

November 3, 2010

City of Tracy City Council
333 Civic Center Plaza
Tracy, CA 95376

I write to address the prepared statement approved by this Council in closed session and delivered by Mr. Ives on Oct. 5, 2010. This statement refers to allegations I have made of criminal misconduct on the part of the Tracy Police. Misconduct that includes, but is not limited to:

- Documented falsification of facts in official police reports
- Addition of further false statements and concealment of crimes by internal investigators
- Failure of the Tracy Police to respond to formal complaints

These are criminal offenses (California Penal Code §118.1, §32, §832.7). Perjury (§118.1) is a felony.

The prepared statement issued by this Council, which indicated that my allegations of criminal misconduct on the part of the Tracy Police are unfounded, is false. Each member of this Council had knowledge, or should have had knowledge had they exerted due diligence in examining the materials provided to them on April 28, 2010, that the allegations are fully supported by the testimony of multiple witnesses and by records (or by the absence thereof) within the Tracy Police Department.

By issuing this statement, this Council has moved beyond negligently failing to investigate complaints, and has taken an overt action to conceal crimes and to help the principles in these crimes evade justice. I emphasize that these crimes are not Civil Code violations, but Penal Code violations—and that they strike at the heart of our justice system: police integrity.

California Penal Code §32 states:

Every person who [...] harbors, conceals or aids a principal in [a] felony, with the intent that said principal may avoid or escape from arrest, trial, conviction or punishment, having knowledge that said principal has committed such felony [...], is an accessory to such felony.

California Penal Code §182(a)(5) further states:


If two or more persons conspire to [...] commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws [...] they shall be punishable by imprisonment [...] or by a fine...

There is no exemption to these laws for Mayors or City Council Members.

My only request of this Council has been that you initiate an independent investigation of well-documented allegations that City Staff and the Tracy Police have failed to address. Rather than

do so, this Council has chosen to deceive the people of Tracy, and – by any reasonable interpretation – to violate the law. The reason for this is very simple: an independent investigation would almost certainly confirm every allegation I have made.

This Council owes an explanation of your actions to the People of Tracy. Moreover, each of you needs to carefully consider whether or not you have served the people of Tracy with honesty and integrity, and indeed, whether it is possible to serve with integrity under your current leadership. My opinion is clear: each of you should resign and make room for responsible, adult governance that obeys and supports the laws of the State of California.



Paul Miles
Tracy, CA

Attachments:

- Prepared statement issued by Mayor Ives
- April 27₃, 2010 letter to City Council

Mr. Miles is referring to a 2008 Police Department accident report and later investigations regarding a traffic accident. Mr. Miles disagrees with conclusions of the report and related investigations.

Due to the Brown Act, and this matter not being on the agenda for discussion, the City Council, as a whole, can not discuss this matter at this time.

However, I can say that the City Council has been briefed on the matter.

After reviewing this matter in closed session due to Mr. Miles' threats of litigation, the City Council believes the Police Chief, and the officers, did a proper job in investigating the traffic accident and in following up on Mr. Miles' complaints regarding that investigation.

The City Council has determined that the allegations are unfounded.

April 23, 2010

City of Tracy City Council
333 Civic Center Plaza
Tracy, CA 95376

Dear Council Members:

On October 22, 2009 I filed formal citizen complaints alleging criminal misconduct on the part of Sgt. Tony Sheneman, Sgt. Michael Vieira, and Officer Kipp Loving with the Tracy Police Department (TPD). I received no response. After requesting confirmation of their receipt through a Public Records Act request, on December 10, 2009 Police Chief Janet Thiessen acknowledged receipt of these complaints and her intention to complete her investigation by January 31, 2010. I have received no further communication from the TPD. Neither the Penal Code (§148.6, §832.5, or §832.7) nor the TPD's Internal Investigations procedure (Departmental General Order J-16) provides for failure to investigate and respond to a complaint.

In a letter dated March 7, 2010 I requested the intervention of City Manager Leon Churchill. Mr. Churchill responded on March 25, 2007 that the City of Tracy would take no action.

The complaints in question did not involve a victimless crime. Through the actions and omissions of the above named individuals, including Ms. Thiessen and Mr. Churchill, I have been denied the protection of the law and fraudulently subjected to significant financial injury. It is important to understand what this means in its simplest terms: a victim of a crime has reported the crime to the authorities, who have refused to respond.

In their failure to take action, Ms. Thiessen and Mr. Churchill have sent a clear message to the Tracy police officers: We will stand behind you even when you commit crimes that injure the public. This not only fails to deter police misconduct, it fosters it. Ms. Thiessen and Mr. Churchill also send a clear message to the citizens of Tracy: there will be no justice if you are a victim of a crime committed by one of our colleagues. Finally, Ms. Thiessen and Mr. Churchill send a clear message to the state and people of California: we will neither obey nor enforce California law.

I have accordingly prepared criminal complaints which I have submitted to the District Attorney's Office for investigation. It is my intent that they become a part of the public record in the City of Tracy; please find them attached.

Even if criminal charges are not pursued, it is apparent that there has been a severe breach of accountability and ethics on the part of both the City Manager and the TPD leadership. Moreover, as I communicated in my first appearance before this Council, there is no responsible internal review process operating within the TPD. This is a shortcoming that is too important to be ignored. The City Manager has the express duty to conduct investigations into the affairs of

the Police Department and the additional duty to investigate all complaints in relation to matters concerning the administration of City government (Tracy Municipal Code 2.08.060 (j) and (k)).

I will be preparing additional documents detailing Mr. Churchill's failure to meet these responsibilities. However, it is my hope that this Council will not wait to initiate an independent investigation into both Mr. Churchill's and Ms. Thiessen's actions or lack thereof, which I believe constitute a gross betrayal of the public trust.

Sincerely,

A handwritten signature in cursive script that reads "Paul E. Miles".

Paul Miles
1397 Mansfield St.
Tracy, CA