

3-1-2011

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

I write to contest the City's findings with respect to a formal complaint of criminal police misconduct filed against Tracy Police Chief Janet Thiessen, dated January 1, 2011 (Attachment A).

In a letter from City Manager Leon Churchill, dated February 1, 2011 (Attachment B), the majority of my allegations are dismissed as "Unfounded" – without comment or justification. "Unfounded", as defined in Tracy Police Department General Policy J-16, means that the acts detailed in the complaint did not occur. There is clear and convincing documentary evidence that these findings are false, and that the investigator has attempted to conceal criminal misconduct and to obstruct justice.

I requested the identity of the investigator in a letter to Mr. Churchill dated February 6, 2011 (Attachment C), but his letter dated February 16, 2011 (Attachment D), did not respond to this request. I am disappointed by his response – there is no provision in California Law or City Policy for secret investigations to be conducted by anonymous investigators. In contrast, Tracy Police Department (TPD) Policy explicitly requires that the investigator communicate directly with the complainant.

Public Records Act requests dated February 6, 2011 and February 13, 2011, however, revealed that no contracts or agreements with external organizations were made to investigate my complaint. Likewise, no records of Witness and Party statements related to the investigation were released, even though these records are explicitly excluded from exemption in Government Code §6254(f). I must conclude that if, in fact, any investigation was performed, the investigation was conducted by Mr. Churchill himself –with the probably aid and support of City Attorney Daniel Sodergren.

I address only a few of the allegations and their corresponding disposition here:

- 1) I alleged that Chief Thiessen failed to complete her investigation of formal Citizen complaints dated October 22, 2009 against various members of the TPD in a timely manner and that she failed to respond to the complainant regarding her disposition of the complaint. TPD Policy requires that an investigation be completed within 30 days, and Penal Code §832.7 requires a response within 30 days of the disposition to the complainant. Failure to respond is a misdemeanor (Penal Code §17).

In a letter dated December 10, 2009 (Attachment E), Ms. Thiessen acknowledged that she had not completed her investigation, in direct violation of policy. I received no response or further

communication regarding the disposition of these complaints prior to Mr. Churchill's February 1, 2011 letter, in direct violation of California law. A Public Records Act request dated March 23, 2010 revealed no response had been made, and when I expressed my concerns regarding this failure to comply with the law to this Council and City staff on multiple additional occasions no response was ever provided or referenced. In spite of overwhelming evidence that Ms. Thiessen had violated both State law and TPD policy, Mr. Churchill concluded that these allegations were unfounded.

- 2) I alleged that Ms. Thiessen falsely and without legal authority claimed that the posted School Zone designation on Schulte Rd. was inapplicable. Ms. Thiessen's letter making this claim is attached (Attachment F). The School Zone signs are still in place, approximately two years later. If this allegation is unfounded, why are the signs still up? Either Ms. Thiessen's claim is false, or our traffic engineering department, and by extension Mr. Churchill, are both incompetent and negligent.

Without proceeding with additional detail, it should be apparent that Mr. Churchill has lied blatantly and repeatedly in reporting the results of his investigation. This is not "inefficiency", "incompetence", or even "negligence." It is not the "pragmatism" of sacrificing the individual for the greater good. It is simply a dishonest, deliberate attempt to conceal and cover-up criminal misconduct.

This alone is grounds for a criminal complaint against Mr. Churchill and his removal from office. However, it comes on top of 15 months of ignoring citizen requests for intervention (Attachment G) and providing inaccurate information to this council (Attachment H) – culminating in an abject refusal to obey or enforce California and local law (Attachment I) and fulfill the duties of his office. Were it not for Councilman Abercrombie's intervention, the City would still be in violation of the law for failing to respond to my complaints.

As should be apparent from both recent and pending litigation against the City of Tracy, Mr. Churchill's performance with regard to other aspects of his duties also leaves much to be desired. The people of Tracy deserve better than this. I request that the members of this Council live up to their responsibilities, order a formal investigation of Mr. Churchill for obstruction of justice and the due administration of the laws, and seek more responsible City management.



Paul Miles
Tracy

January 1, 2011

Mayor and City Council
333 Civic Center Plaza
Tracy, CA 95376

Sirs,

Through this letter I am formally filing a citizen complaint against Tracy Chief of Police Janet Thiessen. Through the following actions, Chief Thiessen has failed to conduct herself in a professional manner, to responsibly supervise and enforce accountability among her staff, to enforce TPD policy, and to herself comply with TPD policy and with California law:

