minor, but does not show significant improve

Typical / Average in frequency and nature

Work errors are unusual for this employee

X		

S12 Less than two years service

Less than five years service

Less than 10 years service

Greater than 10 years service

X		

S13 Supervisory Level

Command Level

Holds a non-supervisory position that requires a high level of trust

Not Applicable



LEWIS COUNTY SHERIFF'S OFFICE
MEMORANDUM



"Public Safety through Professional Service"

TO: Detective Andrew G. Scrivner
FROM: Chief Deputy Kevin M. Engelbertson *KE*
DATE: April 26, 2021
RE: Notice of Formal, Non-Criminal, Type I (Internal) Investigation

This is to inform you in accordance with Lewis County Sheriff's Office Policy #1010 (Personnel Complaints) and the Lewis County Deputies Guild Collective Bargaining Agreement, an investigation of a *Type I Personnel Complaint* has been initiated. The complaint relates to possible policy violation(s). Specifically, it is alleged you violated the following Lewis County Sheriff's Office policies, and Lewis County Civil Service Commission rules/regulations:

- Lewis County Civil Service Rule 9, Section 1, a) Incompetence, inefficiency, or inattention to or dereliction of duty;
- Lewis County Sheriff's Office Oath, Motto, Mission, Code of Ethics, and Core Values;
- Lewis County Sheriff's Office Policies:
 - 320.5.9 – Conduct
 - 320.5.2 – Ethics
 - 320.5.8 – Performance
 - 320.7 – Affirmatively Promoting a Positive Public Image
 - 320.14 – Trustworthy, Ethical and Professional Conduct

The above policies/rules/regulations that may have been violated stem from an incident on or about April 20, 2021, during which it is alleged you acted as follows:

You contacted jury members in the jury room of the Superior Court of Lewis County. The jury members had just rendered a "not guilty" verdict on one of the charges in a criminal case, which you were not involved in as a witness. You were not asked, nor were you directed by the Judge or Prosecuting attorney, to make contact with any jury members. You told jury members you believed the defendant had eluded the police because he had a warrant for his arrest for Murder, insinuating they had rendered an incorrect verdict. The statement you made to the jurors was factually untrue.

If sustained, the range of discipline may range from an oral warning to termination.

Initial fact-finding was conducted by the Special Services Chief. After review of the fact finding information, command staff has determined further investigation is necessary. The investigation has been assigned to: Detective Sergeant Gabriel J. Frase.

Detective Sergeant Frase will be contacting you soon to schedule an interview. The interview will not be scheduled within 48 hours of your receipt of this notice, (unless that time period is waived *in writing* by you.) This will provide you with an opportunity to consult a Guild representative prior to the interview. You may also have a Guild representative present during the interview.

You are hereby warned, during the interview, or any follow up interview, if you refuse to answer questions, discipline, up to and including termination of employment, may result.

You are guaranteed any statements and the fruits of those statements will not be used should there be any criminal prosecution associated with this matter.

PLEASE NOTE: While this matter has originally been designated as a *Type 1 Personnel Complaint*, such designation may be amended at any time during the course of the investigation, in which case you and your Guild representative will be immediately notified in writing of such change and the circumstances.

Should you have questions regarding this process prior to being contacted by the assigned investigator, please contact me.

cc: Sheriff Robert R. Snaza
Undersheriff Wes H. Rethwill
Detective Sergeant Gabriel J. Frase
Deputies Guild President, Daniel J. Riordan
File - 2



LEWIS COUNTY SHERIFF'S OFFICE
MEMORANDUM



"Public Safety through Professional Service"

TO: Undersheriff Wes H. Rethwill
FROM: Special Services Chief Kevin M. Engelbertson
DATE: April 23, 2021
RE: Supervisory Complaint on Detective Andrew G. Scrivner

On 04-20-21, at approximately 1723 hours, I received a phone call from Detective Sergeant Gabe Frase. Detective Sergeant Frase informed me he had received information Detective Scrivner may have had an inappropriate conversation with one or more jury members earlier that day. Detective Sergeant Frase advised me Judge O'Rourke was the presiding Judge during the trial and may also know about the conversation Detective Scrivner had with one or more jury members.

