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FILED  
IN COUNTY CLERK'S OFFICE  
A.M. JAN 3 - 2003 P.M.  
PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

JOSEPH J. KIRBY and DEBORAH A.  
KIRBY, husband and wife,

Plaintiffs,

v.

THE CITY OF TACOMA, a municipal  
corporation; RAY CORPUZ and "JANE  
DOE" CORPUZ, husband and wife; PHILIP  
ARREOLA and "JANE DOE" ARREOLA,  
husband and wife; WILLIAM WOODARD  
and CATHERINE WOODARD, husband and  
wife; RAYMOND ROBERTS and "JANE  
DOE" ROBERTS, husband and wife; DAVID  
BRAME and "JANE DOE" BRAME, husband  
and wife; and JAMES HAIRSTON and  
"JANE DOE" HAIRSTON, husband and wife,

Defendants.

No. 99-2-13911-4

DEFENDANT'S NOTICE OF  
INTENT TO OFFER DOCUMENTS  
UNDER EVIDENCE RULE 904

COME NOW the defendants, and pursuant to Evidence Rule 904,  
hereby notify the plaintiffs that the defendants are offering the following  
records for admission at the time of trial.

DEFENDANTS' NOTICE  
UNDER ER 904 - 1

**ORIGINAL**

Tacoma City Attorney  
Civil Division  
747 Market Street, Room 1120  
Tacoma, Washington 98402-3767  
(253) 591-5885 / FAX 591-5755

1. Probationary Review Record dated May 29, 1983  
(JK 000002)
2. Probationary Review Record dated November 11, 1983  
(JK 000003)
3. Supervisor's Report/Employee's Occupational Injury  
or Illness dated September 19, 1986 (JK 000004)
4. Certificate of Physician dated September 23, 1986, signed  
by Jay Ehly, M.D. (JK 000005)
5. Memo to Captain Monner, T.P.D., from Jay Hugh Ehly,  
M.D., dated September 23, 1986 (JK 000007)
6. Letter to OMAC from Larry Bellinger, dated October 2,  
1986 (JK 000011)
7. Psychiatric Evaluation dated October 3, 1986  
(JK 000012-15)
8. Intra-Departmental Memorandum to PPO Joseph P. Kirby  
from Chief Fjetland dated December 7, 1989, regarding  
Disciplinary Action/Notice of Intent to Suspend  
(JK 000042-45)
9. Intra-Departmental Memorandum to All Personnel from  
Chief Fjetland dated October 19, 1994, subject:  
ELECTRONIC COMMUNICATIONS (JK 000433-436)
10. Probationary Review Record dated October 11, 1995  
(JK 000055-56)
11. Disciplinary Report Form dated June 26, 1996 regarding  
violation of MRP 12.01.010 (JK 000070)
12. Intra-Departmental Memorandum to All Personnel from  
Chief Philip Arreola dated October 17, 1996, subject  
USE OF ELECTRONIC MESSAGING SYSTEMS  
(JK 000071)
13. Interoffice Memorandum to Charles Howard from Joseph  
Kirby dated July 25, 1997, subject: Stuff (JK 000074)
14. Interoffice Memorandum to Bob Blystone and Dave Brame  
from Joseph Kirby, dated August 26, 1997, subject:

Memorandum for Record – Written Protest (JK 000076-78)

15. Interoffice Memorandum to Paul Mielbrecht from Joseph Kirby dated August 26, 1997, subject: 48 Hour Notice (JK 000079)
16. Interoffice Memorandum to Paul Mielbrecht and Charles Minema from Joseph Kirby dated September 15, 1997, subject: Memorandum for Record – L&I Liability For Search Warrants (JK 000082)
17. Interoffice Memorandum to "10 addressees" from Joseph Kirby dated September 15, 1997, subject: L&I Liability Concerns (JK 000083)
18. E-mail to Charles Meinema from Philip Arreola dated September 18, 1997, subject: Safety issues from Lt. Joseph Kirby (JK 000097)
19. Intra-Departmental Memorandum to "Listed Personnel" from Chief Philip Arreola dated October 13, 1997, subject: COMMENDATION – Planning and Facilitation for the Memorial Service of Police Patrol Officer William Lowry (JK 000185)
20. Interoffice Memorandum to "84 addressees" from Gayle Hall dated October 14, 1997, subject: Personnel Order #97-24 – Written Reprimand (JK 000186)
21. Interoffice Memorandum to Charles Meinema from Charles Meinema dated November 3, 1997, subject: I/A Investigation (JK 000194-202)
22. Claim for Damages dated December 18, 1997, filed by Joseph Kirby (JK000208-211)
23. Interoffice Memorandum to "2 addressees" from Joseph Kirby dated January 15, 1998, subject: Rule of Three Interviews (JK 000215)
24. Handwritten memorandum to Captain Mielbrecht from Lt. Kirby, dated June 15, 1998, subject: Compelled Statement (JK 000230-232)