- Receipt of formal complaints dated on or about 10-22-2009 was not acknowledged until forced through a Public Records Act request, dated 11-27-2009
- No response to said complaints was made, in violation of Penal Code §832.7. In a letter dated 12-10-2009, Chief Thiessen acknowledged receipt of these complaints and expressed her intent to investigate. In light of her failure to respond, I am explicitly requesting an independent review of Chief Thiessen's investigation and the disposition of the complaints
- TPD Policy (General Order J-16) was violated by one or more of the following:
 - i. Failure to complete the investigation of said complaints in a timely manner
 - ii. Failure to keep the complainant informed of the progress of the investigation
 - iii. Discouragement from exercising the right to complain in a letter dated 05-18-2009
- TPD policy was not enforced in regard to policy violations by Sgt. Anthony Sheneman
- No action was taken or response made upon receipt of information on or about 06-06-2009 indicating irregularities in Sgt. Sheneman's investigation and report
- Chief Thiessen exceeded her authority and competence in asserting posted traffic control devices to be inapplicable in her letter dated 05-18-2008. She furthermore inaccurately implied concurrence in this finding by City Traffic Engineers
- Chief Thiessen provided a memorandum to the City Council, dated 07-21-2009, that was inaccurate in one or more of the following areas:
 - i. Mr. Vieira's statement regarding vision obstruction was mischaracterized as an opinion. There is nothing in the placement of the statement within the report or in the structure of the statement to indicate this to be the case
 - ii. The inaccurate assertion is made that the California Highway Patrol (CHP) had conducted an independent review of TPD report #08-6005

- iii. The inaccurate assertion is made that "the roadway does not qualify...as a School Zone," and an inapplicable section of the Vehicle Code is employed to justify this statement. This assertion is falsely attributed to the CHP
- iv. Chief Thiessen states that no determination had been made or communicated to me that the School Zone designation was illegal, in direct contradiction to her above assertion and her 05-18-2009 letter

I am explicitly requesting a formal, thorough, independent investigation into the actions described above for violation of TPD policy and all applicable local, state, and federal codes and regulations.

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.



January 01, 2011

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

February 06, 2011

Mr. Leon Churchill
City of Tracy City Manager
333 Civic Center Plaza
Tracy, CA 95376

Mr. Churchill,

I received your letter dated February 1, 2011 in which you communicate the City's disposition of my complaints. I have documentary evidence demonstrating that the City's findings regarding these complaints are false.

In accordance with Tracy Police Department General Policy J-16, I am herewith requesting a meeting between myself, my Counsel, and Chief Janet Thiessen to discuss the findings as they relate to each specific allegation against the subordinate officers.

I am also requesting that you identify the investigator of the complaints against Chief Thiessen so a similar meeting can be arranged.

In the absence of new information that unambiguously shows that the documentary evidence I have is inaccurate, my intention is to file additional formal complaints alleging violation of Penal Code §118.1 against Chief Thiessen, and to seek criminal charges against the investigator of the Thiessen complaints.



Paul Miles
1397 Mansfield St.
Tracy, CA 95376

cc: City of Tracy City Council



Think Inside the Triangle

CITY OF TRACY

City Manager's Office

333 Civic Center Plaza
Tracy, CA 95376

Telephone: (209) 831-6115

Fax: (209) 831-6120

February 1, 2011

Mr. Paul Miles
1397 Mansfield Street
Tracy, California 95376

Re: Police Complaints

Dear Mr. Miles:

I have received a copy of your letter to the Mayor and City Council dated January 1, 2011 containing a complaint against the Police Chief.

The City is also in receipt of the following complaints that you have submitted:

- October 21, 2009 complaint against Police Chief J. Thiessen
- October 22, 2009 complaint against Officer K. Loving
- October 22, 2009 complaint against Sgt. M. Viera
- October 22, 2009 complaint against Sgt. T. Sheneman

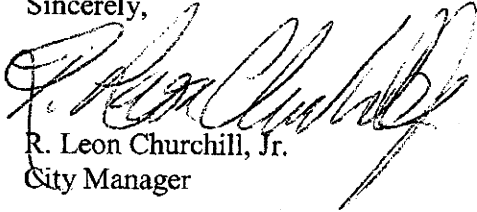
As you know, these complaints relate to a traffic accident your son was involved on June 26, 2008. The City has completed its investigation of these complaints. It has been determined the following:

- The allegations contained in the complaints related to the Police Chief are unfounded, except the allegation that the Police Chief did not respond to your June 6, 2009 e-mail. As to this allegation, the Police Chief is exonerated.
- The allegations contained in the complaints related to Officer K. Loving are unfounded.
- The allegations contained in the complaints related to Sgt. M. Viera are unfounded.
- The allegations contained in the complaints related to Sgt. T. Sheneman are unfounded except for the allegation regarding the recording of a telephone interview with your son. Sgt. Sheneman is exonerated because the practice is

permissible under case law [(see People v. Carbonie, 1975) 48 Cal. App. 3rd 679,
121 Cal. Rptr. 831].

This summary completes the status update on each of your complaints.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Leon Churchill, Jr.", written in black ink.

