

August 7, 2012

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

By personal, individual hand delivery

Dear Sirs,

On 6-25-2012 I wrote to you concerning Mr. Churchill's notification of the disposition of a complaint I had submitted against Police Chief Gary Hampton dated 1-17-2012. In summary, Mr. Churchill's disposition directly contradicts Mr. Hampton's statement to me that a 3-1-2011 complaint against ex-Chief Thiessen, alleging felony criminal misconduct, was not investigated. The notification further implies that Mr. Hampton is disposing of complaints with no knowledge of the facts and no knowledge of whether or not the complaints were even investigated. You were also informed that Public Records Act requests dated 4-1-2012 and 6-9-2012 revealed no records that the City had engaged any independent, external services to investigate my complaint against Mr. Hampton. If an investigation was conducted, it must have been conducted by City staff— Mr. Churchill and/or City Attorney Daniel Sodergren.

In response, I received a letter from Mr. Churchill dated July 26, 2012 (Exhibit 1) which made no reference to the investigation of my complaint against Mr. Hampton, but rather restated that my earlier complaint against Ms. Thiessen has been investigated and claimed that the City has complied with its legal obligation to investigate all of my complaints.

Note that:

- 1) Both Mr. Churchill and Mr. Sodergren have previously provided false information to this Council and generated false writings regarding my complaints against City Police personnel. To demonstrate this fact I attach copies of the statement that Mr. Sodergren provided to this Council on or about July 6, 2010, Mr. Churchill's notification of his disposition of my complaints dated 2-1-2011, and the contradictory notification based on the Public Law Group's investigation. (Exhibits 2-4).
- 2) If my previous complaint against Ms. Thiessen was not investigated, it was a direct result of Mr. Churchill's and/or Mr. Sodergren's withholding of this complaint from the Public Law Group investigation. Mr. Churchill and Mr. Sodergren are complicit in the alleged misconduct and are fundamentally incapable of investigating this complaint.

I further add that there is substantial evidence supporting my allegation that my 3-1-2011 complaint against Ms. Thiessen was not investigated, including:

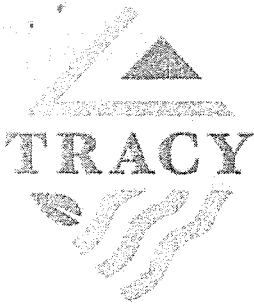
- 1) Mr. Hampton's direct statement to me that the complaint was not investigated and his statement to another that he had no disposition to provide me.
- 2) Mr. Hampton's refusal to identify or even mention this complaint in his written notifications, despite my twice expressing my concerns to him in writing and providing him with a copy of the complaint. (My communications, Exhibits 5 and 6; Mr. Hampton's communications, Exhibits 4 and 7)
- 3) The absence of this complaint in the list of records provided to the Public Law Group. (Exhibit 8)
- 4) Failure to sustain the complaint in spite of the evidence. The discrepancy between Mr. Churchill's notification (Exhibit 3) and the results of the Public Law Group's investigation (Exhibit 4) can only be explained by sustaining my complaint of false reports by Ms. Thiessen or by Mr. Churchill having knowingly made a false writing – a criminal act.
- 5) In over three years of pursuing this issue not one of the allegations I have made has been found to be false or unfounded by an independent investigator. I have also sworn to the truthfulness of these allegations in a verified criminal complaint filed with the San Joaquin County Superior Court.

The members of this Council have the sworn duty to support the Constitution of the State of California, which contains guarantees that the law will be applied equally to all. You have now been individually provided substantial evidence indicating that the City has not appropriately investigated my complaints. A continued failure to see that these complaints are investigated or to provide proof that they have been appropriately investigated will be a direct violation of your oaths and the duty your oaths confer.

I close with California Penal Code §32: *Every person who, after a felony has been committed, harbors, conceals or aids a principal in such 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 or has been charged with such felony or convicted thereof, is an accessory to such felony.*



Paul Miles
Tracy, CA



July 26, 2012

Exhibit 1

Mr. Paul Miles
1397 Mansfield Street
Tracy, CA 95376

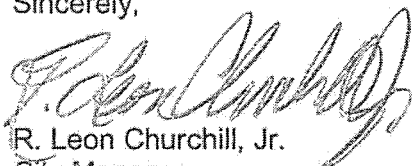
Dear Mr. Miles:

This is in response to your June 25, 2012 letter regarding the notification of the disposition of your complaint against the Police Chief that I sent you dated May 1, 2012, both of which are enclosed for your convenience.