On 04-21-21, I made personal contact at the Superior Court Office. I spoke with Court Administrator Susie Palmateer, who told me about the incident the day before. I was advised Judge O'Rourke would like to meet me at a later time to discuss the incident.

On 04-21-21, at 1000 hours, I met with Judge O'Rourke, Judge Lawler, Court Administrator Palmateer and Courthouse Security Neil Hoium. I was advised Judge Lawler wanted to be in the meeting. Judge O'Rourke explained how she had a jury trial the days preceding where several Lewis County Sheriff's Office deputies testified in the trial. Judge O'Rourke said she saw Detective Scrivner was watching the trial from inside the courtroom on several occasions. I did confirm with Judge O'Rourke that Detective Scrivner was not a witness in the case and did not testify in the case. Judge O'Rourke advised the trial ended yesterday (04-20-21) and the jury reached a verdict where they found the defendant guilty on one of the two charges. I was told one of the charges was Attempting to Elude a Police Vehicle, which the jury did not find the defendant guilty of. Judge O'Rourke said several jurors agreed to speak with her after the trial, as is sometimes requested and customary for Judges and/or attorneys to do. Judge O'Rourke said when she walked into the jury room, one of the jurors was visibly upset and began questioning her regarding if she made the correct decision on the case. Judge O'Rourke learned from one or more of the jurors that a Lewis County detective had contacted them in the jury room after the trial had ended and advised them the defendant had been eluding the police because he had a warrant for murder. Judge O'Rourke told me this was untrue and the defendant had possibly been charged with murder at some point in his life, but his current warrant had been for theft, or something similar. Judge O'Rourke also said none of this information was presented at the trial regardless. Judge O'Rourke spoke with the jurors who now believed, due to the

Lewis County Sheriff's Office Mission Statement:

Being a committed community partner, providing professional service to enhance the safety, security, and quality of life in Lewis County.

detective advising them so, that they had let a murder suspect go free. Speaking with Judge O'Rourke, it sounded possible the detective told the jurors this information to prove a point, or because he didn't agree with the verdict.

I was advised by Administrator Palmateer they did have a video of Detective Scrivner going into the jury room and confirmed his identity. I was advised several bailiffs had been questioned as to what they saw or heard and neither bailiff heard anything, but did see and question why Detective Scrivner was in the jury room. I was advised by both Judge O'Rourke and Judge Lawler this conduct was very concerning and inappropriate. Both Judges advised me that if an attorney had done something similar they could be disbarred for doing so. I was also told none of the six juror members who Detective Scrivner spoke to could be used to sit on any cases now because they were now tainted. I was also advised Lewis County Superior Court would be sending apology letters to each juror because of the incident.

I was also advised Detective Scrivner had contacted Assistant Court Administrator Paula Willey earlier that morning. I was told Detective Scrivner had come to the court window and asked to speak with Judge O'Rourke. Assistant Court Administrator Willey advised the Judge was not available and asked if she needed to get another Judge, at which time Detective Scrivner told her that he had "ticked her off" and was there to apologize.

On 04-21-21, at approximately 1600 hours, I met with Detective Scrivner. I advised him of the allegations and told him the reason for the meeting was for me to conduct fact finding in terms of the allegations.

Detective Scrivner said he needed a break from his normal work duties and decided to go to Superior Court to sit in on a trial that was taking place where several Lewis County deputies were involved. He agreed he had not been summoned to the courtroom, nor had he been subpoenaed or was a witness in the case. He said the next day, he also decided to watch some of the trial, as well as when the verdict was presented. He said after the verdict was complete, he walked out of the courtroom and saw several jurors walking to the jury room. He said he followed them into the room and asked them how the trial went. Detective Scrivner said he told them he was pretty sure the defendant was eluding the police because he had a warrant for murder. Detective Scrivner said he got a phone call and stepped out of the jury room to talk and tried to go back inside the room when he was finished with the call, however, the door was now closed. He said he knew how his comment could have been perceived as far as insinuating the jury made a mistake by rendering the verdict they did. He said he realized a short time later that what he had done was highly inappropriate.