- 1 25. Interoffice Memorandum to William Woodard from  
Joseph Kirby, dated July 31, 1998, subject:  
2 Ongoing Retaliation/Discrimination/Harassment  
(JK 000235)
- 3 26. Self Insurer Accident Report dated July 31, 1998  
4 (JK 000236)
- 5 27. Supervisor's Report/Employee's Occupational  
6 Injury or Illness dated August 3, 1998 (JK 000237)
- 7 28. Interoffice Memorandum to William Woodard  
8 from James Hairston dated August 4, 1998,  
subject: Concern About Behavior in the Workplace  
(JK 000241)
- 9 29. Interoffice Memorandum to Paul Mielbrecht from  
10 Ray Roberts dated August 4, 1998, subject:  
11 Lt. Kirby (JK 000242)
- 12 30. Intra-Departmental Memorandum to Philip Arreola  
13 from A/C William Woodard dated August 14, 1998,  
subject: Disciplinary Findings and Recommendations  
14 Lt. Joseph Kirby (JK 000258-264)
- 15 31. Intra-Departmental Memorandum to Philip Arreola  
16 from A/C William Woodard dated August 17, 1998,  
subject: Findings and Recommendations Employee  
17 Conduct, Domestic Relations Officer Rhonda Ramirez-  
Detective Ron Lewis (JK 000279-282)
- 18 32. Memorandum to A/C Woodard from Captain Mielbrecht  
19 dated August 17, 1998, subject: Conduct – Lt. J. Kirby  
(JK 000294-295)
- 20 33. Intra-Departmental Memorandum to Philip Arreola  
21 from A/C Woodard dated August 18, 1998  
subject: Findings and Recommendations: Harrison  
22 Range Incident – Lt. Joseph Kirby (JK 000296-298)
- 23 34. Interoffice Memorandum to 9 addressees, cc: Arreola,  
24 from Joseph Kirby dated August 19, 1998  
Subject: Resignation (JK 000309)
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- 1 35. Intra-Departmental Memorandum to Lt. Joseph Kirby  
2 from Chief Arreola dated August 21, 1998, subject:  
Administrative Leave (JK 000316)
- 3 36. E-mail to Philip Arreola from Mike Darland dated  
4 August 21, 1998, Subject: Fitness for Duty Lt. Kirby  
(JK 000317)
- 5 37. Joseph Kirby – Information and Background provided  
6 to Fitness for Duty Evaluating Physician dated  
September 3, 1998 (JK 000338-340)
- 7 38. Report of Gary L. Henriksen, M.D. dated  
8 September 9, 1998 (JK 000351-354)
- 9 39. Intra-Departmental Memorandum to Lt. Joseph Kirby  
10 from A/C William Woodard, dated September 9, 1998,  
11 subject: ACCESS TO TACOMA POLICE FACILITIES  
(JK 000359)
- 12 40. Report of Philip G. Lindsay, M.D., dated  
13 September 15, 1998 and October 5, 1998  
(JK 000364-366)
- 14 41. Letter to Tacoma Police Union Local #6 from William  
15 Woodard dated September 18, 1998, subject:  
Management Response (JK 000379-380)
- 16 42. MRP 2.04.005 Illness and/or Injury/Family and Medical  
17 Leave (JK 000407-417)
- 18 43. Certificate of Disability dated October 4, 1998  
(JK 000427)
- 19 44. Job Analysis prepared by Novaeon dated December 3,  
20 1998 (JK 00443-446)
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- 1 45. Intra-Departmental Memorandum to Captains William Meeks,  
2 Charles Meinema and Ray Roberts from A/C David Brame dated  
3 January 25, 1999, subject: EXPECTATIONS – OPERATIONS  
4 CAPTAINS (JK 000494-497)
- 5 46. Letter to Andy Michels, City of Tacoma, from  
6 Gary L. Henriksen, M.D., dated February 23, 1999,  
7 Subject: Fitness for Duty (JK 000545)
- 8 47. Request for Assignment dated March 11, 1999  
9 (JK 000552)
- 10 48. Interoffice Memorandum to David Brame from  
11 Charles Meinema dated March 17, 1999, subject:  
12 Administrative Report (JK 000567-569)
- 13 49. Intra-Departmental Memorandum to Chief Hairston  
14 from A/C Brame dated March 17, 1999, subject:  
15 Recommendation – Status of Lt. Joseph Kirby  
16 (JK 000570-571)
- 17 50. Interoffice Memorandum to William Woodard from  
18 Charles Meinema dated March 19, 1999, subject:  
19 Lt. Joseph Kirby/Extension of OJI
- 20 51. Letter to Lt. Joseph Kirby from A/C David Brame dated  
21 April 1, 1999, subject: DUTY LIMITATIONS DURING SICK  
22 LEAVE (JK 000589)
- 23 52. Interoffice Memorandum to Charles Meinema from David  
24 Brame dated April 8, 1999, subject: Administrative Report  
25 Directive (JK 000595)
- 26 53. Intra-Departmental Memorandum to Chief Hairston from  
A/C Brame dated April 9, 1999, subject: Extended Sick Leave  
Status Report Lt. Joseph Kirby (JK 000615)
54. Memorandum to Philip Knudsen from Chief Hairston dated  
April 14, 1999, subject: Request for Independent Medical  
Examination (JK 000635, 000637-638)
55. Intra-Departmental Memorandum to Lt. Joseph Kirby from  
Chief Hairston dated April 16, 1999, subject: Administrative Leave  
(JK 000643)

