

**Date:** July 19, 2004

**To:** Deputy James Keller

**Via:** Direct

**From:** Sheriff David Reichert

**Re:** LOUDERMILL HEARING, IIU 2003-097

Thank you for meeting with me on July 16<sup>th</sup> regarding the findings and discipline recommendations in this matter. I appreciate the information provided by you and your Guild representative, Mr. Steve Eggert. Also present were Chief Sue Rahr, Mr. Mike Smith from KCPO, the assigned investigator, Sgt. Scott Strathy, Captain Cameron Webster and Sgt. Tony Provenzo from IIU.

**The facts established in this investigation were as follows:**

On the evening of October 22<sup>nd</sup>, 2004 Deputy George Alvarez arranged to meet a potential informant in the South Des Moines area of Hwy 99. You, Deputy Ben Wheeler, and two officers from another agency went to the meet as well. This informant had warrants for his arrest, but may have been able to assist in an ongoing investigation. The informant was driven to the back parking lot of a closed bowling alley. While the statements of the five officers and deputies vary, at some point you pepper sprayed and punched the informant, and he was punched and/or slapped several times by Deputy Alvarez and an officer from another jurisdiction. There is evidence that the informant grabbed you during this meeting and that this prompted officers to react. You and Deputy Alvarez believe your reactions were justified as the informant was either trying to escape or assault you. There is credible evidence to support that the actual reason for force being applied to the informant was to teach him a lesson for disrespecting Deputy Alvarez by not keeping in touch with him as instructed.

From there the informant was driven to the Green River. The reason why is not completely clear, but there is some credible evidence to believe the reason may have been to scare the informant and further punish him by leading him to believe, or at least allowing him to believe that he may be thrown in the river. You and Deputy Alvarez deny this was the case. After the incident at the Green River, the informant was released.

Getting to the full truth in this case was very difficult both for the IIU investigator and for me as the Sheriff. Both you and Deputy Alvarez believe that several witnesses in this case, two of them police officers, are not telling the truth, yet there is no good explanation for what might motivate them to make false accusations. There is some room for people having misperceived what they saw and heard, but that explanation does not wholly explain the many troubling discrepancies in your statements when compared to others in this case. I cannot say that I fully believe your accounts of that evening. They cannot ultimately be reconciled with the evidence presented to me.

Your representative, Mr. Steve Eggert wanted to point out that initial statements taken by the criminal investigator did not show egregious behavior on your parts, but that each subsequent statement taken by the criminal investigator painted your actions as worse and worse. Mr. Eggert also felt the criminal investigator left out potentially exculpatory information in his investigation. He also believes the most **Deputies George Alvarez and James Keller**

*See notes file re: George Alvarez*

July 19, 2004

Page two

abhorrent behavior in this incident can be attributed to an officer from another agency. While I may agree on that one point, I will not condone the part you two played in this matter.

My findings are as follows. They are the same for each of you:

**GOM 3.00.015 (2) (i) Conduct Unbecoming, Diminishing confidence in the operation of the Sheriff's Office. This complaint is Sustained.**

**GOM 3.00.015 (2) (d) Excessive or unnecessary use of force against a person.** If some force was necessary in this case, it is clear the force was excessive under the circumstances.

**This complaint is sustained.**

**GOM 3.00.015 (1) (b) Conduct that is criminal in nature. Non-sustained.**

**GOM 3.00.020 (2) Conformance to laws. Non-sustained.**

**GOM 3.00.020 (3) (b) Appropriate Use of Authority.** Rather than the above two charges, I believe this is a more proper description of your behavior and actions during this incident. You abused your positions as Sheriff's deputies in your contact with the informant on the evening of October 22<sup>nd</sup> 2003. Therefore I have elected to sustain a finding for violation of this GOM section as well.

In my discussions with you, you agreed to take some limited responsibility for this incident going sour early on. Both of you agreed you should have done things differently, and that you would not conduct yourselves in the same manner had you to do it over again. The informant was clearly roughed up, at some point had a taser laser pointed at him and believed he was going to be tossed into the Green River. You should have called "time out" and shut this down before it got out of hand.

It is my responsibility in this case to send a strong message to you, the entire department and the public. That message is this. Your conduct was very wrong, completely contrary to our core values and the discipline imposed must send a very strong message to the department and to the community we serve. While the recommendation in this case was for termination, I have instead elected to impose a twenty day suspension, without pay. Based on your performance, you are to be transferred back to patrol. Mr. Eggert has agreed that these findings and the discipline imposed will not be grieved.

What you did hurt this organization and caused a great deal of anguish for many people, regardless of their point of view. When you return to work you have an opportunity to help this organization heal. I expect you not to squander this opportunity to go back and be leaders. Tell people what happened, tell them you made serious mistakes, that you were treated fairly (as you agree you were), that you understand the Sheriff's Office was acting under the information they had, that you accept the punishment you were given, and finally that you are ready to prove yourself deserving of a second chance. Do this not only for the organization, but for yourselves as well. Regardless of what people believe about what transpired on October 22<sup>nd</sup> or over the last nine months, they will come to respect you for owning up to your part of this. In doing so, you can do much more than I alone to bring us back together as an organization. I wish you the best.

cc: Steve Eggert, KCPOG  
Mike Smith, KCPO  
IIU File 2003-097