Detective Scrivner said he attempted to contact Judge O'Rourke on 04-21-21, but was told by the clerk she was not available. Detective Scrivner said his intent was to apologize to Judge O'Rourke. Detective Scrivner denied making a comment to Paula Willey saying he had "ticked off" the Judge.

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On 04-22-21, I met with Detective Sergeant Frase and Detective Scrivner. Detective Scrivner said he knew what he had done was highly inappropriate. We talked about his actions and the problems it was now causing with jurors and the courts. Detective Scrivner did not want to proceed with an internal investigation and wanted an agreed settlement. I later advised Detective Scrivner I would still be serving him with the notice of investigation.

On 04-23-21, I was notified Lewis County Superior Court was now sending letters and dismissing 13 jury members who could have heard Detective Scrivner's comments made to the jury. I was given copies of the letters being sent to the jury members and a CD containing videos of Superior Courtroom 1 and surrounding rooms.

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Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Ms. Crystal Anderson
121 Lost Creek Dr
Glenoma WA 98336

Re: April Jury Service
State v. Alexander Fluter 21-1-00147-21

Dear Juror:

Thank you for serving as a juror for Lewis County Superior Court. We are excusing you as a juror for the remainder of the month.

As you were leaving after trial on Tuesday, April 20, 2021 some incorrect statements were made either in the hallway or jury room by an officer that you may have heard. Even though the comments were incorrect, we need to excuse jurors who may have heard them for the remainder of this jury term. We assure you the Lewis County Sheriff's Office is addressing the improper contact/comments made by the officer.

We apologize for any anxiety or stress these comments may have caused you. You and your fellow jurors did the job you were asked to do and no one should ever attempt to cast doubt on your decision.

Jury service is an important function and we appreciate you serving.

Sincerely,

Joely O'Rourke
Superior Court Judge

J. Andrew Toynbee
Judge, Dept. 1
360.740.1170

James W. Lawler
Judge, Dept. 2
360.740.1174

Joely O'Rourke
Judge, Dept. 3
360.740.1172

Tracy Loiacono Mitchell
Court Commissioner
360.740.2733



Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Mr. Flores Barragan
186 Auman Road
Onalaska WA 98570

Re: April Jury Service
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Judge, Dept. 2
360.740.1174

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Judge, Dept. 3
360.740.1172

Tracy Loiacono Mitchell
Court Commissioner
360.740.2733



Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Mr. Gary Chamberlin
119 Jubb Road
Chehalis, WA 98532

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Joely O'Rourke
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360.740.1172

Tracy Loiacono Mitchell
Court Commissioner
360.740.2733



Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Mr. Donald Clevinger
PO Box 791
Morton WA 983656

Re: April Jury Service
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Court Commissioner
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Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Ms. Erin Jones
106 Gemini Place
Chehalis, WA 98532

Re: April Jury Service
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Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Ms. Gerri Maize
153 Lakeview Drive
Mossyrock, WA 98564

Re: April Jury Service
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Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Mr. Chad Meade
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Toledo WA 98591

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As you were leaving after trial on Tuesday, April 20, 2021 some incorrect statements were made either in the hallway or jury room by an officer that you may have heard. Even though the comments were incorrect, we need to excuse jurors who may have heard them for the remainder of this jury term. We assure you the Lewis County Sheriff's Office is addressing the improper contact/comments made by the officer.

We apologize for any anxiety or stress these comments may have caused you. You and your fellow jurors did the job you were asked to do and no one should ever attempt to cast doubt on your decision.

Jury service is an important function and we appreciate you serving.

Sincerely,

Joely O'Rourke
Superior Court Judge

J. Andrew Toynbee
Judge, Dept. 1
360.740.1170

James W. Lawler
Judge, Dept. 2
360.740.1174

Joely O'Rourke
Judge, Dept. 3
360.740.1172

Tracy Loiacono Mitchell
Court Commissioner
360.740.2733



Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Ms. Theresa Moore-Mabey
514 S. Silver St
Centralia, WA 98531

Re: April Jury Service
State v. Alexander Fluter 21-1-00147-21

Dear Juror:

Thank you for serving as a juror for Lewis County Superior Court. We are excusing you as a juror for the remainder of the month.