- 1 56. Independent Medical Examination Report dated  
2 April 30, 1999, by H. Berryman Edwards, M.D.  
(JK 000656-670)
- 3 57. Letter to Phil-Jah Blakey from Philip G. Lindsay,  
4 M.D., dated May 4, 1999 (JK 000672-673)
- 5 58. Intra-Departmental Memorandum to A/Captain Kirby from  
6 Assistant Chief Brame, dated May 10, 1999, subject:  
7 Expectations-Operations Captains (JK 000675-678)
- 8 59. Memo to Lt. Walker, Lt. Ramsdell, Lt. Fisk and Lt.  
9 Strickland from A/Cpt Kirby dated May 11, 1999, subject:  
10 A/C Brame's Expectations (JK 000682)
- 11 60. Intra-Departmental Memorandum to Temporary Captain  
12 Joseph Kirby from Chief Hairston, dated May 19, 1999,  
13 subject: Oral Reprimand (JK 000689)
- 14 61. Probationary Review Record dated July 14, 1999  
15 (JK 000708-709)
- 16 62. Probationary Review Record dated August 19, 1999  
17 (JK 000711-713)
- 18 63. Interoffice Memorandum to David Brame from Joseph  
19 Kirby dated August 23, 1999, subject: MEMORANDUM  
20 FOR RECORD – ALLEGATIONS OF UNETHICAL  
21 CONDUCT (JK 000714-715)
- 22 64. Claim for Damages dated August 30, 1999, signed by  
23 Joseph Kirby (JK 000717-720)
- 24 65. Interoffice Memorandum to David Brame from Joseph  
25 Kirby dated September 6, 1999, subject: Perishable  
26 Supplies and Equipment Inventory Control  
(JK 000721-722)
66. Intra-Departmental Memorandum to Captain Kirby from  
Assistant Chief Brame dated September 13, 1999, subject:  
Counseling (JK 000724)
67. Probationary Review Record dated September 13, 1999,  
(JK 000725-726)


- 1 68. MRP 2.05.002 Preparation of Probation Reports  
2 (JK 000730-731)
- 3 69. Request for Assignment dated September 14, 1999  
4 (JK 000732)
- 5 70. Documentation of Tacoma Police Department Incident  
6 dated September 14, 1999, signed by Tanya Harmon  
7 (JK 000733)
- 8 71. Intra-Departmental Memorandum to Temporary Captain  
9 Joseph Kirby from Assistant Chief Roberts dated  
10 September 21, 1999, subject: Performance Expectations  
11 (JK 000744-746)
- 12 72. Intra-Departmental Memorandum to Chief Hairston from  
13 Captain Joseph Kirby dated September 21, 1999, subject:  
14 4th Month Probation Report Rebuttal (attached)  
15 (JK 000747-765)
- 16 73. Intra-Departmental Memorandum to Temporary Captain  
17 Kirby from Assistant Chief Roberts dated November 3,  
18 1999, subject: Documentation of Oral Reprimand  
19 Insubordination and Unsatisfactory Performance  
20 (JK 000775-000778)
- 21 74. Intra-Departmental Memorandum to Captain Joseph Kirby  
22 from A/C David Brame dated September 27, 1999,  
23 subject: ADDENDUM TO 4<sup>TH</sup> MONTH PROBATION  
24 REPORT (JK 000766)
- 25 75. Request for Assignment dated November 3, 1999  
26 (JK 000791)
76. Intra-Departmental Memorandum to Temporary Capt. Joe  
Kirby from Deputy Chief Michael Darland, dated  
November 4, 1999, subject: ADMINISTRATIVE LEAVE  
(JK 000790-792)
77. Memorandum to Philip Knudsen from Chief Hairston dated  
November 8, 1999, subject: Request for Independent  
Medical Examination (JK 000798)

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- 78. Independent Medical Examination Report dated December 9, 1999, by H. Berryman Edwards, M.D. (JK 000844-865)
- 79. Probationary Review Record (5<sup>th</sup> Month) (JK/HR 000001-000003)
- 80. Intra-Departmental Memorandum to Chief Hairston from Lt. Kirby, dated February 28, 2000, subject: Fifth Month Probation Report (JK 000872-887)
- 81. Medical records – Jay Ehly, M.D. Certification of Custodian and medical records #1-67
- 82. Medical Records – Philip Lindsay, M.D. , Certification of Custodian, New Patient Evaluation, Psychiatric Evaluation dated September 15, 1998 and October 5, 1998, chart notes for period 10/5/98 through 1/3/00, and BDI questionnaire

DATED this 3rd day of January, 2003.

ROBIN S. JENKINSON, City Attorney  
ELIZABETH A. PAULI, Ch. Asst. City Atty.




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SHELLEY M. KERSLAKE, WSB #21820  
Assistant City Attorney