As stated previously in my May 1, 2012 notification letter, your March 1, 2011 complaint against former Chief Thiessen was investigated as "supplementing the allegations made in [your] previous complaint dated January 1, 2011." The findings were incorporated into the City's subsequent September 15, 2011 Notice of Disposition.

The City has complied with its legal obligation to investigate and report out the findings of all of your complaints.

Sincerely,



R. Leon Churchill, Jr.
City Manager

Enclosures

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.



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

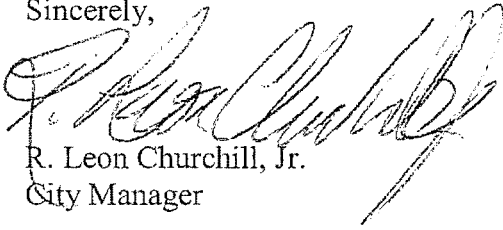
As you know, these complaints relate to a traffic accident your son was involved on June 26, 2008. The City has completed its investigation of these complaints. It has been determined the following:

- 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 black ink, appearing to read "R. Leon Churchill, Jr.", written in a cursive style.

R. Leon Churchill, Jr.
City Manager

xc: Dan Sodergren, City Attorney



Exhibit 4

City of Tracy
1000 Civic Center Drive
Tracy, CA 95376

POLICE DEPARTMENT

PHONE 209.831.4500
FAX 209.831.4017
www.ci.tracy.ca.us

September 15, 2011

Mr. Paul Miles
1397 Mansfield Street
Tracy, California 95376

Re: Police Complaints

Dear Mr. Miles:

The City has completed its investigation of the complaints you filed against members of the Tracy Police Department on October 21, 2008, October 22, 2009, and January 1, 2011. These complaints relate to an automobile and bicycle collision that occurred on June 26, 2008.

The investigation found as follows:

1. A preponderance of the evidence indicates that the initial accident report and/or follow up inquiries erred by failing to:
 - A. report all traffic control devices, i.e. the school zone in the collision report;
 - B. confirm contributing factors of the collision;
 - C. conclude that the roadway was a school zone.

The allegations on these points are sustained. All other allegations of substantive error are not sustained.

2. A preponderance of the evidence indicates that City representatives erred by failing to:
 - A. respond promptly, cooperatively, and fully to Mile's concerns, particularly at the level of police administration prior to the term of Chief Thiessen;

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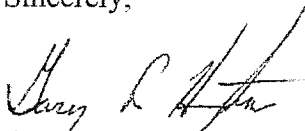
- B. assign to an external, objective and expert source, early on, the responsibility for addressing Miles' allegation.

These errors violated City policy, including tenets of "Customer Service, . . . Excellence, Respect, . . . Stewardship, [and] Hospitality," and including the City's "Organizational Effectiveness Strategy: Strengthen customer value through ensuring quality and excellent customer service."

3. Members of the Department and City personnel did not act in bad faith or conspiratorially in connection with this matter.

This information is being provided to you pursuant to Penal Code section 832.7(e). The investigation itself is deemed confidential pursuant to Government Code section 3303(g).

Sincerely,



Gary R. Hampton
Chief of Police

Miles, Paul

From: Miles Family [catch-all@6miles.us]
Sent: Monday, September 26, 2011 2:24 PM
To: Miles, Paul
Subject: Fwd: RE: Meeting request

----- Original Message -----

Subject: RE: Meeting request
Date: Mon, 26 Sep 2011 13:17:02 -0700
From: Gary Hampton <Gary.Hampton@ci.tracy.ca.us>
To: Miles Family <catch-all@6miles.us>

Mr. Miles,

Thank you for your return call, sorry I was unavailable. Monday, October 3rd at 6PM will work well with my calendar. I'm assuming you are comfortable meeting at my office, but I'm available to meet wherever you prefer.

Gary Hampton, Chief of Police



1000 Civic Center Drive – Tracy, CA 95376
Voice: 209.831.6575 – Fax: 209.831.4019

gary.hampton@ci.tracy.ca.us
www.tracypd.com

From: Miles Family [mailto:catch-all@6miles.us]
Sent: Sunday, September 25, 2011 10:07 PM
To: Gary Hampton
Subject: Meeting request

Dear Chief Hampton,

I have now had time to review and reflect on your letter dated September 15, 2011 and on our subsequent meeting. I understand that you, and the City, have gone as far as you reasonably can while respecting legal requirements and liability issues in responding to my complaints. Receiving this letter has provided me with a great deal of peace, and I (and the people of Tracy) owe you heartfelt thanks for helping restore some accountability to the TPD and the City government.