As you were leaving after trial on Tuesday, April 20, 2021 some incorrect statements were made either in the hallway or jury room by an officer that you may have heard. Even though the comments were incorrect, we need to excuse jurors who may have heard them for the remainder of this jury term. We assure you the Lewis County Sheriff's Office is addressing the improper contact/comments made by the officer.

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Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Ms. Erica Norquist
735 Coal Creek Road
Chehalis, WA 98532

Re: April Jury Service
State v. Alexander Fluter 21-1-00147-21

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Thank you for serving as a juror for Lewis County Superior Court. We are excusing you as a juror for the remainder of the month.

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Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Mr. Richard North
3484 State Route 6
Chehalis, WA 98532

Re: April Jury Service
State v. Alexander Fluter 21-1-00147-21

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Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Mr. David Phelps
170 Marsyla Heights Drive
Winlock WA 98596

Re: April Jury Service
State v. Alexander Fluter 21-1-00147-21

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Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Ms. Judy Selmer
PO Box 86
Winlock WA 98596

Re: April Jury Service
State v. Alexander Fluter 21-1-00147-21

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360.740.1174

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Judge, Dept. 3
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Tracy Loiacono Mitchell
Court Commissioner
360.740.2733



Lewis County Superior Court

345 W Main St., 4th floor
Chehalis, WA 98532

April 21, 2021

Mr. Julius Strid
PO Box 416
Winlock WA 98596

Re: April Jury Service
State v. Alexander Fluter 21-1-00147-21

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Court Commissioner
360.740.2733

Paula Willey
Ext 2515

Wednesday (4/21)

At approximately 8:15 a.m. a male officer/detective came up to my window to ask if Judge O'Rourke was available to speak with. I told him I didn't believe she had arrived as of yet but that I would check to see if her car was here. He then asked what her schedule looked like for the day and I told him that she did not have any hearings scheduled and that I could have her call him when she became available. He said he "wanted to give her an apology as he may have ticked her off yesterday" and that he preferred to come speak to her in person. I asked for his extension and told him I would call him when she became available for him to come up to see her.

It wasn't until later on I mentioned to Judge O'Rourke about an officer/detective wanting to talk to her that it became known to me that it was Officer/Detective Scrivner.

320.5.9 CONDUCT

- a. Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- b. Unreasonable and unwarranted force to a person encountered or a person under arrest.
- c. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- d. Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- e. Engaging in horseplay that reasonably could result in injury or property damage.
- f. Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this office or the County.
- g. Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- h. Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this office.
- i. Unauthorized possession of, loss of, or damage to office property or the property of others, or endangering it through carelessness or maliciousness.
- j. Attempted or actual theft of office property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of office property or the property of another person.
- k. Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any collective bargaining agreement to include fraud in securing the appointment or hire.
- l. Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Sheriff of such action.
- m. Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this office, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this office or its members.

320.5.2 ETHICS

- a. Using or disclosing one's status as a member of the Lewis County Sheriff's Office in any way that could reasonably be perceived as an attempt to gain influence or authority for non-office business or activity.
- b. The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- c. The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- d. Acceptance of fees, gifts or money contrary to the rules of this office and/or laws of the state.
- e. Offer or acceptance of a bribe or gratuity to influence the performance of a member's duty for improper purpose(s).
- f. Misappropriation or misuse of public funds, property, personnel or services.
- g. Any other failure to abide by the standards of ethical conduct.

320.5.8 PERFORMANCE

- a. Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any workrelated investigation.

- b. The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any office record, public record, book, paper or document.
- c. Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any office-related business.
- d. Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this office or its members.
- e. Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this office or subverts the good order, efficiency and discipline of this office or that would tend to discredit any of its members.
- f. Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - a. While on office premises.
 - b. At any work site, while on-duty or while in uniform, or while using any office equipment or system.
 - c. Gambling activity undertaken as part of an employee's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- g. Improper political activity including:
 - a. Unauthorized attendance while on-duty at official legislative or political sessions.
 - b. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or on office property except as expressly authorized by agency policy, the collective bargaining agreements, or the Sheriff.
- h. Engaging in political activities during assigned working hours except as expressly authorized by agency policy, the collective bargaining agreement, or the Sheriff.
- i. Any act on or off duty that brings discredit to this office.