R. Leon Churchill, Jr.
City Manager

xc: Dan Sodergren, City Attorney



City of Tracy
200 North Taylor Road
Tracy, CA 95376

CITY MANAGER'S OFFICE

2011 FEB 16 10:00
2011 FEB 16 10:00
CITY OF TRACY

Attachment D

February 16, 2011


Mr. Paul Miles
1397 Mansfield Street
Tracy, California 95376

Re: Your letter dated February 6, 2011

Dear Mr. Miles:

I have received your letter dated February 6, 2011, requesting a meeting with the Police Chief to discuss the determinations the City made related to your complaints and information regarding the investigator of the complaints. Because the City's investigations of your complaints are confidential personnel matters, City staff cannot meet with you to discuss these or provide any information other than what is contained in my February 1, 2011 letter to you.

Sincerely,


R. Leon Churchill, Jr.
City Manager

Tracy, CA 95376



CITY OF TRACY

Police Department

1000 Civic Center Drive
Tracy, CA 95376

Telephone: (209) 831-4333
Fax: (209) 831-4338

December 10, 2009

Mr. Paul Miles
1397 Mansfield Street
Tracy, CA 95376

Dear Mr. Miles,

I write to respond to your recent public records request seeking inspection of a copy of the complaint you filed with the Tracy Police Department against Sgt. T. Sheneman, Sgt. M. Vieira, and Officer Kipp Loving. In your public records request you state that your complaint was dated October 23, 2009. I expect to have a response to you regarding your complaint by January 31, 2010.

This complaint was received by the Tracy Police Department and forwarded to Administration with a date stamp of October 27, 2009. I am enclosing a copy of your complaint with this date stamp. If you wish to inspect this document in person, please contact Chief Janet Thiessen or her Executive Assistant Kathy Donaldson at 209-831-6575 to arrange a time for such inspection.

Please feel free to contact me should you have any questions or wish to discuss this matter further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet M. Thiessen".

Janet M. Thiessen
Chief of Police



CITY OF TRACY

Attachment F

Police Department
1000 Civic Center Drive
Tracy, CA 95376

Rep. No. 1218, 101-4351
Pub. (200) 891-6588

May 18, 2009

Mr. Paul Miles
1397 Mansfield Street
Tracy, CA 95376

Dear Mr. Miles:

Thank you for your patience while we conducted a thorough review of your son's traffic collision report. The review was conducted by the Tracy Police Department's Professional Standards Unit and it has been determined your son was the party at fault. No additional changes or addendums will be made to the report and supplement.

This decision was based on interviews with all of the involved parties, our traffic engineering department and the review of statutes contained within the California Vehicle Code. To insure an unbiased review, the report was also examined by the California Highway Patrol (CHP).

The CIIP stated the collision investigation was completed correctly. They had issue with the original primary collision factor, but stated the supplement appropriately corrected the error when it was changed from failure to stop at a red light to an unsafe turning movement. They also stated the bicyclist was at fault not only for failing to make a safe turning movement, but also for being on the wrong side of the roadway and being in the intersection illegally when Party Two entered the intersection legally.

Additionally, speed was not a factor as both parties admitted to driving at thirty miles per hour which is ten miles per hour below the posted speed limit. The roadway does not qualify per the California Vehicle Code as a School Zone as the school property is not contiguous with the roadway as it is separated from the roadway by a chain link fence, a large drainage culvert and a wide pedestrian pathway.

I am aware you may be in disagreement with this finding. However, based on all the parties confirming their original statements and the review by an outside agency validating the original report and supplemental finding no other conclusion could be reached and no additional reviews or investigation into this matter will be conducted by the Tracy Police Department.

Sincerely,

Janet M. Thiessen
Chief of Police

18 December, 2008

Mr. Leon Churchill
City Manager
333 Civic Center Plaza
Tracy, CA 95376

Dear Mr. Churchill,

I am truly sorry to once again write to draw your attention to shortcomings I have experienced with services within the City of Tracy—in this instance, with the police department. The nature of my complaint will be evident from the attached letters I have sent to the Chief of Police. It is my hope that through your intervention, and perhaps that of the District Attorney's office, the police department will be encouraged to both enforce and to obey the law.

I also wish to thank you for your recent intervention on my behalf with American Medical Response. Although Fire Chief Bosch's efforts were apparently unsuccessful in correcting the situation, I am aware that he did follow up on my letter and wish to express my sincere appreciation. I believe it is important to demonstrate that both the citizens of Tracy and the public officials are vigilant, and that illegitimate practices will not be overlooked. This is our best hope for discouraging similar behavior in the future.