Nevertheless, there are a few significant points that I would like to discuss further with you:

- 1) Your letter and our subsequent discussion did not reference a formal complaint filed against Chief Thiessen with the City on March 01, 2011. While this may have been an oversight, this complaint alleged serious violations of law and

its omission is disturbing. Please find it attached for reference. The allegations made are supported by Mr. Churchill's letter dated 2-1-2011, which is also attached. From our conversation last Monday, it seemed you were unaware of the contents of this letter.

- 2) In reference to the upcoming TPD policy changes you mentioned, I would like to formally request policy changes to J-16, related to privacy protection and to a process for review of internal investigations when there is substantial evidence that such a review is needed.

I hope that you will be able to devote 20-30 minutes to this meeting at your earliest convenience. I can be reached most easily by phone during the day at 925 294-1512 or at my work e-mail address: pcmiles@sandia.gov.

Sincerely,

Paul Miles

December 11, 2011

Chief Gary Hampton
City of Tracy Chief of Police
1000 Civic Center Drive
Tracy, CA 95376

By e-mail and US first class mail

Dear Chief Hampton,

I write regarding your September 15, 2011 notification of the disposition of my complaints of police misconduct dated October 22, 2009 and January 1, 2011. I left our September 19, 2011 meeting confident that even if your letter was not fully responsive to the allegations made in my complaints, appropriate actions would be taken to protect the public from similar incidents of police misconduct. In light of recent information I have received, involving two of the same officers, I no longer believe this confidence was well-placed.

I have also previously communicated that your notification did not reference serious allegations made against former Chief Thiessen in a formal complaint dated March 1, 2011. This issue was not addressed in our subsequent meeting on October 5.

I have two main areas of concern:

- 1) Your notification did not address the specific, numbered or bulleted allegations made in the above referenced complaints. **I request that each specific allegation be addressed**, a reasonable expectation for a response compliant with Penal Code 832.7(e).
- 2) Your notification stated that other than errors associated with the factual content of the original traffic investigation, "all other allegations of substantive error are not sustained." Your notification further stated "[m]embers of the Department ... did not act in bad faith...." There is compelling evidence to the contrary. Consider two examples:
 - a) I allege that Chief Thiessen falsely reported my complaints against Ofcs. Loving, Vieira, and Sheneman to be unfounded. The allegations are stated to be unfounded in City Manager Churchill's letter dated February 1, 2011. He can only have been provided this information by Chief Thiessen. Your notification clearly indicated that many of the allegations were sustained.
 - b) I allege that Sgt. Sheneman failed to report testimony substantiating allegations of a false statement in Sgt. Vieira's supplement to report #08-6005. Mr. Sheneman was charged with investigating this allegation, he clearly elicited this testimony, and he

excluded it from his report. The evidence convincingly supports both the allegation and a clear intent to deceive – which is undeniably “bad faith.”

I accordingly request that you provide exculpatory evidence for each allegation which is not sustained. Provision of such information is within the rights of the City (Bradshaw v. City of Los Angeles (1990) 221 Cal.App.3d 908 [270 Cal.Rptr. 711]).

It is not my intent to harass the Tracy Police Department over a series of complaints which you consider to be closed. Neither am I concerned with the level of discipline imposed on members of the Tracy Police Department. My intent is to ensure that police misconduct is appropriately investigated, adjudicated, and documented – in order to serve as a deterrent to future misconduct and as a protection to the public.

I am preparing a petition to the Superior Court for a writ of mandate to release various public records that the City has not disclosed. It is my hope that I will be able to secure your cooperation in this matter without also seeking injunctive relief, with attendant discovery, to ensure accurate investigation and documentation of citizen complaints against peace officers.

If you feel there is a need for further discussion or clarification I would be happy to meet with you at your convenience. I can be reached most easily by phone (925 294-1512 day, 209 832-4659, evening) or by e-mail.

Sincerely,



Paul Miles
1397 Mansfield St.
Tracy, CA 95376

cc: Tracy City Council



Exhibit 7

City of Tracy
1000 Civic Center Drive
Tracy, CA 95376

POLICE DEPARTMENT

MAIN 209.831.4550
FAX 209.831.4017
www.ci.tracy.ca.us

December 27, 2011

Paul Miles
1397 Mansfield Street
Tracy, CA 95376

Dear Mr. Miles:

This is in response to your letter and email dated December 11, 2011 in which you request additional information regarding your Tracy Police Department complaints.