320.7 AFFIRMATIVELY PROMOTING A POSITIVE PUBLIC IMAGE

Employees shall conduct themselves on and off duty, in a manner that does not damage or have the potential of (in the mind of a reasonable person) damaging or bringing the public image, integrity or reputation of the Lewis County Sheriff's Office into discredit or disrepute.

Business Necessity:

Employees shall accept full responsibility for their conduct and the results of their performance on duty as well as off duty. Conduct that may not be considered wrong in private employment could be wrong in the public sector because of the nature of the public service mission.

Management recognizes its responsibility to balance standards of conduct designed to promote public trust while at the same time avoiding unnecessary infringements on the employee's right to privacy. Equally, employees who wish to hold the honor of a public position and enjoy the privileges of public trust share an affirmative responsibility to conduct themselves (on duty as well as off duty) in a manner that does not bring public image or trust into question.

Elements of Offense:

1. A reasonable person would have known, or should have known, that such action would result in corrective action.

Corrective Action Guidelines:

1. Employee Self-Improvement Plan; or
2. Performance Improvement Planning, if the employee qualifies, or
3. Progressive discipline.
4. Termination: If severe damage to public image, trust or irrefutable damage to the employer-employee relationship occurs.
5. Last Chance Agreement: Withhold discipline or termination on conditions the employee accepts the terms of non-grievable Last Chance Agreement.

Examples of Violations:

1. Displaying conduct which creates sustained complaints from the employee's neighbors as it relates to violations of law.
2. Displaying controversial conduct on or off duty that brings public criticism and causes management or supervisory personnel to spend time investigating or responding to the complaint.
3. Failing to properly identify self to any member of the public. (NOTE: This does not include identifying one's self if working undercover or when the employee's safety would be endangered.)
4. Failing to keep equipment clean and in proper working order.
5. Failing to speak and act courteously to members of the public.
6. Failing to display proper grooming, uniform or dress appearance while on duty or representing this agency.
7. Using loud and or crude language in front of the public when such language has a direct and detrimental impact on public image.
8. The use of any tobacco product is not permitted in the Sheriff's Office, in all public buildings, in county-owned vehicles, within 25 feet of any opening to a public building, or when in view of the public and in uniform.
9. Expressing criticisms of the agency's operations to the general public when such actions cause the Office to suffer the public's loss of faith and when the employee cannot show that such actions were in the public's best interest.

Examples of Non-Violations:

1. Displaying on duty conduct or work that is questioned by a citizen and through formal administrative response can be explained and justified by the business necessity of the situation existing at the time.
2. Exhibiting non-criminal, off duty conduct that has no impact or probable impact on the safe, effective and efficient operation of this Office.
3. Displaying conduct off duty where the employee is not identified with this Office and/or the conduct is not discovered by the general public.

320.14 TRUSTWORTHY, ETHICAL AND PROFESSIONAL CONDUCT

Employees shall conduct themselves in a trustworthy and ethical manner, on duty and off-duty, as prescribed by the Code of Ethics, Oath of Office, Mission, Ethical Values, goals, and lawful directives.

Business Necessity:

The public demands and expects a high level of professionalism, ethical conduct, and service from all employees of this Office. The Code of Ethics, Oath of Office, Mission, Ethical Values, and lawful directives serve as guiding principles in achieving agency goals and meeting acceptable work performance standards. Maintaining these standards on duty and off duty provide the basis for establishing and sustaining public trust.

Elements of the Offense:

1. Documented evidence existed, prior to violation, to show the employee knew or should have known the standard expected.
2. Documented evidence existed, prior to violation, to show the employee knew or should have known the consequences of failing to meet or comply with the expected standard.
3. The relationship between the standard and the efficiency, effectiveness, and safe operations was well documented.
4. Documented evidence exists to show employees similarly situated who have committed similar offenses have been similarly treated.
5. Those in the work environment, particularly supervisors, did not tolerate such conduct or the conduct is considered unacceptable.
6. Employee attempted to cover up or conceal wrongdoing.