Sincerely,

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

18 December, 2008

Mr. Rick Golphin
City of Tracy Interim Chief of Police
1000 Civic Center Drive
Tracy, CA 95376

Dear Sir,

On 9 November 2008 I contacted you with a request to conduct a good-faith review of police report 08-6005, describing an accident between a motorist and my son, a bicyclist. In this letter, I also requested investigation of the actions of your traffic supervisor, the initial report reviewer, who I believe has failed to conduct a meaningful review, misrepresented the law, and violated section §118.1, given §125, of the California penal code. I have received no response from your office, despite the fact that written notification is required to complaining parties within 30 days by §832.7 of the penal code.

It may be that you deem my complaint to be frivolous or unfounded. I do not consider it frivolous—the actions of the Tracy police department have caused approximately \$2000 in economic damage to me and my insurers. Neither is my complaint unfounded—direct evidence of misrepresentation of the law and false statements made by your traffic supervisor in his supplemental police report can be found within the files of the Tracy police department. Likewise, while errors and omissions of material facts in the original report may be simply due to incompetence, the gross distortion of the testimony of Witness 1 cannot. Verification of this distortion can be made by simply contacting Witness 1 and comparing her statement to the representation made in the police report.

The economic damage is done and cannot be easily repaired. My motivation in the continued pursuit of this issue is the following: I do not wish to live in a community where the police are not impartial, where investigations of complaints are not handled seriously, and where peace officers violate the law and are not held accountable. When the actions of a peace officer wrong a citizen, cannot the police department take corrective action? Must the supervisory staff compound this wrong through what I frankly consider to be retaliatory actions?

Accordingly, through this letter, I am requesting a second time that a good-faith investigation be conducted. To facilitate this effort, I again attach a summary of each of the major issues I had with the original report and with your first review. I am also requesting a copy of your investigative procedure for citizen complaints, per §832.5 of the penal code. I strongly encourage you to conduct this investigation in a thorough and objective manner, and to be prepared to defend the objectivity of your conclusions to both the civil authorities and the district attorney's office.

In closing, I hope you will also consider the impact on the public trust of this type of behavior by your officers. Consider the reaction of my son when he sees written statements made by police officers that he knows to be false: he used to think the police were the "good guys."

Sincerely,

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

cc: Mr. Leon Churchill, Tracy city manager; Mr. James Willett, San Joaquin Co. district attorney

October 21, 2009

City Manager Leon Churchill
City of Tracy
1000 Civic Center Drive
Tracy, CA 95376

Sir,

Through this letter I am formally filing a citizen complaint against City of Tracy Police Chief J. Thiessen for failing to exert due diligence in her responsibilities to ensure that officers in her department obey and enforce the law, for making false and misleading statements in her written communications to the City Council and to a citizen, and for failing to enforce department policy. These allegations stem from a Tracy Police Department (TPD) investigation of a complaint I filed regarding a biased and inaccurate police report (08-6005). I seek your action to prevent the recurrence of such deliberate indifference to false, prejudicial police reporting and in remedying damages caused in this occurrence by securing the removal from official police records of factual errors and statements which have been proven to be false.

The specific allegations I make against Ms. Thiessen, ordered by importance, are detailed below. These allegations are supported by the records released to me under a Public Records Act request dated September 13, 2009.

- The investigation Ms. Thiessen directed did not respond to a central aspect of my complaint, and this aspect was misrepresented in her July 21, 2009 memorandum to the Mayor and City Council Members.

A central aspect of my complaint, clearly communicated to Ms. Thiessen in our meeting on February 19, 2009 and in prior communications to the TPD, was the following false statement made in the supplement to report 08-6005 by Sgt. M. Vieira: *"I also found there to be a contributing factor of a vision obscurement for P-2 created by the position of W-1's vehicle location in the #1 lane of W/B Schulte Rd, in relationship to the position of P-2's vehicle in the #2 lane of W/B Schulte Rd. This would have prevented, or at least limited the ability of P-2 to see P-1 crossing the intersection and begin braking as W-1 had."* This statement is made as a statement of fact, unqualified except as to degree. There is nothing in this statement that would indicate to a third party (*i.e.*, an insurance adjuster) that the person making it had no evidence or witness testimony on which to base it (and, in fact, had made no effort to interview the witnesses), and that it was entirely fictional. Based on the recorded statements of four persons, and a signed, written statement from W-1, W-1's vehicle did not obstruct P-2's vision at any time.

In her July 21, 2009 memorandum to the Mayor and City Council Members, Ms. Thiessen misrepresented this statement as an opinion: *"Sgt. Vieira also opined a contributing factor*

was the driver's vision was obscured." Through this seemingly innocuous statement, Ms. Thiessen trivializes the issue and sets the stage to completely neglect to address it, both in her department's investigation and in her five page memorandum to the Council. Citizens are entitled to a meaningful response to an allegation of wrong-doing on the part of the police.