Pursuant to Penal Code section 832.7(e), you are entitled to know the disposition of your complaints which is set forth in my letter to you dated September 15, 2011. The investigation itself is deemed confidential and cannot be disclosed to the complaining party.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Hampton".

Gary R. Hampton
Chief of Police



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Tracy Spring 2011 Investigation
PARTIAL INDEX
Correspondence, reports, and other documents

Exhibit 8

Correspondence			
1	10/4/2008	Letter	Letter from Miles to Chief Krauss regarding omissions from report Attachments - picture of intersection, narrative/supplemental report, original accident report
2	10/20/2008	Letter	Letter from Chief Krauss to Miles in response to 10/04/2008 letter. Attachments - supplemental report and original investigation
3	10/27/2008	Email	Email chain between Vieira and Miles regarding school hour interpretation, speed limit
4	11/9/2008	Letter	Letter from Miles to Chief of Police responding to Krauss's letter of 10/20/2008
5	12/18/2008	Letter	Letter from Miles to Chief Golphin - second request for a good-faith investigation (attached summary of "major issues")
6	2/15/2009	Letter	Letter from Miles to Chief Thiessen - complaint that inaccurate police report was filed and that Vieira did not conduct a good-faith review of initial complaint
7	3/30/2009	Email	Email from Chief Thiessen to Miles - responding to email from Miles that expressed "concerned regarding the lack of follow-up" to his complaint
8	3/30/2009	Email	Email from Thiessen to Miles - explaining lack of response to Miles
9	5/1/2009	Email	Email from Sheneman to Miles - "review is almost complete"
10	5/4/2009	Email	Email from Sheneman to Miles - meeting regarding the review
11	5/5/2009	Memo	Memo from Sheneman to Chief Thiessen - Paul Miles Complaint
12	5/17/2009	Email	Email from Sheneman to Thiessen - Police report complaint
13	5/18/2009	Letter	Letter from Chief Thiessen to Miles - "review of reports determined that your son was party at fault"
14	5/31/2009	Email	Email from Miles to Chief Thiessen - Miles reviewed report, doesn't agree with it, wants to discuss "offline"
15	6/1/2009	Email	Email from Chief Thiessen to Miles - responding to email from 05/31/2009 regarding additional review conducted by professional standards unit; initial email from Miles requested "off-line" conversation with Thiessen
16	6/3/2009	Email	Email from Miles to Malik and Bhatia - regarding School zone designations; Miles requesting clarification
17	6/6/2009	Email	Email from Miles to Chief Thiessen - responding to 6/1/2009 email from Thiessen to Miles; Miles requesting Thiessen's review of attached document: "Statement vs report.pdf"
18	6/30/2009	Email	Email from Miles to Chief Thiessen (included in email chain on 7/1/2009) Attachments - "Factual background"
19	7/13/2009	Email	Email from Miles to Council - providing additional details regarding breach of ethics
20	7/21/2009	Email	Email chain from 10/27/2008 - school zone placed in file on 7/21/09
21	8/26/2009	Letter	Letter from Captain Barkley (Investigations) to Miles - responding to 08/16/2009 complaint letter
22	1/1/2011	Letter	Letter from Miles to Council - filing citizen's complaint against Janet Thiessen
23	3/1/2011	Letter	Letter from Miles to Council - contesting results of complaint filed on 1/1/11 (with attachments)

Two letters were submitted on 3/1, this one and a second one with the formal complaint attached

Tracy Spring 2011 Investigation
PARTIAL INDEX
Correspondence, reports, and other documents

Reports and Other Documents			
1	7/2/2008	Report	Traffic Collision Report (9 pages)
2	10/16/2008	Report	Narrative/Supplemental report prepared by Sgt. Vieira
3	2/19/2009	Notes	Handwritten notes (presumably from meeting with Mr. Miles) (9 pages)
4	5/5/2009	Report	Order to investigate (2/23/09) and report; Investigative Report
5	6/2/2009	Report	Witness report signed by Susanne Thompson. Stated her vehicle did not obstruct Ms. Littlejohn's and the light was green. (attached to 6/6/2009 email from Miles to Thiessen)
6	6/30/2009	Email	Email from Miles to Thiessen - Factual Background attachment 6/30/09
7	7/7/2009	Agenda	Council Meeting Agenda - "Item from the Audience" from Miles; Miles requested resolution approving P.D. procedures for investigating citizen complaints
8			Public Record Act request related documents regarding requests for information and reports