Corrective Action Guidelines:

1. Employee Self-Improvement Plan; or
2. Performance Improvement Planning, if the employee qualifies; or
3. Progressive discipline, up to and including termination.
4. Last Chance Agreement: Withhold discipline or termination on conditions the employee accepts the terms of non-grievable Last Chance Agreement.

Examples of Violations:

1. Engaging in any activity, whether for profit or not, that compromises an employee's position or which creates, or has the potential to create, a conflict of interest.
2. Using rude, profane or offensive language towards or around others, or over the radio, telephone, e-mails, computers, etc.
3. Failing to treat official business (e.g., publications, information, directives, records, reports, and informant's identification) as confidential.
4. Engaging in personal matters, social activities, personal business or any other activities which would cause neglect or inattentiveness to duties.
5. Use of official business address to receive personal mail, e-mail, or for other non-business purposes.

6. Associating with, or assisting, known criminals or suspects except to further a legitimate law enforcement purpose.
7. Having membership, or a close association, with a subversive organization, or being a member of any organization that has as its doctrine the overthrow of the government and/or advocates prejudice against any racial, religious, national origin, or gender group.
8. Frequenting establishments known to have a reputation for the illegal sale of intoxicants, unruly conduct of patrons, or who are under investigation by an enforcement agency.
9. Having an unlawful interest in a public contract, or attempting to secure an unlawful interest in a public contract.
10. Soliciting, attempting to solicit, or accepting from any person, business or organization any gratuity or gift (including money, tangible property, food, beverage, loan, promise, service, discount, ticket, entertainment, etc.) for personal benefit or benefit without proper authorization. NOTICE: Should an unsolicited gift be received by an employee, the employee shall immediately notify and deliver the item to their supervisor. A memo should be attached to the item in reference to who, what, when, where, and why so the Sheriff can make appropriate disposition.
11. Attempting to influence the decisions of governmental officials in matters for personal advantage.
12. Circumventing the chain-of-command with matters that require prior knowledge and approval of authorized personnel.
13. Interfering or attempting to interfere with the lawful business process, duties, or business of another employee, government agency, or person.
14. Unapproved and/or unauthorized release or aiding in the release of records or information.
15. Changing, or attempting to have changed, or interfering with any legal process, pending investigation, or administration of justice without proper authority.
16. Disclosing confidential information or using confidential information for personal reasons or gain.
17. Authorizing the use of an employee's name, photograph, or official title which identifies her/him as an employee of the agency in connection with testimonials or advertisement of any commodity or commercial enterprise, or political activity without proper authorization.
18. Recommending or suggesting in any manner to any person the employment or procurement of a particular product, professional service, or commercial service (such as an attorney, ambulance service, towing service, bondsman, or mortician).
19. Except when impractical or unfeasible, failing to properly respond to a person's request for identifying information (e.g., name, radio call number, identification card, business card).
20. Using official capacity to influence, interfere with or affect the result of an election.
21. Attempting to dissuade any person, in any manner, who desires to file a complaint against any employee from doing so.
22. Failing to courteously and promptly handle any complaint made by a citizen against any employee.

23. Consistent sustained complaints from an employee's neighbors concerning the employee's violations of law.
24. Non-constitutionally protected on duty or off duty conduct or speech that brings agency public image into disrepute.
25. Failing to wear a designated uniform or present a neat appearance and be suitably attired and groomed during working hours or when representing this organization.
26. Smoking while meeting the general public, while in non-smoking areas, public buildings, operating or riding in public vehicles.
27. Not servicing selected neighborhoods in proportion to their demonstrated needs.
28. Altering an official record without proper authority and/or following approved procedures.
29. Profiling specific demographic groups or individuals for enforcement action.
30. Discriminating conduct (e.g., gender, sex, race, religion, sexual preference, or age).
31. Entering a bar, strip club, and like places while in full or partial uniform except in performance of an official duty.
32. Engaging in betting and gambling activity while on duty, or illegal betting and gambling while off duty.
33. Except to perform an official duty, bringing, possessing or storing alcohol and/or drugs on duty.
34. Failing to exercise financial responsibility (e.g., pay debts) that results in multiple garnishments or other legal actions that create administrative and/or clerical burdens for management.
35. Serving as a witness for the defense in a criminal proceeding except in response to a lawful directive (e.g., subpoena).
36. Misusing law enforcement authority in circumstances arising from personal family issues or those of friends or neighbors.
37. While in uniform or on duty, enter into any place where intoxicating liquor is sold or furnished as a primary business of that establishment, except in the performance of duty.
38. Creating a conflict of interest by entering into a business relationship with a complainant, suspect, witness, defendant, prisoner, or other person involved in any case being investigated by our Office.
39. Furnishing bail or acting as a principal or surety on any bail bond or bail bond application for any person charged with any type of criminal offense except members of their immediate family or other person as approved by the Sheriff, or designee.
40. Engaging in non-protected speech (e.g., using rude, obscene or offensive language to the public or co-workers, encouraging employees to do their job contrary to supervisor's instructions). Criticizing directives that causes or undermines a duty of loyalty or a close working relationship among other employees.