- In her memorandum and in her May 18, 2009 letter to me, Ms. Thiessen stated that "*the roadway does not qualify per the California Vehicle Code as a School Zone.*" Although in her memorandum she attributes this statement to the CHP, Ms. Thiessen must surely understand that law enforcement agencies do not have authority or competence to rule on the lawfulness of the posted traffic control devices. Moreover, her memorandum reveals that she and her department are analyzing an inapplicable clause of CVC §22352 that is not relevant during times when children are going to or leaving the school. The inapplicability of this clause had been previously drawn to Mr. Viera's attention in e-mails dated October 17 and 27, 2009. Ms. Thiessen was informed of this e-mail discourse and its significance during our February 19, 2009 meeting.

Failure to investigate further such a "red flag" statement, and to obtain a competent reading of the law from the District Attorney's office, is a serious deficiency in the practice of due diligence—both on the part of Ms. Thiessen and the Lieutenant who initially reviewed the investigating officer's report.

Furthermore, a straightforward implication of Ms. Thiessen's statement is that the posted signs designating the roadway as a School Zone are unlawful. In a direct contradiction, Ms. Thiessen's memorandum then states that such a determination was never made or communicated to me.

- Ms. Thiessen did not respond to my June 6, 2009 e-mail, to which I attached a copy of a signed statement from Witness-one. I explicitly highlighted the portion of this statement that contradicted Mr. Vieira's false statement, which I also attached and highlighted. Ms. Thiessen acknowledges receiving this information, but took no action. Even a cursory examination of this material would have indicated a serious deficiency in her department's investigation. Her failure to take any action is yet another example of a failure to practice due diligence.
- In response to my comments at the August 4, 2009 Council meeting, Ms. Thiessen requested a letter from the CHP certifying that they did, in fact, review the TPD report. The response she received was a copy of a second letter addressed to me, which acknowledged meeting informally with the TPD but which *emphatically* disavowed having formally reviewed the report. I attach this letter for your reference. There is no evidence in the records I obtained that Ms. Thiessen made any attempt to follow-up on this issue with the investigating officer, and ascertain to what degree the statements he attributed to the CHP could be substantiated. In fact, the investigator's notes contain no reference to his meeting with the CHP. This

failure to follow-up again illustrates a failure to practice due diligence and to hold her officers accountable for their actions.

- Departmental General Order J-16, section V, paragraph (F) requires that the Professional Standards Unit investigator of a citizen complaint keep the complainant informed of the status of the investigation. Paragraph (G) further requires that the investigation be completed within 30 calendar days from the date of assignment. Neither of these policies was enforced.

The investigating officer received the assignment to investigate my complaint on Feb. 23, 2009. After an initial communication stating that he had been assigned to the investigation, I had no further contact from him until May 1. The officer did not respond to my telephone calls requesting an update on the status of the investigation on either March 13 or March 20. On the latter occasion, I specifically requested a callback. The officer did not submit his report until May 18, following another inquiry on my part on May 17. I see no evidence in the records released that an extension was sought from or granted by the Support Operations commander, as is also required by paragraph (G).

Ms. Thiessen was well aware of the officer's negligence in pursuing this investigation, yet in the records released there is no evidence that Ms. Thiessen made any attempt to enforce department policy regarding either communication or timeliness. In her July 21, 2009 memorandum to the Mayor and City Council Members, Ms. Thiessen attempts to excuse this by the intervening Sandra Cantu tragedy. In reality, the allotted 30 days expired well before Sandra's disappearance, and an additional 30+ days passed after the Huckaby arrest before the investigation was completed.

I wish to emphasize that the course of action on which we have embarked was not of my choosing. Even after several months of evasion by Ms. Thiessen's predecessors, my request of her was only that she correct false statements and factual errors in the police report, and that she act to ensure timely and responsive investigations of future complaints. As is evident, she did neither. I now make that same request of your office.

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

cc: City of Tracy City Council

October 22, 2009

Leon Churchill, City of Tracy City Manager
333 Civic Center Plaza
Tracy, CA 95376

Dear Mr. Churchill,

As attested by the attached documents, and previous communications to your office, there is significant evidence that several members of the Tracy Police Department have engaged in negligent, deceptive, and illegal behavior. Most disturbingly, there seems to be no responsible internal review system in place to correct this behavior and prevent its future occurrence.

Tracy Municipal Code 2.08.060 provides that: (j) It shall be the duty of the City Manager and he or she shall have the power to make investigations into the affairs of the City and any department or division thereof.

In your August 17, 2009 communication to the City Council you stated that you considered your investigations into this issue to be closed. I am respectfully requesting that you reconsider this decision. The basis for this request will be found in the attached documents, which allege that the July 21, 2009 memorandum from Chief Thiessen on which you based your decision was based on a seriously flawed investigation that did not address the allegations, suppressed and misrepresented witness testimony, falsely claimed review by a third party, did not obtain a competent reading of the law, and violated two provisions of department policy.

Moreover, in a letter to me dated May 18, 2009, Ms. Thiessen stated that the Tracy Police Department would conduct no additional reviews or investigations into this affair, despite her obligations under California law and the clear mandate to investigate all complaints stated in Departmental General Order J-16. I am accordingly requesting that your office ensure that these complaints are investigated in a thorough manner, as required by law and department policy.

Sincerely,

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

March 7, 2010

Leon Churchill, City of Tracy City Manager
333 Civic Center Plaza
Tracy, CA 95376

Dear Mr. Churchill,

On October 22, 2009 I filed formal citizen complaints with the City of Tracy Police Department (TPD), meeting all the requirements of California Penal Code §148.6, against Sergeant Tony Sheneman, Sergeant Michael Vieira, and Officer K. Loving. These complaints alleged felony violations of California law and additional violations of TPD policy. The crimes described in these complaints were not victimless.

I received no response to these complaints from the TPD. On November 27 2009, I made a Public Records Act request to ensure that the complaints had been received. In a letter dated December 10, 2009, Police Chief Janet Thiessen acknowledged receipt of the complaints and her intention to complete her investigation by January 31, 2010. Tracy Police Department General order J-16 states that complaints shall be investigated, that investigations will be completed within 30 days, and that complainants will be kept informed of the progress of the investigation. I have received no further communication from the Tracy Police Department.

The allegations made in these formal complaints are supported by statements from all witnesses and all parties connected with this complaint. These statements were recorded by the TPD before the complaints were filed. An additional, signed statement from one of the witnesses and letters from the California Highway Patrol providing further support are also in the TPD files. No additional investigation is necessary to confirm the validity of the allegations made, and there can be no reason for this delay other than evasion and obstruction of justice.

Through this letter I am requesting your intervention to ensure that these complaints are acted on in accordance with California law. I also seek your action to initiate a formal investigation of Ms. Thiessen by the San Joaquin County District Attorney's office for violation of California law by failing to investigate these complaints. With regard to this latter request, I further note that Ms. Thiessen was furnished credible information indicating that the crimes alleged in these complaints had taken place on June 6, 2009. By failing to act on this information, Ms. Thiessen has made herself an accessory to these crimes (Penal Code §32).

I anticipate a response from your office detailing the actions you will take and their date of completion within 15 days of the date of this letter.

Sincerely,

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

cc: Tracy city council

Janet Thiessen

From: Leon Churchill
Sent: Monday, August 17, 2009 10:04 AM
To: Leon Churchill
Cc: Sharon Davis; Janet Thiessen; Tony Sheneman
Subject: Paul Miles Case

Dear City Council:

A review of how the City addressed Mr. Paul Miles' case continued in light of his comments at the August 4, 2009 City Council meeting. You have already received a detailed description of events in a letter from Chief Janet Thiessen.

Mr. Miles specifically challenged the Tracy Police Department's contact with the California Highway Patrol (CHP) as stated in Chief Thiessen's letter. Further research into this issue revealed that Mr. Miles contacted the Sacramento office of the CHP. The TPP's contact was with the Tracy office in obtaining a review. Sgt. Sheneman advised that CHP Officer Dave Slate of the Tracy CHP office reviewed the collision report involving Paul Miles' son.

This fact along with the entire case has been communicated to Mr. Miles. I fully expect Mr. Miles to continue corresponding and communicating with the City of Tracy, but this issue is considered closed.

If you have any comments or questions, please let me know.

Note: Hard copy for Council member Tolbert

Leon Churchill, City Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Ph: (209) 831-6115
Fax: (209) 831-6120

I had received no communication from Mr. Churchill or any other City staff member

Visit us at <http://www.ci.tracy.ca.us/>

Attachment + TZ

Postmarked
3/29

Attachment I p1



City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Rcv'd
3/30

CITY MANAGER'S OFFICE

MAIN 209.831.6000
FAX 209.831.6120
www.ci.tracy.ca.us

March 25, 2010

Mr. Paul Miles
1397 Mansfield St.
Tracy, CA 95376

Dear Mr. Miles:

The City of Tracy has taken all action it intends to take relative to your complaints stemming from the collision in the City that your son was involved with on or about June 26, 2008. You are, of course, free to pursue this matter with whatever other agencies you see fit.

Sincerely,

R. Leon Churchill, Jr.
City Manager

cc: Mayor & Council Members

March 1, 2011

Mayor and City Council
333 Civic Center Plaza
Tracy, CA 95376

Sirs,

Please find attached a formal, citizen complaint against Tracy Chief of Police Janet Thiessen, supplementing the allegations made in my previous complaint dated January 1, 2011.