41. Covert audio/video recording of other employees, unless specifically and lawfully authorized by designated authority.

Examples of Non-Violations:

1. Off duty conduct that does not result in having a direct affect, and/or bring disrepute on this organization's public image or the profession of law enforcement.
2. Good faith efforts made to pay unusual financial expenses resulting from unforeseen medical expenses or personal disasters.
3. Conducting inspections of establishments known to have a reputation for the illegal sale of intoxicants, or unruly conduct of patrons, while on official duty.
4. Registering and voting in any election.
5. Expressing opinions as individuals privately and/or publicly on political issues and candidates, when not identifying themselves as an employee of this organization.
6. Attending political conventions, rallies, fundraising functions and similar political gatherings, when not identifying themselves as an employee of this organization.
7. Actively engaging in any non-partisan political functions, when not identifying themselves as an employee of this organization.
8. Signing political petitions as individuals, when not identifying themselves as an employee of this organization.
9. Explaining policy to citizens inquiring about filing complaints against employees.
10. Making private financial contributions to political organizations, when not identifying themselves as an employee of this organization, unless identity of employment is required by law.
11. Participating in a political party function to the extent consistent with the law, when not identifying himself or herself as an employee of this organization.
12. Participating in public activities, to the extent that such endeavors do not impair the neutral and efficient performance of official duties, or create real or perceived conflicts of interest, and when not identifying themselves as an employee of this organization.
13. On duty conduct or work performance questioned by a citizen and through a fact-finding investigation can be explained and justified.
14. Lawfully conducting an investigative or field interview with a person closely fitting the physical description of a suspect.
15. Concentrating enforcement efforts or conducting selective enforcement programs for specific violations of codes or ordinances.
16. Denying service to any person who has not qualified for the service such as failing to follow prescribed procedures for obtaining the service or failing to pay the required fees for a service charge.

17. Reporting acts of criminal wrong-doing and other information protected by state and federal Whistle-Blowing laws.
18. Engaging in protected speech (e.g., topics of public and not personal concern, not concerning matters related to the employee's job functions, and expressed in such a manner that it does not override management's ability to effectively manage its functions or personnel).
19. The prohibition against the receipt of contributions shall not apply to any such employee who holds an office in a political organization and receives money in the course of his/her duties in said office.
20. Normal associations with family members not involving unlawful activities.

CIVIL SERVICE RULES & REGULATIONS

RULE 9 – REMOVALS AND LEAVES OF ABSENCE

Section 1. The tenure of every person holding an office, place, position, or employment under the provisions of these Rules, shall be only during good behavior, and any such person may be revoked or discharged, suspended without pay, demoted or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

- a) Incompetency, inefficiency or inattention to or dereliction of duty;
- b) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or to a fellow employee, or any other act or omission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself/herself; or any willful violation of the provisions of the Civil Service Act or these Rules and Regulations;
- c) Mental or physical unfitness for the position which the employee holds;
- d) Dishonest, disgraceful, immoral or prejudicial conduct;
- e) Drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid or preparation to such an extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the functions and duties of any position under Civil Service;
- f) Conviction of a felony, or a misdemeanor, or gross misdemeanor, involving moral turpitude;
- g) Any other act or failure to act which in the judgment of the Civil Service Commissioners is sufficient to show the offender to be unsuitable and unfit to be employed in the public service.