Chief Thiessen has failed to conduct an adequate investigation of complaints of criminal misconduct on the part of various Officers in the Tracy Police Department, and has filed false reports regarding the findings of her investigation. These acts constitute felony violations of multiple sections of the California Penal Code (§32, §118.1, §136.1, §832.5, §832.7) and of Government Code §6203.

California Penal Code §148.6 and §832.5, in conjunction with Tracy Police Department General Policy J-16, require that this complaint be investigated. Tracy Municipal Code §2.08.060(k) further requires that the City investigate *all* complaints in relation to matters concerning the administration of the City Government.

It is my expectation that this investigation will be conducted by a professional, independent law enforcement organization, as befits an allegation of a felony violation of law. If sustained by the investigation, I further expect that the complaints will be referred to the San Joaquin County District Attorney's Office for prosecution.



Paul Miles
1397 Mansfield St.
Tracy, CA

Complaint against Tracy Police Chief Janet Thiessen

Chief Thiessen has failed to conduct an adequate investigation of complaints of criminal misconduct on the part of various Officers in the Tracy Police Department, and has filed false reports regarding the findings of her investigation.

The specific allegations enumerated below are supported by documentary records that have been provided previously to the City on April 28, 2010 and on February 15, 2011. The City has failed to provide any additional exculpatory information despite explicit requests for a meeting with City staff, a procedure provided for by Tracy Police Department General Policy J-16.

Specific allegations:

- 1) Ms. Thiessen falsely reported that each of the allegations in my Citizen complaint dated on or about October 22, 2009 against Officer K. Loving were unfounded.

The allegations that Mr. Loving's report was factually inaccurate are supported by existing traffic control devices that were not reported, inaccurate descriptions of physical evidence that do not meet the minimum standards exemplified in the California Highway Patrol (CHP) Collision Investigation Manual, and digital recordings of Witness statements that directly contradict Mr. Loving's rendition. The fact that a Supplemental Report was written by Sgt. M. Vieira partially correcting the errors is direct confirmation of the inaccuracy of Mr. Loving's report.

- 2) Ms. Thiessen falsely reported that each of the allegations in my Citizen complaint dated on or about October 22, 2009 against Sergeant M. Vieira were unfounded.

The allegations that Mr. Vieira failed to correct factual errors in Mr. Loving's report is directly supported by Mr. Vieira's supplemental report and the evidence cited above. The allegation that Mr. Vieira falsely reported a material factor of vision obstruction is supported by digital recordings, obtained by the Tracy Police Department, of all four Parties/Witnesses to the incident.

- 3) Ms. Thiessen falsely reported that the majority of the allegations in my Citizen complaint dated on or about October 22, 2009 against Sergeant "T." Sheneman were unfounded.


- The allegations that Mr. Sheneman's May 18, 2009 report (dated May 5, 2009) falsely reported the statement of Witness-1 regarding vehicle speed, and failed to report the contradictory statement of Party-2, is confirmed by the digital recordings of the interviews Mr. Sheneman conducted.
- The allegation that Mr. Sheneman's May 18, 2009 report falsely claimed independent CHP review of the report is confirmed by letters from the CHP dated July 7, 2009 and August 26, 2009 explicitly denying said review.
- The allegation that Mr. Sheneman concealed a false statement made by Mr. Vieira is supported by the clear statement of the allegation in Mr. Sheneman's May 18, 2009 report, followed by his failure to address the allegation in the remainder of the report. All four Witness/Party interviews conducted by Mr. Sheneman confirmed that Mr. Vieira's statement was false.

- The allegation that Mr. Sheneman failed to follow department policy regarding communication with a complainant and timeliness in conducting his investigation are supported by an e-mail record from Mr. Sheneman dated March 30, 2009 admitting his failure to return telephone calls, the date he was officially assigned the investigation (February 23, 2009), and the date he submitted his report (May 18 2009).
 - The allegation that Mr. Sheneman failed to correct factual errors in the accident report is clearly evidenced by his May 18, 2009 report and the evidence provided above.
 - The allegation that Mr. Sheneman recorded his telephone interviews without the knowledge of the other Party is fully substantiated by the recorded interviews, which clearly capture the entire conversation.
- 4) Previous allegations made against Ms. Thiessen in a formal complaint dated January 1, 2011, which include a formal complaint for violation of Penal Code §832.7 by failing to respond to a complainant, are incorporated herein by reference.

I am requesting a formal, criminal investigation of Ms. Thiessen's actions for violation of California California Penal Code §32, §118.1, §136.1, §832.5, and §832.7; California Government Code §6203; and any other applicable State, Federal, and local statutes.

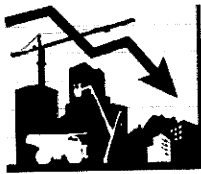
YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.



March 01, 2011

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STOP THE STATE'S REDEVELOPMENT PROPOSAL

PROTECT LOCAL JOBS AND THE ECONOMY

www.ProtectOurLocalEconomy.com

As part of its 2011-12 budget proposal, the Administration has proposed permanently shutting down local redevelopment agencies. This proposal represents more of the same misguided and illegal State budget raids of local government funds that voters have repeatedly sought to end. It will bring little financial benefit to the State, but will permanently destroy hundreds of thousands of jobs, billions in local economic activity and a key local tool to meet the state's infill land-use objectives. A broad coalition of mayors, council members, local governments, business and labor, environmental leaders and affordable housing advocates oppose the State's attempt to kill local redevelopment. Here's why:

Proposal Represents More of the Same State Raids of Local Funds that Voters Have Repeatedly and Overwhelmingly Acted to Stop.

- The proposal to kill redevelopment represents the same old budget tactics of raiding local government funds to solve the State's budget problems.
- In November, more than 5.7 million voters, a resounding 60.7%, voted to pass Prop. 22, to stop the State from taking, borrowing or redirecting local government funds - including local redevelopment.
- Cities and local governments want to work with the State as partners to balance the State budget and in the important effort to realign services to the local level. But this proposal creates a toxic environment that city and other local government officials have no choice but to oppose.

No Financial Gain, Significant Economic Pain.

- The State's own numbers show that killing redevelopment will bring very little financial relief for the State. *In fact, after this budget year, the State Department of Finance acknowledges zero State savings from shutting down redevelopment.* According to the State Controller's Office, redevelopment agencies have more than \$87 billion in bond and other contractual obligations that legally must be repaid before revenues are available to any other purpose.
- **However, killing redevelopment will cause serious and permanent economic damage at the local level.** Redevelopment activities:
 - Support 304,000 jobs annually, including 170,600 construction jobs.
 - Contribute over \$40 billion annually to California's economy in the generation of goods and services.
 - Generate more than \$2 billion in state and local taxes in a typical year.

-- More --

Proposal Will Wipe Out a Vital Tool to Meet Infill Land-Use Objectives and to Develop Affordable Housing.

- Eliminating redevelopment will take away one of the few tools local governments have to comply with state requirements to plan for more compact urban development supported by transit-oriented development, housing, jobs and infrastructure. Redevelopment agencies have the experience and tools needed to help implement the requirements of AB 32 and SB 375.
- **Redevelopment is also the second largest funder of affordable housing**, behind only the federal government. Over 98,000 units of affordable housing have been constructed or rehabilitated since 1993. Twenty percent of property taxes generated from redevelopment activities must be spent on affordable housing.

Proposal is Unconstitutional and Politically Unviable.

- Shutting down redevelopment agencies is a clear violation of multiple State constitutional provisions, including Article XVI, section 16 which requires tax increment to be paid to redevelopment agencies to repay the public cost of redevelopment projects and Article XIII, section 25.5 (Proposition 22 -- passed just last November) which explicitly prohibits the State from taking tax increment from redevelopment agencies.
- Additionally, killing redevelopment could violate the U.S. and California constitutions which prohibit impairment of contracts. Redevelopment agencies have more than \$87 billion in bond and other contractual obligations with bond houses, bankers, developers and others. The Legislature cannot constitutionally abrogate those contracts or unilaterally substitute a new party to replace the redevelopment agency without the consent of the other parties to the contract.
- Jeopardizing these contractual obligations will shake investor confidence and the creditworthiness of the State and increase state and local bonding and borrowing costs for years to come.
- Lastly, the Administration's proposal is simply unviable – shutting down 398 agencies, more than 700 project areas, hundreds of thousands of jobs and billions of dollars in contracts and economic commitments is an ill-advised and politically untenable prospect.



STOP THE STATE'S REDEVELOPMENT PROPOSAL
PROTECT LOCAL JOBS AND THE ECONOMY

www.ProtectOurLocalEconomy.com

Coalition Sign-Up Form

I OPPOSE the State's Proposal to Abolish Redevelopment

YES! You may list me/my organization in opposition to State proposals to abolish redevelopment in California. The proposals will bring little financial benefit to the State, but will permanently destroy hundreds of thousands of jobs, billions in local economic activity and a key local tool to meet the state's infill land-use objectives.

Please select a category:

Organization

Company

Individual

Please complete the following information:

Company or Organization Name/Employer

Name

Title/Occupation

Street address

City

State

Zip

County

Phone number

Fax number

E-mail Address (If you are a public employee, please do not use your government e-mail address. Use your personal e-mail address, like Gmail, Yahoo, Hotmail, etc.)

Signature (Required)

Date

Please email me updates.

Email or fax this form to: afrew@bcfpublicaffairs.com or 916-442-3510 (fax)

Protect Local Jobs and the Economy – Stop the State's Proposal to Abolish Redevelopment!
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